

Appendix A

Huntingdonshire District Council - Non-Domestic Rates Discretionary Relief Policy (review 2022)

Huntingdonshire District Council has discretionary powers to award relief from payment of non-domestic rates in a number of circumstances:

- Properties partly occupied for a temporary period with awards being made under Section 44a of the Local Government Finance Act 1988.
- Properties occupied by charities and other not-for-profit organisations with awards being made under Section 47 of the Local Government Finance Act 1988.
- Ratepayers that would otherwise suffer hardship with awards being made under Section 49 of the Local Government Finance Act 1988.
- There is also a general power for discretionary relief to be awarded under Section 47 of the Local Government Finance Act 1988 as amended by Section 69 of the Localism Act of 2011.

Section 44a relief – discretionary relief for properties that are partly occupied

1. In rating law, part occupation of a property is considered occupation of the whole. The Council has discretion under Section 44a to request that the Valuation Office Agency (VOA) provides a certificate with a split valuation where part of a property is unoccupied for a short period of time.
2. Applications will only be considered in respect of unoccupied parts of a property that can be clearly defined and are reasonably segregated from the occupied part.
3. No award shall be made where it appears to the Council that the reason for the part occupation is for the sole purpose of applying for Section 44a relief, or where the part occupation is considered to arise as part of the ordinary day-to-day operations of the business.
4. A ratepayer making an application shall provide a plan clearly showing the dimensions of the occupied and unoccupied areas to enable the VOA to apportion the rateable values and for the Council to monitor any change in the unoccupied area. Applications will not be awarded retrospectively where no opportunity has arisen for a Council Officer to verify the part occupation.
5. In the absence of a statutory definition of the term 'short term only', relief will only be considered in line with normal empty property limits, i.e. up to six months for commercially assessed properties such as industrial premises, and three months for all other properties.
6. Section 44a will not normally be awarded in respect of different operative periods that contain the same area of unoccupied property that existed in preceding operating periods, thus avoiding repeated or multiple applications.
7. Awards of Section 44a reliefs shall cease at the earliest occurrence of one of the following:
 - The end of the statutory period for which empty property relief may be awarded
 - The end of the financial year
 - All of part of the unoccupied area becoming occupied
 - The whole of the property becoming unoccupied as an exemption can then be applied
 - The ratepayer ceasing to be the liable party for the property
 - The Council is unable to verify, following reasonable notice, that the area remains unoccupied
8. The ratepayer must allow a Council Officer access to the property by appointment during normal working hours within 2 weeks of the application being made in order to verify the occupation of the property and to allow subsequent inspections to be made. In the event that access is not allowed within a reasonable period, the award of Section 44a relief may be withdrawn.

Section 47 relief – charities, community amateur sports clubs and non-profit making organisations

1. Where a property is:
 - a registered a registered charity, or,
 - a not-for-profit organisation whose objectives are charitable, but the organisation is not registered as a charity, or,
 - a community amateur sports club (CASC),

80% mandatory relief must be awarded when the property is occupied
2. Approval of up to 20% discretionary relief to top up the mandatory relief shall be considered for local charities taking into consideration:
 - the extent to which their activities meet the Council's corporate objectives
 - the extent to which Huntingdonshire residents benefit from their activities
 - the financial position of the organisation
 - the financial position of the Council
 - the extent to which the organisation facilitates and encourages participation and membership is made up of all sectors of the local community
3. Non-profit making organisations which may qualify for mandatory relief under the Small Business Rate Relief scheme but have not applied for it shall be deemed to have up to 100% mandatory relief in accordance with their entitlement under that scheme and shall have discretionary relief calculated accordingly:
 - qualifying organisations in occupation of premises with a rateable value of under £18,000 shall receive 80% discretionary relief
 - qualifying organisations in occupation of premises with a rateable value of £18,000 or more but below £25,000 shall receive 50% discretionary relief
 - qualifying organisations in occupation of premises with a rateable value of £25,000 or more shall not receive discretionary relief
 - unoccupied premises shall not qualify for discretionary relief except where provided for under Section 44a of the Local Government Finance Act
 - all applications will be considered on the individual merits of the case, and relief may be granted in exceptional circumstances where the rateable value exceeds the above amounts.
4. Non-profit organisations established for recreational purposes, known as community amateur sports clubs, shall only be eligible for discretionary relief if they encourage active participation in sports from all areas of the community and are not limited to exclusive interests or limited accessibility.
5. The award of discretionary relief is delegated to the Revenues and Benefits Manager or the Chief Operating Officer. Appeals must be made in writing, within 28 days of an unsuccessful application to the Corporate Director.

