

**Watford Borough Council
Charitable & Discretionary Rate Relief
Policy and Procedure**

Effective from 1st April 2016

Charitable Discretionary Rate Relief

Policy and Procedure

POLICY

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1 BACKGROUND

- 1.1 80% Mandatory rate relief is available to registered charities or charities exempted from registration as a charity. Registered Community Amateur Sports Clubs (CASC's) are also entitled if the use of the club is wholly or mainly for charitable purposes.
- 1.2 Non-profit making organisations have no automatic entitlement to Rate Relief, however the Council may decide to give discretionary relief. The organisation must be charitable, religious or concerned with education, social welfare, science, literature or the fine arts and be based in the borough, or the property must be used by a non-profit-making organisation wholly or mainly for the purpose of recreation.
- 1.3 The Non-Domestic Rating Contributions (England) Regulations state, 'Where the ratepayer is in receipt of mandatory relief, 50% of any discretionary relief will be borne by the billing authority, and where only discretionary relief applies the authority will meet 50% of the cost.
- 1.4 The Local Government Finance Act 'Permits the billing authority to grant discretionary rate relief to charities and other organisations of prescribed types.' and –
 - a) *must be such that the chargeable amount for the day in question is less than the amount that it would be apart from these provisions;*
 - b) *may be such that the chargeable amount is nil; and*
 - c) *may be varied by a further determination of the authority.*

2 POLICY

- 2.1 The purpose of this policy is to specify how the Revenues Service will operate the relief scheme and to indicate some of the factors that will be considered when deciding whether an organisation should be granted Discretionary Rate Relief. Each case will be considered strictly on its own merits and all organisations will be treated equally and fairly when the scheme is administered.

3 STATEMENT OF OBJECTIVES

- 3.1 The Revenues Service will consider granting discretionary rate relief to all organisations who meet the qualifying criteria as specified in this policy. The Revenues Service will treat all applications on their individual merits, and will seek through the operation of this policy to:
 - *Provide financial assistance by way of rate relief to charitable and non-profit organisations, in order to allow them to better serve the groups which they support*
 - *Encourage better support provisions for people living and working in the borough by providing financial assistance by way of rate relief to charitable and non-profit organisations who wish to work in the area*

- *Support the vulnerable groups within the community*
- *To encourage development and investment from charitable and non-profit groups for the benefit of people who live and work in the borough*
- *Encourage charitable and non-profit organisations to continue their work in the borough*

3.2 The Revenues Service considers that Discretionary Rate Relief should be given to those organisations that are seen to be operating on a low income, at a loss, or if the consequence of paying their NNDR liability they would go from surplus to deficit, either on the balance sheet and/or the operating statement.

3.3 Discretionary Rate Relief is not and should not be considered by charitable and non-profit organisations as a way out of paying any current or future liability for Non-Domestic Rates.

4 GRANTING RELIEF

4.1 In deciding whether to grant relief, the organisation applying for relief must first meet the qualifying criteria. The Council has the power to grant a further 20% maximum discretionary relief to those receiving mandatory relief. The Council also has the power to grant up to 100% discretionary relief in respect of the following:

- *Property occupied for the purposes of an organisation not established or conducted for profit and whose main objectives are either charitable, philanthropic, religious, concerned with education, social welfare, science, literature or the fine arts*
- *Property occupied by a club, society or other organisation not established or conducted for profit which is wholly or mainly used for purposes of recreation.*

4.2 After the organisation has been accepted as being eligible to receive relief the following must be satisfied before relief can be granted:

4.3 Work carried out on the premises must have a direct, positive impact on the surrounding areas, both in the local community and for the cause which the organisation serves. This will normally exclude “Head Office and Administrative” type buildings.

4.4 The service provided by the organisation must be in a suitable location and accessible to all people who live and work in the borough.

