



## **Appendix B**

### Revenues Services

# Discretionary Business Rate Relief Policy 2014

October 2014

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## 1. Introduction

South Cambridgeshire District Council recognises the importance of business to the local economy and understands the challenges that businesses face. The Council wants to provide support to businesses within the area where it is reasonable to do so. We also recognise the contribution that is made to the community by voluntary, charitable and non-profit-making organisations.

The Council has discretionary powers to award relief from payment of Non-Domestic Rates in a range of circumstances:-

- Properties partly occupied for a temporary period. Awarded under Section 44a of the Local Government Finance Act 1988.
- Properties occupied by charities and other not-for-profit organisations. Awarded under Section 47 of the Local Government Finance Act 1988
- Properties occupied and located in rural settlements. Awarded under Section 47 of the Local Government Finance Act 1988
- Ratepayers that would otherwise suffer hardship. Awarded under section 49 of the Local Government Finance Act 1988.
- In exercise of the Council's general power to award discretionary rate relief. Awards under Section 47 of the Local Government Finance Act 1988 as amended by Section 69 of the Localism Act 2011.

This policy provides guidance for Council Officers and ratepayers on the application of Discretionary Rate Relief. The following reliefs are covered in this policy:

- Section 44A relief – discretionary relief for partly empty properties
- Hardship relief
- Charitable rate relief (Top-up relief)
- Rate relief for not-for-profit organisations
- Relief for Community Amateur Sports Clubs
- Relief for rural businesses
- Discounts for shops, pubs and restaurants (Retail Relief)
- Re-occupation relief
- New build empty properties
- Section 69 / Section 47

Each application for relief will be considered on its own merits. Due consideration will be given to the guidance within this policy and to national legislation. In determining an award consideration will also be given to the interests of the council taxpayers of the District.

We would expect, as a matter of course, that all other options would have been considered before an application for discretionary rate relief is submitted. Awards will only be made where the benefits to the taxpayers outweigh the financial implication of the award.

## **Format of applications**

Applications for relief must be made on the Council's application form. Applications should be submitted with the supporting information that is requested. Applications submitted without the supporting information will be assessed solely on the information that is available at the time of the decision. Ratepayers requiring help or advice should call the Business Rates team on 01954 713112 or 01954 713409.

## **Payment of Instalments**

Ratepayers must continue to pay any amount of rates that falls due whilst their application is pending. In the event that payments are not received as due, the Council will continue with its normal recovery procedures to secure payment.

## **Effective date of relief**

It is the Council's policy that discretionary relief will only be awarded from the date of the application, or in the case of hardship, the point at which the hardship occurred. Only in the most exceptional circumstances will consideration be given to awarding relief for a retrospective period. Consideration may be given where the ratepayer can establish a solid reason for not submitting their application at an earlier date.

Relief will not be awarded if the Council is not satisfied that the circumstances as declared in the application have occurred.

## **State Aid**

All amounts of relief awarded are subject to the state aid limits as defined by European legislation. Relief will not exceed €200,000 in any 3 year period. Each application must be accompanied by a statement signed by the appropriate person representing the business setting out the amount of state aid, including but not limited to discretionary rate relief, which the ratepayer has received within the previous three years across England and Wales.

## **Costs of Relief**

Prior to April 2013, Central Government paid 75% of the cost of discretionary relief, and the remaining 25% was funded by South Cambridgeshire District Council, apart from charitable top-up where SCDC contributed 75%.

Following the introduction of Business Rates Retention, the cost of awarding discretionary relief is apportioned as follows:

- 50% funded by Central Government
- 40% funded by the District Council
- 9% funded by County Council
- 1% funded by the Fire Service

The Council will be reimbursed for the cost of awarding Retail Relief (8), Re-occupation relief (9) and New Build Empty Property Relief (10) by central government.

Where discretionary relief is given under section 69 of the Localism Act 2011 (11), the full cost will fall to the local authority.

## **Decisions**

Decisions regarding rate relief will be communicated to the ratepayer in writing. If the decision is a refusal of the relief, reasons for the refusal will be provided in the letter.

## **Period of award**

All awards will expire at the end of the financial year if the award has not ended at an earlier date or at the anniversary of the granting of the relief except in the case of Retail Relief which can be granted for 2014/15 and for 2015/16 without further application. The Council will look to contact recipients for confirmation of entitlement and potential renewal of relief with the exception of Hardship and Section 44a Relief.

