



## **BUSINESS RATES DISCRETIONARY RELIEF POLICY**

### **A. Scope of This Policy**

This policy is in respect of Discretionary Rate Relief for Charities, Community Amateur Sports Clubs [CASC] and 'Not for Profit' bodies. Section 47 of the Local Government Finance Act 1988 gives charging authorities the discretion to reduce or remit the payment of rates for any ratepayer. A charging authority can reduce or remit the payment of rates where it is satisfied that an organisation meets the criteria of the policy. .

It is for each charging authority to decide on the facts of each case whether to exercise its powers under section 47 - and to judge the extent of those powers.

Cherwell District Council intends to use these powers to support organisations which are entitled to mandatory relief as a charity or CASC and require a 'top up' or are 'not for profit' bodies requiring 100% relief.

Each case will be considered on its own merits and the application process kept as simple as possible. Consequently, the Council is anxious to ensure that organisations are aware of the help which is available and what steps to take to achieve this. If you require additional information please contact our Customer Services Department on 01295 227054.

### **B. Funding the Discretionary Relief Policy**

The amount of funding set aside to support this policy will be reviewed by the Council on an annual basis as part of the budget setting process. The Council pays 75% of the 20% 'top up' relief and 25% of any other discretionary award. Consequently in deciding whether to grant discretionary rate relief Cherwell District Council will look at the cost of the relief against the Council's budgetary provisions and remaining funds.

### **C. Awards of relief**

If your application is successful and you are awarded discretionary relief it will be applied to your account and you will be sent an amended bill showing the amount granted. If this results in an overpayment of business rates a refund will be sent to you.

Relief can be granted on an on-going basis or for a specific period of time. This will depend on the circumstances of each applicant and the nature of the organisation. Where an award is withdrawn, one full financial year notice must be given.

### **D. Equality & Diversity**

When applying the content of this policy to the determination of an application for a rate relief reduction, officers of the Council will base their decisions solely on the criteria in this policy and not discriminate against any particular group or groups. Officers will also aim to consider any impact on equality and diversity in the community of the organisation applying for relief.

### **E. Right of Appeal**

Your application will be processed within a month of receiving all the necessary information and you will be notified in writing of the decision and if relief is not granted you will be told why. You should continue to pay your business rates at the current rate until a decision and a revised bill is received. As this is a discretionary power, we will re-consider our decision on appeal in the light of any additional points you wish to make.

#### **F. Scope and General Conditions For Discretionary Relief**

- Awards can be for either a specific period or open ended. Open ended awards will be reviewed and further information requested at any time should the need arise.
- Awards will not usually be backdated to any previous years.
- Any relief awarded is, throughout the period of the award, financially sustainable (i.e. the Council has the necessary funding).
- All other forms of rate relief have already been considered. If another type of relief is more appropriate you will be advised accordingly.
- Applications must be in writing, and, as a minimum must contain the information specified in the Council's standard application form shown in Appendix 1.
- Applications will only be considered where signed by the ratepayer, or, where an organisation is the ratepayer, an appropriately authorised representative of the organisation.
- Additional information deemed by the Council to be essential in order for a fair evaluation of the application to be made must be supplied within 4 weeks of a request.
- The organisation must demonstrate that it is a charity or trustee for a charity and the premises are used mainly or wholly for charitable purposes OR
- Is a Community Amateur Sports Club registered as such with the Inland Revenue OR
- Is an organisation which is not established for profit and whose aims are charitable or philanthropic, religious, educational or concerned with social welfare, science, literature or fine arts.

#### **Examples of appropriate circumstances**

The following examples indicate circumstances where it may be appropriate to award relief. They are included in this policy in the form of broad general guidelines and are not intended to be prescriptive.

- a) The organisations objectives are in accordance with those of the Council
- b) The contribution the organisation makes to the community as a whole and the extent to which its membership is available to all or specific groups of people
- c) The extent to which the facilities and services provided complement or replace those provided by the Council

### **G. How to apply for NNDR Discretionary Relief.**

You will need to complete a NNDR Discretionary Relief application form (Appendix 1), which is also available on the Council's website or by contacting the Business Rates Section.

### **Authority to Award Relief**

In the interests of efficiency, the authority to consider applications is delegated as set out below:

- ◆ All awards with to be considered by the Service Assurance Technical Specialist for Revenues and recommendation approved by Head of Finance
- ◆ All Discretionary Relief appeal cases: To be considered by Members Appeal Panel/Executive.

Details of the recipients and the amount of awards will be reported to the Executive annually.

Officer and Members who have an interest in any aspect of an application for relief must not participate in the decision making or appeals process and must declare their interest.

Examples of interests include those in the following list. However, the list is not intended to be exhaustive.