- 4.5 The facilities should be available to all and encourage those drawn from particular groups in the area, for example young people, old people, women, people with disabilities, ethnic minorities and so on. If a membership scheme is in place, the facilities should be made available to people other than members, within a regular working week, and the wider use of facilities is encouraged to help benefit the people who live and work in the borough.
- 4.6 If membership is a requirement to use the facilities or services, the criteria by which the organisation considers applications from the public to become a member, should be seen as consistent with the principles of open access.
- 4.7 If membership rates charged are seen to be set at a high level, compared to similar organisations and therefore exclude a large number of people who live or work in the community, relief will not be granted.
- 4.8 The users of the facilities must include those drawn from particular groups in the area for example young people, old people, women, people with disabilities, ethnic minorities and so on.
- 4.9 If the organisation is for educational purposes, does this facility provide training or education to its members? If so, does the organisation draw those from particular groups in the area for example young people, old people, women, people with disabilities, ethnic minorities and so on, to increase and develop skills?
- 4.10 The organisation should provide facilities that directly relieve the Authority of the need to do so, or enhance or supplement those that it does provide. The provision of this facility should meet needs that have been recently identified as a priority within the council?
- 4.11 If the facilities have been provided by the members themselves or by grant aid, then it would indicate that the organisation and the premises for which the relief is being applied is deserving of relief.
- 4.12 If there is a bar run on the premises, the organisation must prove that the purpose of the club is for the sporting activity in question, however social clubs, which encourage and accommodate members with similar interests are not to be automatically excluded.
- 4.13 If the organisation is affiliated to a local or national organisation, are they actively involved in developing their interests?
- 4.14 If the membership of the organisation is drawn from people mainly resident in the Authority's area or has properties, which lie on the boundaries of the borough and those, or because of the service they provide, may be the only facility within the area.
- 4.15 The Revenues Service will also take into account any future development of services and facilities provided by the organisation or any new activities planned, which would be undertaken by the organisation if relief from rates would be granted.

- 4.16 The Revenues Service will review the applying organisation's most recent accounts to gain a clear understanding of their current financial status. If they are seen to have available unrestricted funds and a rolling profit year on year, it will be more than likely that the application will be refused. If however they have, for example, only limited grant funding and operate on a low income or a loss, relief may be granted. We will generally review the following :
- reviewing the last three years accounts
 - identifying surpluses on the organisations balance sheet
 - what funds are "restricted"
- 4.17 Applications submitted will not be affected by any previous awards of relief made to the organisation and will be judged on the current financial year only.
- 4.18 Ratepayers will be informed of the outcome of their application, whether successful or unsuccessful, by letter. If an organisation does not accept the amount awarded as being correct or that their application has been refused, they have the right of appeal against the decision. A Senior Officer will review the first award or refusal and come to a conclusion as to whether the appeal should be upheld or refused.
- 4.19 As a billing authority, the Council must consider the financial effects of decisions to grant relief to any organisation. It has a commitment to constituents to ensure that the funding it provides to organisations will have direct benefits for the community.
- 4.20 If an organisation is seen to have available "unrestricted funds" and the balance sheet and/or the operating statement show the organisation to have surplus funds with which it can pay their liability, it will be more likely that the application will be refused.

5 CHANGE OF CIRCUMSTANCES

- 5.1 If an organisation has a change of circumstances within the financial year, the Council must be notified and appropriate action taken.
- 5.2 A review of a previous decision can be made on the basis of the new application and information provided.

6 LENGTH OF RELIEF

- 6.1 In all cases, the Discretionary Rate Relief will only be granted for one financial year.
- 6.2 Relief will be granted from the 1st of April of the applying year, until the 31st of March of that financial year.
- 6.3 A review of the Discretionary Rate Relief granted will be undertaken on a yearly basis. A new application form and evidence will need to be submitted by the organisations concerned. The relief will remain on the account unless the new application is refused, then the relief will be removed from the beginning of that financial year and a bill issued for the full year's liability of Non-Domestic Rates.

