



# Discretionary Rate Relief Policy

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## **1. Introduction**

The Local Government Finance Act 1988 makes provision for local authorities to award certain reliefs. This policy relates to the discretionary powers for Huntingdonshire District Council to award National Non-Domestic rates relief under Section 44A, Section 47 and Section 49 of the Local Government Finance Act 1988 and Section 69 of the Localism Act 2011

Huntingdonshire District Council recognises the importance of businesses to the local economy and the contribution that is made to the community by voluntary, charitable, and non-profit making organisations. This policy sets out the qualifying criteria for each of the different types of discretionary relief to ensure support is given appropriately and proportionately.

Each application will be considered on its own merits and consideration will be given to the guidance within this policy and national legislation. In determining awards, consideration would also be given to the interests of the Council Tax payers within Huntingdonshire. Decisions regarding rate relief will be communicated to the ratepayer in writing. If the decision is a refusal of the relief, full reasons for the refusal will be provided in the letter.

Discretionary Rate Relief cannot be granted to any premises occupied by the Council, or any Town or Parish Council, or major Precepting Authority (excepted premises).

### **Applying for Relief**

Each application must be submitted on the Council's application form and supporting evidence provided as required.

The Council will not tolerate any business providing incorrect information in order to gain a reduction. Any ratepayer who is found to have falsely applied for relief, provided false information or representation in order to obtain rates relief could be subject to an investigation which may lead to prosecution.

### **Payment of Instalments**

Ratepayers must continue to pay any rates that fall due whilst their application is pending. If payments are not received in line with the bill, the Council will continue with its normal recovery procedures to secure payment.

### **Period of award**

Discretionary relief will generally be for the awarded for the duration of the rating list from the date awarded on the decision notice, unless notified otherwise or there is a change of circumstances which impacts on entitlement.

If the ratepayer experiences any change in circumstances which would impact on the eligibility for any relief awarded they must notify the Council within 28 days.

### **Backdating**

Where applications for Discretionary Rate Relief are successful and apply to a previous period, the Council may consider backdating the award. This does not apply to s44a relief where an inspection is necessary to confirm eligibility.

Applications should be received by 30<sup>th</sup> September in the year following the financial year for which relief is sought. Any applications received after that date will have backdating limited to the 1<sup>st</sup> April of the current financial year, unless exceptional circumstances apply, such as, a new property been brought into the rating list.

### **Cost of Relief**

The cost of awarding discretionary relief is apportioned as follows:

- 50% Central Government.
- 40% District Council.
- 9% County Council.
- 1% Fire Service.

Where discretionary relief is given under Section 49 (Hardship) and section 69 of the Localism Act 2011, the full cost will fall to the Local Authority.

### **Subsidy Control**

Providing discretionary relief to ratepayers is likely to amount to a subsidy, and so any relief provided by Local Authorities will need to comply with the UK's domestic and international subsidy control obligations.

The Subsidy Control Act 2022 allows an economic actor (e.g. a holding company and its subsidiaries) to receive up to £315,000 in a 3- year period. Business Rates payers applying for, or in receipt of, relief considered to be a subsidy will be required, on a self-assessment basis, to inform the Council if they are in breach of the cash caps or Minimal Financial Assistance (MFA) limit. Where such declarations are not received, relief will be refused or withdrawn. Further information on the subsidy control regime can be found at [www.gov.uk/government/collections/subsidy-control-regime](http://www.gov.uk/government/collections/subsidy-control-regime)

## **Discretionary relief for Charitable organisations (Top up relief)**

Hereditaments occupied by Charities are entitled to receive 80% Mandatory rate relief under Section 43 of the Local Government Act 1988. The Council has discretion to award an additional 20% in Discretionary Rate Relief.

Approval of up to 20% discretionary rate relief shall take into consideration:

- The extent their activities must meet the Council's corporate objectives and a demonstrable beneficial impact on the local community.
- The extent to which the organisation is local to Huntingdonshire and the benefits of the Authorities' residents.
- The financial position of the applicant.

