



Discretionary Rate Relief Policy

National Non Domestic Rates

1 April 2015

Contents

Introduction	3
Powers to award discretionary relief	3
How rate relief is funded.....	4
Criteria for awarding relief (general)	4
Criteria for charity and not for profit organisations	5
Criteria for hardship relief	6
Criteria under the Localism Act 2011	7
Retail rate relief	7
Reoccupation relief.....	8
Splits and mergers	9
Application process	9
Notification of decisions.....	9
Appeals	10
Changes in circumstances.....	10
State aid	10

1. Introduction

1.1 Local authorities are able to award discretionary rate relief for local businesses and organisations under the Local Government Finance Act 1988. This provides Councils with a mechanism to reduce or remove business rates liability which is partly funded by local tax payers. The relief can be provided to organisations which meet specific criteria as set out by Government.

1.2 This policy will:

- Set out key principles on how Colchester Borough Council (CBC) will administer this discretionary power in a fair and consistent manner
- Set out the key principles which should be considered when making a decision on whether to award relief
- Safeguard the interest of local taxpayers by ensuring that discretionary relief is targeted towards organisations in need and is awarded in an effective and economic way

2. Powers to Award Discretionary Relief

2.1 The following organisations automatically qualify for 80% mandatory relief from their business rate liability:

- Registered charities
- Other organisations which are exempt from registration but established and conducted for charitable purposes such as registered friendly societies, scout and guide groups, voluntary aided schools and church commissioners
- Registered Community Amateur Sports Clubs (CASC)

2.2 Discretionary Rate Relief powers are set out under Section 47 of the Local Government Finance Act 1988 and subsequent amendments. This allows Councils use its discretion to:

- Award a 'top up' relief of up to 20% to organisations that receive mandatory relief
- Award relief of up to 100% to other organisations not established or conducted for profit. These include organisations whose main objectives are: charitable, philanthropic, religious, concerned with education, social welfare, science, literature, arts or recreation where all or most of the property is occupied for a club or society
- Award 'Hardship' relief of up to 100% where a ratepayer is experiencing difficulty paying and it is in the best interest of its taxpayers
- Section 69 of the Localism Act 2011 amends section 47 of the Local Government Finance Act 1988. This allows authorities to extend their existing provisions when granting discretionary rate relief. Any relief awarded will have to be met by the authorities Council Tax payers.

- Award discretionary temporary reliefs including: Retail Relief (maximum £1,500), Reoccupation Relief (50% discount for 18 months), Transitional Relief and reliefs for splits and mergers.

3. Funding for Rate Relief

3.1 Funding is split between Central and Local Government as follows:

Mandatory Relief – 100% Central Government

‘Top up’ Discretionary Relief – 50% Central Government, 50% CBC

‘Hardship’ Discretionary Relief – 50% Central Government, 50% CBC

Other Discretionary Relief under The Localism Act 2011 – 100% CBC

Retail Relief, Reoccupation Relief, Transitional Relief and splits and mergers – 100% Central Government

4. Criteria for awarding rate relief

4.1 The Council will consider awarding discretionary rate relief to all organisations that meet the qualifying criteria as specified within this section of the policy. Each case will be judged on its own merits and the Council will award relief at its own discretion. Any relief granted is discretionary and the fact that various criteria are met does not mean that relief will automatically be granted. In some cases the Council may depart from its general policy with the agreement of the relevant Head of Service.

5. General Criteria for all applications

- Does the organisation meet local needs and benefit local people?

The Council will consider applications from local organisations which provide education or training or where the amenity of an area would be worsened by the business ceasing operations. National organisations will not normally be considered and semi-national or county wide organisations will be considered on the extent to which it benefits local people.

- Does the organisation have a political affiliation?

Organisations with political affiliations will not be considered for the relief.

- Does the organisation receive other sources of funding?

The Council will consider whether an organisation is receiving any form of financial support from the Council, other organisations, private companies or commercial suppliers. Relief will not be awarded where the cost of rates could be met by any of the above bodies.

- Annual turnover, value of assets or unallocated reserves:

Where an organisation has unallocated reserves greater in value than twelve months running costs, the organisation will be required to demonstrate the

reason for holding those reserves. Two year audited accounts will usually be required to support any application.

- Do the organisations aims and purposes fit with the strategic objectives of the Council?

Applications for relief will be considered favourably from organisations that enhance or supplement the work of the Council and tie in with corporate objectives.

6. Criteria for top-up relief and not for profit organisations

6.1 Charity Criteria

- Does the organisation have an actively trading function, for example a shop or a bar?

The Council will consider whether the main purpose of the organisation is charitable and its ability to trade will be taken into account. Considerations will be given to how any trading function helps the organisation to benefit local people.

- Does the organisation meet local needs and benefit local people?