- Membership of the organisation making an application
- A close relative who is a member of the organisation making an application
- An interest in the property for which the relief is being sought
- Membership of a similar organisation (e.g. a rival sporting club)

Where an officer or Councillor is unsure whether they have an interest they should seek advice from the Head of Legal and Democratic Services as the Council's Monitoring Officer. The Head of Legal and Democratic Service may in turn need to liaise with the Head Finance on any case referred to them (e.g. where cases of conflict of interest will need to be monitored by the Service Assurance Team on an on-going basis).

### **Cancellation of relief**

Relief will be cancelled/reviewed if:

1. The applicant ceases to be liable for NNDR
2. The property becomes empty.
3. The use of the property changes
4. The aims or objectives of the ratepayer change
5. There is a decrease or increase in the amount of rates payable

The ratepayer has an obligation to tell the Council where (1) to (4) applies.

Where relief is cancelled/reviewed for any of the reasons from (2) to (4) above, a new application may be made straight away.

Where relief is cancelled for reason (5) above the decision will immediately be reconsidered and a new decision made, based on the new amount of rates payable.

## **Appeals Process**

Appeals may only be made by the original applicant. An appellant may appoint an agent act on their behalf and in such cases the Council will require written authorisation from the appellant before dealing with their agent.

Appeals against decisions will be considered by the Member Appeals Panel/Executive. Decisions on appeals made by the Members Appeal Panel/Executive will be final.

Applicants must make an appeal within four weeks of the issue of the letter notifying them of the Council's decision.

Applicants will be notified of the date on which the appeal will be considered, which will be within eight weeks of receipt of the appeal, or where the appeal is to be considered by the Executive, within twelve weeks. Or in both circumstances as soon as reasonably practicable thereafter.

Applicants may appeal against the decision to award or not award relief, or against the level of relief awarded.

Appeals must be made in writing and must give the reasons why it is believed the decision should be amended. New or additional information may be included, but only if it is relevant to the decision making process.

The appellant may make a request to present evidence in person but does not have a right to do so. Such requests will be considered at the discretion of the Head of Finance.

The Members Appeal Panel/Executive can request a meeting with either the applicant and/or the appropriate Revenues Service officer to hear evidence in person. The Executive may nominate a representative or representatives to attend such meetings on its behalf.

Each application will be considered individually on its merit.

The appeal decision may be adjourned if further information is required from either party.

The applicant will be informed of the final decision, and the reasons for the decision within four weeks of the hearing.

Submitting an appeal does not affect the appellant's legal rights to challenge a decision made by the Council through the Judicial Review process.

If the Council has requested further evidence from the ratepayer and this has not been received within four weeks, the appeal will be deemed to have been discontinued and the

applicant notified in writing. No further consideration will be given to that appeal but the rate payer can submit a subsequent application but backdating will not be considered.

## **NATIONAL NON-DOMESTIC RATES**

### **DISCRETIONARY RELIEF**



#### **General Information**

Section 47 of the Local Government Finance Act 1988 gives Cherwell District Council, as a billing authority, discretion to reduce or remit payment of rates to Charities, Community Amateur Sports Clubs or 'Not for Profit' bodies.

In making decisions on whether to grant relief, Cherwell District Council considers guidance issued by the Communities and Local Government Department (CLG). The CLG has said that whilst it is for each billing authority to decide on the facts of each case whether to exercise its powers under Section 49 – and to judge the extent of those powers – authorities may wish to bear in mind the following guidance:

- i. Although authorities may adopt rules for the consideration of discretionary cases, they should not adopt a blanket policy either to give or not to give relief, each case should be considered on its own merits;
- ii. Is membership open to all sections of the community? Is membership of minority groups encouraged and are the facilities open to other users;.
- iii. Does the organisation provide education or training for its members or are there schemes for particular groups of people. Do the facilities replace or compliment those provided by the Council. Does the organisation run a bar?
- iv. Is membership drawn from mainly local people and is the organisation affiliated to any national body, such as the Sports Council?
- v. 75% of the 20% top up relief is paid by the Council. 25% of any other discretionary award is payable by the Council.
- vi. The 'interests' of Council Tax payers in an area may go wider than direct financial interests. For example, where the employment prospects in the area would be worsened by a company going out of business, or the amenities of an area might be reduced by, for instance, the loss of the only provider of a service in the area; and
- vii. Consideration will be given to the financial impact on the Council and the local community in making awards. Relief may be refused or capped if it is considered that the financial cost to the Council or the local community outweighs the benefits generated through the award of relief.