The following organisations or premises will not normally be considered for Discretionary Charitable Relief regardless of their status:

- Administration offices for national charities
- Overseas aid organisations
- Charity shops and cafes operated by national charities or associated organisations.
- Housing Associations
- Schools and other educational establishments
- promotion of religious belief
- Organisations operating a restrictive membership policy for which a fee is payable.
- Empty properties
- Car parking spaces

Applications in respect of empty properties will not be considered.

### **Applications**

All applications will be considered on the merits of the individual case. Any application will need to be supported with copies of the organisation's latest articles of Association / memorandum, clearly stating the objectives of the organisation along with their latest certified accounts.

### **Period & amount of Award**

The Rateable Value limit for this relief is £51,000

Once granted, relief will be awarded for a fixed period providing there is no change in the organisation's activities. The organisation must notify the Council of any such changes within 28 days.

Huntingdonshire District Council would not normally consider backdating of discretionary rate relief applications unless there are exceptional circumstances, for example, a backdated entry into the rating list.

## **Section 47 - Not-for-profit organisations relief**

A not-for-profit organisation or kindred organisation is one that is not established or conducted for profit, whose objectives are charitable, but is not registered as a charity with HMRC.

In awarding discretionary relief, priority will be given to those organisations that provide greatest value to the community as well as considering overall affordability in terms of loss of income to the council. As such, applications will be considered favourably where:

- The organisation brings a net social, environmental or economic benefit to the community, and in this way contribute to the sustainable development of the District.
- The organisation can demonstrate that it's activities directly meet a local need, either by contributing to or implementation of the District Councils corporate objectives.
- The organisation can demonstrate that it provides facilities that which indirectly relieve the Council of the need to do so or enhance and supplement those which it does provide.

Membership should generally be open to all members of the community. Organisations which provide and seek to encourage the use of such facilities to all sections of the community will receive more sympathetic consideration than those which do not. Clubs or organisations will not be considered if they have membership rates set at such a high level as to exclude the general community.

### **Applications**

All applications will be considered on the merits of the individual case. Any application will need to be supported with copies of the organisation's latest articles of Association / memorandum, clearly stating the objectives of the organisation along with their latest certified accounts.

### **Period & amount of Award**

The Rateable Value limit for this relief is £51,000

Once granted, relief will be awarded for a fixed period providing there is no change in the organisation's activities. The organisation must notify the Council of any such changes within 28 days.

Huntingdonshire District Council would not normally consider backdating of discretionary rate relief applications unless there are exceptional circumstances, for example, a backdated entry into the rating list.

## **Section 44a (part-occupation) Relief**

Occupation of part of a property is considered occupation of the whole. Where a property is only partly occupied temporarily and for a short period of time, the Council has discretion under Section 44A of the Local Government Finance Act 1988 to award a part empty relief. This is achieved by the council requesting that the Valuation Office Agency (VOA) provide a certificate to certify the rateable value of the occupied and empty areas.

Applications will only be considered where the occupied and unoccupied parts can be easily defined and segregated. For the purposes of this policy a period of up to 12 calendar months shall be considered to be temporary and longer periods shall not be considered temporary.

S44A relief will not normally be awarded in respect of different operative periods that contain the same area of unoccupied property that existed in preceding operative periods. Rate relief under this section will not usually be awarded where the partial occupation may be considered to arise due to the ordinary day to day nature of the business( E.G the operation of a warehouse).

No award shall be made where it appears to the Council that the reason that part of the property is unoccupied is wholly or mainly for the purposes of applying for Section 44A relief.

### **Applications**

A ratepayer making an application shall provide a plan clearly showing the dimensions of the occupied and unoccupied areas of suitable quality for the VOA to apportion the rateable value(s). All applications will be subject to an inspection to verify the vacant areas, therefore retrospective application will not be considered.