Section 49 relief – hardship

1. Hardship relief may be awarded where the business is suffering from unexpected hardship which is outside of normal risks associated with the business and will only be awarded in exceptional circumstances.
2. Full or part relief can be granted if the Council is satisfied that:
 - the ratepayer would sustain hardship if the authority did not grant relief
 - it is reasonable for the Council to award relief having regards to the interests of persons liable to pay council tax set by it
3. The ratepayer must submit a comprehensive application, together with all possible financial accounts, to enable the Council to make an objective decision taking into account all relevant details and based on the merits of the case having regard to the statutory qualifying conditions listed above.
4. Where an application is considered to meet the relevant criteria and the Council considers that the ratepayer has suffered from hardship, then a retrospective award may be given.
5. The duration of any award will not normally exceed one year (and in any case, not beyond the end of one financial year), but in exceptional circumstances, and in any cases of clear merit to local taxpayers, a new application may be considered.
6. Whilst technically there is no statutory right of appeal against a decision not to award discretionary relief, there have been occasions where the Valuation Tribunal for England has decided to hear such cases and it is considered transparent and prudent that awards are decided by the Revenues and Benefits Manager in consultation with the Chief Operating Officer. Any subsequent appeal must be made in writing, within 28 days of the original decision to the Corporate Director.

Section 47 relief – Covid Additional Relief Fund (CARF)

1. CARF is available to ratepayers that have been adversely affected by the pandemic and have been unable to adequately adapt to the impact of the pandemic, but with certain exceptions.
2. To be considered for relief, a hereditament will need to have been in continuous occupation since 11 March 2020. Hereditaments which closed temporarily following Government advice on Covid will be treated as being occupied for this relief, provided they re-opened once restrictions were lifted.
3. Relief will not be awarded whether the ratepayer has received or would be entitled to support under the Extended Retail Discount, the Nursery Discount or the Airport and Ground Operations Support Scheme.
4. The following list sets out types of businesses that are unlikely to be eligible for relief unless they can demonstrate exceptional circumstances:
 - financial services, e.g. banks, building societies, cash points, bureaux de changes, short-term loan providers
 - medical services that continued to be open during any lockdown period e.g. vets, dentists, doctors
 - professional services e.g. solicitors, accountants, insurance agents, financial advisors
 - Post Office sorting offices
 - education establishments e.g. schools, colleges and universities, except language schools or schools for overseas pupils
 - utilities, infrastructure, fuel and industrial businesses e.g. communication stations, water treatment plants, energy generation plants, aggregate processing, concrete plants, petrol stations
 - hereditaments that are used as car parks, advertising hoardings, communal areas
 - hereditaments with an RV less than 15,000
 - hereditaments where the ratepayer is in administration
 - ratepayers already in receipt of, or eligible to apply for, another relief or reduction
 - hereditaments where the ratepayer is a preceptor
5. This list is not exhaustive, and properties used for other or mixed purposes will be considered on an individual basis. This is because without knowing the specific operational issues affecting businesses, it would not be appropriate for the Council to define the types of business that would benefit from this scheme. Therefore, the scheme is open to applications from any business that can demonstrate they have been adversely affected by the pandemic.
6. To be considered as eligible for relief, the business must be able to demonstrate a minimum reduction of 30% in annual turnover in their 2020/21 accounts compared to the accounts for 2019/20. This reduction must be as a result of the pandemic and businesses will be asked to provide proof of this reduction and full details of:
 - a) how the pandemic has affected their business, and,
 - b) why they were prevented from adequately adapting their business.Supporting evidence will be required.

7. Only applications with all supporting documentation received between 1 April and 13 May 2022 will be considered for CARF.
8. All applications will be reviewed after 13 May 2022 and where an application is successful, relief will be credited to the Business Rate account against the 2021/22 liability.
9. The exact amount of relief to be awarded will be dependent on the number of qualifying applications and will be determined once all applications have been assessed.
10. In the event that an amount of funding remains after the initial award of relief, the Council may:
 - a) offer a further application window for new applications; and / or
 - b) increase either the percentage awarded or cap per businessNo further awards will be made once the funding has been exhausted.
11. Providing discretionary relief to a ratepayer is likely to amount to a subsidy. Therefore, any relief awarded under the CARF scheme will need to comply with the UK's domestic and international subsidy control obligations.
12. Businesses wishing to access CARF must not have exceeded the levels of subsidy set out in either the Small Amounts of Financial Assistance Allowance rules or Covid-19 Additional Relief Fund Allowance, whichever is applicable.
13. Although generally there are no appeal rights in respect of discretionary reliefs, a review of an unsuccessful application will be considered if it is made in writing within 28 days of the original award decision.