## **How to apply for Hardship Relief**

- ◆ Please complete the attached application form as fully as possible. If you have any difficulties completing the form, please contact the Customer Services department on 01295 227054.
- ◆ In addition to the standard application form ratepayers will be required to supply supporting information such as audited accounts and articles of association. In some circumstances the Council may decide that it is necessary for one or more officers to visit the rated premises to establish further facts.
- ◆ In some instances the Council may require the applicant to visit the Council's offices to provide verbal information in support of the application. Where a visit is required the Council will give a minimum of fourteen days notice of the date the visit is required.
- ◆ The Council will not consider applications where the ratepayer has failed to provide information that has been requested within 4 weeks of the request, or where the ratepayer does not cooperate with the Council's request to visit a property.
- ◆ It is recognised that some organisations may not currently keep records of sufficient detail to provide the information that is normally required to support an application. Where the Council is satisfied that the information is genuinely not available, and that the organisation has co-operated to provide all information that is available, the Council will consider the application based on the information provided. Only one application will be considered in this way, and future applications must provide all information that is required.
- ◆ If the process of keeping record to the standard required will incur additional expense for the organisation it will be up to the organisation to decide whether the additional expense is worthwhile in order to apply for relief.
- ◆ Once an application is received no action will be taken to recover unpaid rates until fourteen days after the decision has been notified to the ratepayer. However, payment cannot be withheld pending an appeal. In the event that an appeal is successful, any overpayment will be refunded.
- ◆ In the event of an application being discontinued or refused recovery action may be commenced fourteen days after the ratepayer has been notified of the discontinuation or refusal.
- ◆ Where an application has been refused either initially or following an appeal, further applications will not be considered within the same financial year except where:
  - a) The use of the property changes, or
  - b) The objectives of the organisation change, or
  - c) There have been other changes that may affect the Council's decision (for example where an organisation has taken action to address an issue which had previously precluded an award of relief).
- ◆ The decision on whether to consider a reapplication shall be made by the Head of Finance in all cases.

**Form CR1**

**Application for charitable rate relief [for charities, community amateur sports clubs and 'not for profit' bodies]**

If you are applying for mandatory relief, complete sections A,B and F.

If you are applying for discretionary relief and additional top-up discretionary relief (village halls, community centres and charity shops) complete all sections.

**Remember to sign the declaration and enclose supporting documents.**

**Section A – Details of the organisation**

1. Name of the organisation

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2. Address of the premises applying for relief

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3. What is the property used for?

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4. Name and address of the secretary or treasurer of the organisation

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5. Daytime phone number

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**Section B – Status of the organisation**

6a Is the organisation registered with the Charity Commissioners? YES/NO

6b If yes state the registration number

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7a is the organisation exempt from registration as a charity? YES/NO

7b If yes, on what grounds is it exempt?

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(For advice about registration as a charity contact the Charity Commissioners)

**Section C – Aims and objectives**

8. Is the organisation established or conducted for profit? YES/NO

9. What are the main sources of the organisation's income?

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10. Please state briefly the main aims and objectives of the organisation.

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11a. Is the organisation a local or national organisation, or affiliated to a local or national body? YES/NO

11b. If yes please give name and address of the organisation or body.

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#### **Section D – Provision of facilities**

12a. Does the organisation provide facilities which relieve, enhance or supplement those which Cherwell District Council provides? YES/NO

12b. If yes, what are they?

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13. Are the facilities mainly for the use of or by Cherwell District Council residents? YES/NO

14a. Were the facilities originally provided by means of self-help or grant aid? YES/NO

14b. Is self-help or grant aid still used to maintain the facilities? YES/NO

15. Does the organisation run a licensed bar on the premises for which relief is sought? YES/NO

16a. Is all of the property used for or by the organisation? YES/NO If no, how much of the property is used for the organisation and how often?

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16b. Who uses the remaining parts of the property and how often?

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#### **Section E – Membership and access**

17a. Is membership open to all of the community? YES/NO

17b. What are the membership fees? £

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18. How many people are on the membership waiting list?

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19. How long is the membership waiting list in months or weeks?

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20a. Are there membership concessions for Cherwell District Council residents? YES/NO

20b. If yes, please give details

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21a. Are there membership concessions for special groups in the community? (like disabled people or the elderly) YES/NO

21b. If yes, please give details

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22a. Are facilities available to non members? (like schools or casual public sessions) YES/NO

22b. If yes, please give details

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23. Does the organisation provide training or education for members to develop their skills? YES/NO

## Section F – Funding

24. Please give details of local authority grants or other financial assistance the organisation has received in the last two years.

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25. What are the main sources of funding for the organisation?

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**Please supply the following documents, where applicable, to support this application.**

- Proof of charitable status (a copy of the letter from the Charity Commissioners granting charitable status)
- Trust deed or other statement of constitution
- Rules of the organisation
- Subscription scales and membership lists
- Most recent audited accounts and balance sheet
- Memorandum and Articles of Association

Do you wish these documents to be returned? YES/NO

I certify that the information given is correct to the best of my knowledge and belief.

Signed \_\_\_\_\_ Date \_\_\_\_\_

Please print name \_\_\_\_\_

Capacity in which signed \_\_\_\_\_

**Please send the completed form to:**

**The Service Assurance Team,  
Cherwell District Council  
P.O. Box 27  
Banbury  
OX15 4BH**