### **Period & amount of Award**

In the absence of a statutory definition of “short time” relief will only be awarded in line with normal empty property limits. I.e., Up to 6 months for all commercially assessed properties and 3 months for all others. \*

Awards of Section 44A relief shall end at the earliest occurrence of one of the following:

- The end of the statutory period for which empty relief maybe allowed\* (See Above)
- The end of the financial year i.e., 31 March in any year.
- All or part of the unoccupied area becoming occupied.
- The whole of the property becoming occupied
- The ratepayer ceasing to be liable for the property.
- If Council is unable to verify following reasonable notice the area remains unoccupied.

If the ratepayer experiences any change in circumstances which would impact on the eligibility for any relief awarded they must notify the Council within 28 days.

### **Section 49 – Hardship Relief**

The Council has discretion under Section 49 of the Local Government Finance Act 1988 to grant full relief, or part, on the grounds of “Hardship” but must first be satisfied that:

- The ratepayer would sustain hardship if the Authority did not do so, *and*;
- It is reasonable for the Authority to do so, having regards to the interests of persons liable to pay Council Tax set by it.

### **Applications**

The ratepayer must submit a comprehensive application, together with all last 2 years audited accounts. (Bank statements) and any other information reasonably required. The application would have to show what action it has already taken to lessen their hardship. This should include, but not limited to:

- seeking independent professional advice
- re-negotiating with creditors,
- re-structuring their business and pricing structure.
- demonstrating a clear business plan is in place to address the hardship.

The ratepayer would also need to demonstrate what significant detrimental effect on the local community it would have should it cease to trade. This would include, but would not be limited to, local employment and the importance of the company to the local area.

Every case will be considered on its own merits, and will have particular regard to evidence of exceptional or unforeseen circumstances to justify reduction. Hardship Relief would not be considered in the following circumstances:

- Where the business is profitable, or where the business has experienced a minor loss in trade in comparison to the annual turnover of the business
- Where the drawings/remuneration of the Director(s) or proprietor are above a “reasonable” amount.
- Where the business is new and hardship relief is being requested to fund the initial progression of the business
- Where the property is empty
- Where a similar facility is already being provided within the same locality or within a reasonable distance

### **Period & amount of Award**

Awards of Hardship Relief would generally be awarded for a short period only, usually a maximum of six months.

The amount of Hardship Relief awarded would be determined on a case-by-case basis, but would not normally exceed £20,000, unless exceptional circumstances apply.

If the ratepayer experiences any change in circumstances which would impact on the eligibility for any relief awarded they must notify the Council within 28 days.

### **Community Amateur Sports Clubs (CASC's)**



Hereditaments occupied by Community Amateur Sports Clubs (CASC) are entitled to receive 80% Mandatory rate relief under Section 43 of the Local Government Act 1988. The Council has discretion to award an additional 20% in Discretionary Rate Relief.

Approval of up to 20% discretionary rate relief shall take into consideration:

- The extent their activities must meet the Council's corporate objectives and a demonstrable beneficial impact on the local community.
- The extent to which the organisation is local to Huntingdonshire and the benefits of the Authorities' residents.
- The financial position of the applicant.

We would expect CASCs to

- Be open to all sections of the community, except where legitimate restrictions apply.
- Have membership rates set at levels that do not exclude the general community.
- Demonstrate that the criteria by which it considers application for membership is consistent with open access.

### **Applications**

All applications will be considered on the merits of the individual case. Any application will need to be supported with copies of the organisation's latest articles of Association / memorandum, clearly stating the objectives of the organisation along with their latest certified accounts.

### **Period & amount of Award**

The Rateable Value limit for this relief is £51,000

Once granted, relief will be awarded for a fixed period providing there is no change in the organisation's activities. The organisation must notify the Council of any such changes within 28 days.

Huntingdonshire District Council would not normally consider backdating of discretionary rate relief applications unless there are exceptional circumstances, for example, a backdated entry into the rating list.

### **Local Newspapers Relief**

This relief is available for office space occupied by local newspapers up to a maximum of one discount per hereditament, per title.

The premises must be occupied by a local newspaper and wholly or mainly used as office premises for journalists and reporters. The relief is not available for magazines.

### **Applications**

Each application will be considered on its own merits following receipt of a completed form.