Applications will be considered favourably where the organisation can provide strong evidence that it is of benefit to the local community. Examples may be where local unemployed or elderly residents are offered free or subsidised use of facilities or where it offers community activities or events.

6.2 Non Profit Organisations, Clubs and Societies Criteria

Sports clubs can apply for a 'top up' relief where they receive mandatory relief, or for up to 100% relief where they are not eligible for mandatory relief but they meet the criteria specified in this policy.

- Is the organisation accessible to all?

The Council will consider how accessible the organisations membership policy is and will consider applications less favourably where the policy is restrictive for reasons other than space limitations of where the group is set up for a group with particular needs or requirements. Membership or attendance should not exclude characteristics which are protected within the Equality Act 2010.

Relief will not be granted where an organisation is mainly or wholly based on private membership with fees that are considered cost prohibitive to the general community.

Applications for relief will be considered favourably for organisations which provide significant and regular facilities or training and education for the general community as well as their own members.

- Does the organisation have an actively trading function, for example a shop or bar?

The main purpose of the organisation will be considered as well as its ability to trade.

- 6.3 If the organisation meets the above criteria the recommended awards are as follows:

Category	Discretionary Relief Recommendation	Mandatory Relief
Local charitable organisations with cultural or recreational purpose, receiving mandatory relief	10%	80%
Local charitable organisations with health or welfare purpose (including personal domestic type services) receiving mandatory relief	20%	80%
Local scout and guide troops receiving mandatory relief and village halls providing any specific grant aid received is only for repair or renovation of the premises	10%	80%
Community amateur sports clubs receiving mandatory relief	20%	80%
Relief for organisations who are grant funded by Colchester Borough Council specifically under one of its strategic priorities to promote growth, culture or communities in the area.	20%	n/a

7. Hardship Criteria

- 7.1 The Council will consider applications for hardship relief where a business can evidence that it is in financial hardship and the reasons for this position. Relief will not be granted where it is deemed that the hardship is a result of the applicants own improvidence.
- 7.2 The main consideration must be whether an award of discretionary relief would help the business to survive.

Details of how the business came to its financial position and details of how the granting of any relief will help the organisation survive must be provided. The business should also evidence how it will be financially viable in the medium and long term without the support of discretionary relief.

The details of any other business owned by the ratepayer will be considered in light of whether the ratepayer could rely on income from that business or

whether its profits could be reinvested into the applicant business to aid survival.

7.3 When determining a relief award under the hardship criteria the minimum level of relief sufficient to support the business is recommended.

7.4 Awards of hardship relief should be granted for a fixed period as deemed suitable by the assessing officer. Should further support be required the ratepayer must re-apply.

8. Discretionary Relief under section 69 of The Localism Act 2011 Criteria

The following matters must be considered when determining an award under The Localism Act 2011.

- Does the organisation meet local needs or benefit local people?

Applications will be considered favourably where it provides employment to local people or where it provides services, opportunities or facilities that cannot be obtained locally or are not provided locally by any other organisation. Consideration will also be given where it provides facilities to priority groups such as elderly, disabled, minority or disadvantaged groups

- Is there evidence of financial hardship

Considerations will be made under the same principles as section 7 where there is an application for this relief under financial hardship.

- Is the ratepayer eligible for any other mandatory or discretionary relief?

Local relief will not be granted where the ratepayer is entitled to other mandatory or discretionary rate relief.

- Is the premises occupied?

No relief will be granted for unoccupied premises

- Are there any extenuating circumstances that would affect the organisations ability to pay?

Where the organisation has experienced a sudden and unforeseen change in circumstances that would affect its ability to operate relief may be considered.

9. Temporary reliefs for 2014 – 2016

9.1 Retail Relief (applicable only for 2014-2016)

The government has set the criteria for what would be included under this relief as follows:

- Hereditaments that are being used for the sale of goods to visit members of the public

- Hereditaments that are being used for the provision of services to visiting members of the public
- Hereditaments that are being used for the sale of food and/or drink to visiting members of the public

The full criteria can be seen in Section 47 of the Local Government Finance Act 1998, as amended. The criteria is not exhaustive so the Council must use its discretion to determine what businesses would reasonably fit within these criteria.

The Government has given clear indication for businesses that it does not feel are eligible for this relief including:

- Hereditaments that are being used for the provision of the following services to visiting members of the public
 - Financial services
 - Other services (e.g. estate agents, letting agents, employment agencies)
 - Medical services (e.g. vets, dentists, doctors, osteopaths, chiropractors)
 - Professional services (e.g. solicitors, accountants, insurance agents, financial advisors, tutors)
 - Post office sorting office
- Hereditaments that are not reasonably accessible to visiting members of the public.