- 6.4 The fact that charitable and non-profit organisations have been previously unsuccessful will be no bar to their being able to submit new applications for Discretionary Rate Relief at the beginning of each financial year.

7 BACKDATING

- 7.1 An application for Discretionary Rate Relief cannot be made more than six months after the financial year to which it relates.
- 7.2 Applications received after the 1st of October can only be considered for relief in the financial year which they are received.
- 7.3 When an application for the previous financial year is received before the 1st of October, the organisation must provide reasons as to why an application was not made earlier. These circumstances will be taken into account when considering the granting of relief for a back-dated period.

8 PUBLICITY

- 8.1 The Revenues Service will publicise the Charitable Discretionary Rate Relief scheme. A copy of this policy statement will be made available for inspection and will be posted on the Council's website.

<p style="text-align: center;">Procedure for Administering National Non Domestic Rate Relief</p>

PROCEDURE

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PROCEDURES

9. WHO CAN APPLY FOR CHARITABLE DISCRETIONARY RATE RELIEF?

9.1 The Local Government Finance Act 1988– Permits the billing authority to grant discretionary relief to charities and other organisations of prescribed types.

9.2 Qualifying Categories:

- *An organisation already receiving 80% Mandatory Relief*
- *Charitable and non-profit organisations not entitled to Mandatory Relief for example:*
 - a) *Exempt or Excepted Organisations*
 - b) *Community Amateur Sports Club*
 - c) *Friendly and Industrial and Provident Societies*

10. Qualifying Criteria

10.1 Property wholly or mainly used for charitable purposes, which is occupied by a registered charity or charity shop. Under Section 64(10) of The Local Government Finance Act 1988 – ‘A hereditament is to be treated as being wholly or mainly used for charitable purposes at any time, at the time, it is wholly or mainly used for the sale of goods donated to a charity and the proceeds of the sale of the goods (after any deduction of expenses) are applied for the purposes of the charity.’

10.2 Property, all or part of which is occupied for the purposes of a non-profit making:

- *institution or other organisation whose main objects are philanthropic or religious or concerned with social welfare, science, literature or the fine arts; or*
- *club, society or other organisation and is used for the purposes of recreation.*

10.3 Conditions regarding an occupied hereditament are:

- *The Ratepayer is a charity or trustees for a charity, and the hereditament is wholly or mainly used for charitable purposes; or*
- *The hereditament is not an excepted hereditament, and all or part of it is occupied for the purposes of one or more institutions or other organisations none of which is established or conducted for profit and each of whose main objects are charitable or are otherwise philanthropic or religious or concerned with education, social welfare, science, literature or the fine arts; or*
- *The hereditament is not an excepted hereditament, it is wholly or mainly used for the purposes of recreation and all or part of it is occupied for the purpose of a club, society or other organisation not established or conducted for profit.*

10.4 Conditions regarding a part occupied or unoccupied hereditament are: (Under Section 48 of The Local Government Finance Act 1988)

- *A hereditament not in use shall be treated as wholly or mainly used for charitable purposes if it appears when next in use it will be wholly or mainly used for charitable purposes; or*
- *A hereditament not in use shall be treated as wholly or mainly used for the purposes of recreation if it appears that when next in use it will be used wholly or mainly for the purposes of recreation; or*
- *A hereditament which is wholly unoccupied shall be treated as an excepted hereditament if it appears that when any of it is next occupied the hereditament will be an excepted hereditament or*
- *If a hereditament is wholly unoccupied but it appears that it or any part of it when next occupied will be occupied for particular purposes, the hereditament or part concerned shall be treated as occupied for those purposes.*

11 HOW DOES AN ORGANISATION APPLY FOR DISCRETIONARY RATE RELIEF?

- 11.1 In order to be considered for Charitable Discretionary Rate Relief, an organisation is required to complete and return an Application for Charitable Relief and Discretionary Relief from the Non- Domestic Rate form, via email or by hard copy..
- 11.2 Attached to the application must be a certified copy of the organisation's last three years accounts, a copy of the organisation's constitution and a copy of their charitable status certificate, if appropriate.