Where any other types of relief are applicable to the property, these will be applied first. The relief will be applied against the net bill.

### **Period & amount of Award**

The sum of £1,500 relief is limited to a maximum of one discount:

- Per newspaper title; and
- Per hereditament

Awards will be made annually, up until 2024/25.

If the ratepayer experiences any change in circumstances which would impact on the eligibility for any relief awarded, they must notify the Council within 28 days.

### **Rural Rate Relief**

Mandatory Rural Rate Relief is available for post offices, village shops, petrol filling stations and public houses subject to rateable value restriction, where they are the only business of that type in the rural settlement.

The Rural Settlement List is reviewed annually and designates settlements within a rural area which have a population of 3,000 or less. The list is published on our website under the business rate relief pages.

Properties that will benefit from the relief will be hereditaments that:

- The sole general store, food shop or post office with a rateable value of up to £8,500 or
- The sole public house or petrol filling station with a rateable value of up to £12,500

Any business that is entitled to mandatory Rural Rate Relief will be eligible for the increased level of discount to 100% off their business rates bill.

Where a property meets the above qualifying criteria, but the rateable value is above the defined limits but below £16,500, the Council has discretion to award relief and will consider doing so where the property is used for the benefit of the local community and the award is in the interests of Council Taxpayers.

### **Applications**

Where possible ratepayers entitled to relief under this local scheme will be identified by Huntingdonshire District Council. Ratepayers who believe they might be entitled to this relief should contact the Business Rates team.

### **Period & amount of Award**

Discretionary Rural Rate Relief will be for the awarded for the duration of the rating list from the date awarded on the decision notice unless notified otherwise or there is a change of circumstances which impacts on entitlement.

If the ratepayer experiences any change in circumstances which would impact on the eligibility for any relief awarded, they must notify the Council within 28 days.

The Government announced in the Autumn Statement on 23 November 2016 that the relief will double from 50% to 100% from 1 April 2017.

The government is not changing legislation, instead local authorities are required to adopt a local scheme and decide each individual case using their discretionary relief powers introduced by the Localism Act (under Section 47 of the Local Government Finance Act 1988).

### **Section 69 relief – Localism Act 2011**

Section 69 of the Localism Act 2011 amends the 1988 Act to allow local authorities the discretion to award rate relief to all types of businesses.

The cost of any relief awarded is fully funded by the Local Authority, and therefore is borne solely by council taxpayers of the borough. It is therefore essential that relief is only given to those ratepayers who will bring significant benefit to the area.

Applications for rate relief under this section of the Policy will normally only be considered favourably where the Council is satisfied that an award will result in tangible benefits to local residents and in particular where the award will directly result in attracting businesses, investment or jobs to the local area.

### **Applications**

Written applications will be accepted and reviewed in consultation with the Council's economic development team. Every case would be considered on its own merit and any award would be an exception rather than the rule and would be time limited.

Applications will need to be supported by a minimum of:

- Details of the business and its importance to the local community. Examples could include (but not limited to) the benefits of employment, uniqueness of business, growth
- Copies of last 2 years accounts
- Copy of Business Plan
- Clear reasoning for the request
- Details of the number of people that are, or who will be, employed by the business that reside in Huntingdonshire. Details of future employment opportunities and business growth
- Any other evidence that the ratepayer feels supports their application
- Details of other support received from other sources, or support requested from other sources

### **Period & amount of Award**

Any relief granted is at a maximum of £20,000 and for up to one financial year only.

If the ratepayer experiences any change in circumstances which would impact on the eligibility for any relief awarded, they must notify the Council within 28 days.

### **Retail Hospitality and Leisure relief**

The 2023/24 Retail, Hospitality and Leisure Business Rates Relief scheme will provide eligible, occupied, retail, hospitality and leisure properties with a 75% relief, up to a cash cap limit of £110,000 per business.