## **2. Section 44A relief - Discretionary relief for partly empty properties**

Occupation of part of a property is occupation of the whole in rating law. There may be occasions where a property is only partly occupied for a short period of time. This may be due to a business moving in or relocating to a new property within the District. In certain circumstances, the Council may use its discretion to award a part empty relief; also known as Section 44A (s.44A of the Local Government Finance Act 1988).

In these circumstances the Council may request that the Valuation Officer apportion the rateable value of the property between the occupied and unoccupied elements.

### **In what circumstances might relief be awarded?**

Section 44A relief may be applicable in the following circumstances:

- Where the occupied and unoccupied parts of the property can be easily segregated
- Where there are short term practical or financial difficulties in occupying. Phased vacations may be considered when moving within the SCDC district
- Where the business is relocating machinery
- Where Fire/Flood has rendered a part of the assessment unoccupied for a short period

In all of the above cases, the period of part occupation must be for a temporary period only, and relief will not be awarded where it appears to the Council that the reason that part of the property is empty is for the purpose of applying for partial empty rate relief

Rate relief will not be awarded where the partial occupation is due to the normal day to day operation of the business i.e. a warehouse which has recently despatched a large order and has limited stock. Nor will Relief normally be considered where the property is due for demolition.

For the purposes of this policy a period of up to 12 months will be considered to be temporary. Periods which exceed this time period will be treated as a permanent change and will not attract an award of section 44A. A period of less than 6 weeks will not be considered for Section 44A purposes except in exceptional circumstances.

Where the Valuation Officer may be able to split the assessment any application for discretionary relief will not be considered until the Valuation Officer's decision is known.

### **How will a decision be made?**

Prior to an award being made, a visit to the premises will be made by a Council Officer to establish the exact area of the property that is empty. The application must be supported by a plan of the property which clearly marks the boundary of the empty and occupied parts. This plan will be given to the Valuation Officer to apportion the rateable value.

Further visits may be made to the property throughout the award to establish that the property is still partly empty.

*Further applications for part empty relief may be considered in the following circumstances:*

- *Where there is a change to the area of the property that is unoccupied*
- *Where the financial year comes to an end. Part empty property relief will end if one of the following circumstances applies:*
  - *The end of the financial year*
  - *The end of the award*
  - *Where part or all of the unoccupied parts become occupied*
  - *Where the whole of the property becomes unoccupied*
  - *Where liability for the property changes*

#### **Amount of award**

The amount of relief awarded will be dependant on the size of the empty space in the property based on the rateable value.

#### **Period of award**

An award will apply for a 6 month period for industrial premises and 3 months for non industrial properties, unless it is ended by the changes in circumstance as listed above.

### 3. **Hardship relief**

Hardship relief may be awarded where the business is suffering from unexpected hardship which is outside of normal risks associated with the business. Reduction or remission of business rates on the grounds of hardship will only be awarded in exceptional circumstances.

Hardship relief is granted at the discretion of the Council which can reduce or remit the amount of business rates due, provided it is satisfied that:

- The ratepayer would sustain hardship if it did not do so; and
- It is reasonable for the Council to do so, having regard to the interests of its tax payers.

#### **In what circumstances might relief be awarded?**

The test of hardship need not be confined strictly to financial hardship; all relevant factors affecting the ability of a business to meet its liability for rates will be taken into account. The following factors will also be considered:

- The interests of council tax payers in the area. For example, where the employment prospects in the area would be severely worsened by a company going out of business, or the amenities of an area might be reduced. Where the granting of relief would have an adverse effect on the financial interest of the taxpayers, the case for reduction or remission may still, on balance, outweigh the cost to the taxpayers
- Whether the business provides goods and services which are of great benefit to the district or the neighbourhood in which it is located, such as the business taking on apprentices or trainees, or providing guaranteed interviews to young people of the District
- The ratepayer must provide evidence of hardship e.g. a severe loss in trade, a marked decline in trade compared to corresponding periods in previous years.
- The business must be viable for the foreseeable future i.e. a period of 3 years.

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*

Prior to the award being made, the business is expected to have taken all appropriate action to mitigate or alleviate their hardship. This would include, but is not limited to taking professional business advice, reviewing pricing structures, re-negotiating with creditors, including the landlord regarding rent (where appropriate), and ensuring that a business plan is in place to address the hardship.