12.0 HOW DO WE RECEIVE DISCRETIONARY RATE RELIEF APPLICATIONS?

- 12.1 Applications can be by email (nndr@watford.gov.uk) or sent directly to the Business Rates team.

13.0 HOW ARE DISCRETIONARY RATE RELIEF APPLICATIONS DEALT WITH?

- 13.1 The form should be checked to ensure it has been signed and all relevant questions answered. The last three years accounts must be attached, along with the organisations Constitution and charity number, if applicable.

- 13.2 An assessment of the organisation will then be done based on the 'Granting Relief' section of the Policy for Charitable Discretionary Rate Relief as above. A checklist is to be completed for each application.
- 13.3 Brief reasons for the decision should be noted at the bottom of the checklist and the decision clearly marked. This must be signed and dated by the Officer making the decision.

14 ORGANISATION GRANTED DISCRETIONARY RATE RELIEF

- 14.1 A notification letter will be sent to organisation.
- 14.2 Relief is loaded onto the Academy system for the appropriate financial year.

15 ORGANISATION NOT GRANTED DISCRETIONARY RATE RELIEF

- 15.1 A notification letter will be sent to such organisations, in which they will be advised of the appeal procedure and will be given one month to reply with reasons for their appeal.

16 KEEPING A RECORD OF GRANTS

- 16.1 An electronic record is kept of all accounts that have Discretionary Rate Relief applied to their account on the Academy Non Domestic Rate Relief system. A check will be carried out on a regular basis to ensure that no unauthorised relief has been applied to an account.

17 THE RIGHT TO SEEK A REVIEW

- 17.1 There is no right of appeal against a Discretionary Rate Relief decision, and although there is Guidance for how authorities should deal with appeals against their decisions of Discretionary Rate Relief, we have no legal obligation to actually review the decision unless it is challenged as not being made in accordance with the written procedure that the Council has adopted. Such a challenge must be made through Judicial Review.
- 17.2 The Revenues Service will operate the following policy when dealing with requests to review a decision not to grant Discretionary Rate Relief, or to grant less than full Discretionary Rate Relief or not to backdate Discretionary Rate Relief.
- 17.3 An organisation (or their appointee or agent) that disagrees with a Discretionary Rate Relief decision may dispute the decision. A request for review shall be delivered in writing to a designated office within one calendar month of the written Discretionary Rate Relief decision being issued.

- 17.4 Initially an Officer from the Revenues Service will explain the decision to the customer by telephone, at interview or in writing.
- 17.5 If agreement cannot be reached, the Head of Revenues & Benefits will consider the case, review all the evidence held and will make a decision within 14 days of referral or as soon as is practicable.
- 17.6 Where the Head of Revenues and Benefits decides not to revise the original decision, the Head of Revenues & Benefits will notify the customer of their decision in writing, setting out the reasons for their decision.
- 17.7 Where the organisation is still not satisfied, they will be entitled to a further and final review, provided this is requested in writing within one calendar month of the date on the decision letter sent by the Head of Revenues & Benefits. The Director of Finance will carry out the review.
- 17.8 The decision made by the Director of Finance will be notified in writing to both the Revenues & Benefits Service and to the organisation concerned. The decision will be final and binding and may only be challenged via the judicial review process or by complaint to the Local Government Ombudsman.
- 17.9 The Head of Revenues & Benefits or the Director of Finance may extend the time periods for a review in exceptional circumstances. In deciding to extend, they will take into account any delay in seeking independent advice that was outside the control of the organisation.
- 17.10 Unless a change of circumstances has occurred, a review may not recommend a reduction in an award already notified for the applicable financial year.