Hereditaments that meet the eligibility for Retail, Hospitality and Leisure scheme will be occupied hereditaments which meet all of the following conditions for the chargeable day: they are wholly or mainly being used:

- as shops, restaurants, cafes, drinking establishments, cinemas or live music venue
- for assembly and leisure; or
- as hotels, guest & boarding premises or self-catering accommodation

Relief will not be awarded to hereditaments that are being used for the provision of the following services to visiting members of the public:

- Financial services (e.g. banks, building societies, cash points, bureaux de change, short-term loan providers, betting shops)
- Medical services (e.g. vets, dentists, doctors, osteopaths, chiropractors)
- Professional services (e.g. solicitors, accountants, insurance agents/ financial advisers, employment agencies, estate agents, letting agents)
- Post office sorting offices

### **Applications**

All possible qualifying properties will be identified based on the property description given to an assessment by the Valuation Office Agency, and the relief will automatically be awarded and should show on your annual bill for 2023/24.

### **Period & amount of Award**

In 2023/24 & 2024/24, the amount of relief awarded will be equivalent to 75% of the chargeable amount, after other reliefs and exemptions apply, up to a cash cap of £110k per business (not per premises).

The business must not exceed either the £110,000 cash cap for 2023/24 or the Small Amounts of Financial Assistance limit of £315,000 over 3 years (including 2023/24).

If the ratepayer experiences any change in circumstances which would impact on the eligibility for any relief awarded, they must notify the Council within 28 days.

## **Supporting Small Business Rate Relief**

At the 2022 Autumn Statement on 17 November, the Chancellor announced that the 2023 Supporting Small Business scheme will cap bill increases at £600 per year for businesses losing eligibility for some or all Small Business Rate Relief or Rural Rate Relief at the 2023 revaluation.

Charities and Community Amateur Sports Clubs, who are already entitled to mandatory 80% relief, are not eligible for 2023 Supporting Small Business Relief.

To support these ratepayers, the 2023 Supporting Small Business Relief scheme will limit the increase in ratepayers bills to a cash value of £600 per year. This cash maximum increase ensures that ratepayers do not face large bill increases in 2023/24 after transitional relief and small business rate relief (as applicable) have been applied.

Ratepayers eligible for the 2023 Supporting Small Business Relief and whose 2023 rateable values are £51,000 or more, will not be liable to pay the supplement to fund small business rate relief.

The 2023 Supporting Small Business scheme replaces the previous scheme which was introduced in 2017 to support small and medium ratepayers who had seen large increases in their bills at the 2017 revaluation.

There is no second property test for eligibility for the 2023 Supporting Small Business Relief scheme. However, those ratepayers who during 2022/23 lost entitlement to Small Business Rate Relief (because they failed the second property test) but have, under the rules for Small Business Rate Relief, been given a 12 month period of grace before their relief ended - can continue on the 2023 Supporting Small Business Relief scheme for the remainder of their 12 month period of grace.

### **Applications**

The Supporting Small Business Rates relief is effective from 01 April 2023. Businesses that meet the eligibility criteria will automatically be awarded the Supporting Small Business Rates Relief. Small Business Rate Relief or Rural Rate Relief will not be applied to further reduce the bill.

### **Period & amount of Award**

Eligible ratepayers will see their bill increases capped at £600 per year.

## **Review of Decisions**

There is no statutory right of appeal against a decision regarding discretionary rate relief unless the decision is so unreasonable that no reasonable person could have reached it ('Wednesbury principles').

However, Huntingdonshire District Council recognises that ratepayers should be entitled to have a discretionary decision reviewed if dissatisfied with the outcome.

Only the ratepayer or authorised agent may ask for a review against the decision not to award relief, or the level of relief awarded. An application for review must be made within 14 days of the notification of decision.

Reviews must be in writing specifying reasons why a decision should be amended and may be supported by relevant new or additional evidence where relevant. The Review will be deemed to be discontinued if further evidence requested from the ratepayer has not been received within 14 days of the request.

Any review will be completed within 28 days of receipt unless exceptional circumstances apply and will be conducted by an officer who was not part of the original decision.

Business Rates remain payable as demanded pending the outcome of any application or review.