Full details of action taken to date should be included with any application. No award shall be given where it appears to the Council that the ratepayer has failed to take appropriate steps or anticipate circumstances that could lead into financial difficulties and hardship.

### **How will a decision be made?**

An application for relief must be made by completing the Council's hardship rate relief application form. Applications must detail the following:

- An outline of the reasons why relief should be given, including full details of action taken to date to alleviate any issues leading to hardship
- The impact on the business of not awarding relief
- The amount of expenditure attributable to rates
- A suggestion of the amount of rate relief that is being claimed
- Copies of the last 3 years financial accounts to be submitted with the application.

### **Amount of Award**

The amount of relief awarded will be determined on a case by case basis and may in this case be up to 100% of the rates payable, but will be limited to a maximum of £20,000, unless exceptional circumstances apply.

### **Period of Award**

Awards will only be granted for short periods of time, usually up to a maximum of 6 months.

#### 4. **Discretionary relief for charitable organisations (Top up relief).**

Where the organisation is a registered charity, 80% mandatory relief must be awarded to the organisation when the property is occupied. The Council may consider awarding up to an additional 20% in discretionary top up relief.

##### **In what circumstances might relief be awarded?**

The property must be wholly or mainly used for the organisation's charitable purposes, and the organisation must benefit the local residents of the District by the services or facilities that it provides.

Applications will be considered favourably where:

- The organisation has a demonstrable or measureable impact of a beneficial nature on the local community which it serves. Consideration will be given to how many residents of the District benefit from the charitable work of the organisation, how accessible the organisation is to members of the community throughout the District, and the extent to which the service is used by the community.
- Training or education is provided by the organisation to residents or members of the organisation for the purposes of that organisation.

Relief will generally not be awarded in the following circumstances:

- Properties which support overseas organisations and out of area organisations.
- Housing Associations
- Schools and other educational establishments

##### **How will a decision be made?**

The organisation will be expected to provide the following in support of their application:

- A copy of the articles of association / memorandum which clearly state the objects of the organisation; and
- A copy of the last 3 years certified financial accounts. The financial position of the organisation may be taken into account.

##### **Amount of award**

The amount of relief awarded will be determined on a case by case basis. It will however be limited to a maximum of £20,000, unless exceptional circumstances apply.

##### **Period of award**

Any award will last a maximum of 1 year.

## **5. Discretionary relief for non profit organisations**

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

### **In what circumstances might relief be awarded?**

Applications will be considered favourably where:

- The organisation has a demonstrable or measureable impact of a beneficial nature on the local community which it serves.
- The organisation is accessible to members of the community throughout the district. The extent to which the service is used by the community will also be considered.
- Facilities are provided which would not otherwise be available to the local community
- Training or education is provided by the organisation to residents or members of the organisation for the purposes of the organisation.

Relief will generally not be awarded in the following circumstances:

- Properties which support overseas and out of area organisations
- Housing Associations
- Schools and other educational establishments

### **How will a decision be made?**

The organisation will be expected to provide the following in support of their application:

- A copy of the articles of association / memorandum which clearly state the objects of the organisation; and
- A copy of the last 3 years certified financial accounts. The financial position of the organisation may be taken into account. The income of the business will be considered, and the proportion of business rates on total expenditure.
- Where the premises includes a bar and the sale of drink or food is conducted in the Club, the percentage of takings attributable to this in the overall income of the Club

### **Amount of award**

The amount of relief awarded will be determined on a case by case basis and may in this case be up to 100% of the rates payable, but will be limited to a maximum of £20,000 unless exceptional circumstances apply.

### **Period of award**

Any award will last up to a maximum of 1 year.

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

CASC's are entitled to 80% mandatory relief. The Council has discretion to consider awarding up to an additional 20% in discretionary top up relief.

Where an amateur sports club is neither a registered charity, nor a CASC, the organisation will be encouraged by the Council to submit an application to either HMRC for CASC status or to the Charity Commission for charitable status, although the absence of these either status will not automatically prevent an application from being considered.

### **In what circumstances might relief be awarded?**

In considering applications from CASCs, Consideration will be given as follows:

- **Membership** – Is membership open to all sections of the community within the District? Membership fees must not be at a level where they exclude the general community. Membership of the organisation should be mainly resident in the District.
- **Education** – the organisation will provide training, education or learning to its members. The organisation will be treated favorably where the training delivered supports and reduces the Council's need to do so.
- **Direct benefit to local residents** – the organisation should directly benefit the needs of the local residents of the District. The organisation must show how it benefits the residents of the District. Examples could include the creation of job opportunities within the area.
- **Provision of facilities** – does the organisation provide facilities which would not otherwise be available to the local community?