The maximum amount of relief available for each property in each year is £1,000 increasing to £1,500 from April 2015. The amount does not vary with rateable value and there is no taper. There is no relief available for properties with a rateable value of more than £50,000. The retail rate relief will be applied to the net bill after all other reliefs have been taken into account. Where the net rate liability after all other reliefs is less than £1,500, the maximum amount of retail relief will be no more than the value of the net rate liability.

9.2 Business Rates Reoccupation Relief (applicable only for 2014-2016)

The relief is a 50% business rate discount for 18 months for businesses that are moving into previously empty retail properties between 1 April 2014 and 31 March 2015. The hereditament must be continuously occupied and the relief is granted after any mandatory or discretionary reliefs have been awarded.

The properties that will benefit from this relief will be occupied hereditaments that :

- When previously in use, were wholly or mainly used for retail
- Were empty for 12 months or more immediately before their reoccupation

- Became reoccupied between 1 April 2014 and 31 March 2016, are being used for any purpose (i.e. not just retail use)

Hereditaments being used wholly or mainly as betting shops, payday loan shops or pawn brokers will **not** qualify for business rates reoccupation relief.

9.3 Splits mergers and changes to existing hereditaments (applicable only for 2014-2016)

Where a new hereditament has been created by a split or merger of hereditaments(s), the new hereditament will be eligible for reoccupation relief where at least half the floor area of the new hereditament is made up of retail hereditaments that have been empty for 12 months or more, subject to meeting the criteria.

- Where a hereditament in receipt of Reoccupation Relief splits or merges to form new hereditaments, the new hereditaments will not be eligible for the remaining term of the reoccupation relief.
- Where a hereditament in receipt of Reoccupation Relief becomes unoccupied for any period of time less than 12 months, it will not be eligible for any further Reoccupation Relief on occupation. If a hereditament that has previously received Reoccupation Relief will be eligible for a further 18 months Reoccupation Relief if it has been empty for 12 months or more and all other criteria are met.
- If a hereditament is in receipt of Reoccupation Relief and a new ratepayer becomes liable for the property, without the property being empty for any period, they will benefit from the remaining term of the relief.

10. Application Process

- 10.1 Retail Relief and Business Rate Reoccupation Relief will be granted in most cases automatically, using current records held by the Council. Businesses will be notified by letter and must complete an 'opt out' form if they do not meet the criteria or have had a chance in circumstances.
- 10.2 For Mandatory and other Discretionary relief applications must be made online using the Mandatory or Discretionary Relief Application form which can be found on the Council website – (link to be confirmed).
- 10.3 The Council can provide assistance or advice to any organisation or business wishing to apply on the application process or the eligibility criteria. Please contact Colchester Borough Council by email businessrates@colchester.gov.uk.
- 10.4 In some cases the ratepayer may be required to provide information in addition to the standard application.
- 10.5 All applications will be administered by the Councils National Non Domestic Rates (NNDR) Officers.

- 10.6 Organisations must reapply for discretionary relief as directed in section 10 of this document. Where a new application has not been made the relief will automatically be removed from the account.

11. Notification of Decision

- 11.1 Successful applications will be notified within 28 days of the date of the decision with the amount of the discretionary relief awarded by the issue of a new Rate Demand Notice. The new rate relief will be awarded by means of a reduction shown on the business rates bill issued to the ratepayer.
- 11.2 Unsuccessful applicants will be notified in writing with the reasons for the decision.
- 11.3 All discretionary awards will state an award length (5 years for standard relief and a specified period under hardship relief). The ratepayer must reapply at the end of the specified period if relief is still required, if a new application is not received before the end date the relief will automatically be removed from the account. Organisations are free to re-apply after this point but awards will not be back dated.
- 11.4 The Council reserves the right to review awards at any time to ensure that it is meeting its obligations to award relief only to those eligible.

12. Appeals

- 12.1 Under the Local Government Finance Act 1992 there is no statutory right of appeal against a decision made by the Council to grant discretionary relief. The council can review the decision if the rate payer is unhappy with the outcome. This review will be carried out by the Income and Business Rate Manager and can be escalated to the Head of Customer Services. The rate payer will be notified of the outcome in writing.
- 12.2 The right of appeal process does not affect the rate payer's legal right to challenge any decision by way of judicial review.

13. Changes in Circumstances

A qualifying organisation or business must inform the Council immediately of any change in circumstance which may affect their entitlement to Mandatory and Discretionary Rate Relief.

14. State Aid

All discretionary relief is subject to the de minimis rule under state aid. This means that any business cannot receive financial support from government over the set threshold of 200,000 euro over 3 years. It is the business's responsibility to inform the Council if they are in receipt of Government aid through other sources.

To find further information on state aid please visit:

<https://www.gov.uk/state-aid>.