### **.How will a decision be made?**

Information will need to be provided which details the financial circumstances of the club. This will include:

- Financial accounts for the last 3 years; and
- Where the premises includes a bar and the sale of drink or food is conducted in the Club, the percentage of takings attributable to this in the overall income of the Club
- Details of all funding streams which the club has received or is due to receive.

### **Amount of award**

The amount of relief awarded will be determined on a case by case basis. The award will be up to a maximum of 20% of the total business rates payable and will be limited to a total of £20,000.

### **Period of award**

Any award will last for up to a maximum of 1 year.

## **7. Rural rate relief (discretionary top up)**

Mandatory rural rate relief at a rate of 50% is awarded to properties within a defined rural settlement which has a population of less than 3000. The Council's rural settlement list can be viewed on the Council's website at [www.scambbs.gov.uk](http://www.scambbs.gov.uk). This list is published by the Council at the end of December each year. The rateable value (RV) of a qualifying property will be:

- For the sole food shop, general store or post office in a settlement, the RV will not exceed £8,500
- For the sole petrol filling station or pub in a settlement, the RV will not exceed £12,500.

Businesses are invited to apply for discretionary relief of up to a further 50%, where a property meets either of the above criteria and the rateable value exceeds the set limits but is below £16,500 the Council has discretion to award relief between 0% and 100%

### **In what circumstances might relief be awarded?**

Discretionary relief will be considered where:

- The RV of the property is below the limits as outlined above
- The property is used for the benefit of the local community
- The award of the relief is in the interests of the Council's taxpayers.

The following will be taken into consideration when deciding whether discretionary relief should be awarded:

- Whether the business employs a significant number of staff who are resident in the local community in which the business is located
- Whether there are any other suppliers of the service concerned which are easily accessible to residents within the rural settlement.

### **How will a decision be made?**

The Council will give consideration to the financial viability of the business concerned, thereby having regard to the interests of the council tax payers in general. Ratepayers may be asked to provide their latest trading accounts or equivalent along with evidence as to the proportion of expenditure attributed to rates.

This will be balanced by the detrimental effect on the rural community should the business have to cease trading either as a direct or indirect result of not awarding relief.

### **Amount of award**

The amount of relief awarded will be determined on a case by case basis and may be up to 50% in this case but will be limited to a maximum of £20,000, unless exceptional circumstances apply.

### **Period of award**

An award will be made for a maximum period of 1 year.

## 8. Discount for shops, pubs and restaurants (Retail Relief)

**The following discretionary discount will only be available for the 2014/15 and 2015/16 financial years only as per national government legislation**

### **In what circumstances might relief be awarded?**

Discretionary relief will be considered where;

The property has a rateable value of £50,000 or less and must be wholly or mainly used for the purpose of a shop, restaurant, cafe or drinking establishment / pub.

Examples of properties which would qualify:

- Shops (such as florists, bakers, butchers, grocers, greengrocers, jewellers, stationers, off licence, chemist, newsagent, hardware store, supermarkets etc.)
- Charity shops
- Opticians
- Post offices
- Furnishing shops (such as carpet shops, double glazing, garage doors)
- Car / caravan show rooms, or second hand car lots
- Markets
- Petrol stations
- Garden centres
- Art galleries
- Hair and beauty salons (such as hair dressers, nail bars, beauty salons, tanning shops)
- Show repairs or key cutting shops
- Travel agents
- Ticket offices
- Dry cleaners or laundrettes
- Domestic repair services (such as TV or computers repair)
- Funeral directors
- Photo processing
- DVD / video rental
- Tool hire or car hire
- Restaurants
- Takeaways
- Sandwich shops
- Coffee shops
- Pubs or bars

The following examples would not qualify for the relief:

- Financial services (such as banks, building societies, cash points, bureau de change, payday lenders, betting shops, pawn brokers)
- Other services (such as estate agents, letting agents, employment agencies)

- Medical services (such as vets, dentists, doctors, osteopaths, chiropractors)
- Professional services (such as solicitors, accountants, insurance agents / financial advisors, tutors)
- Post office sorting office
- A property which is not readily accessible to the visiting members of the public.

The above list is not exhaustive. Any properties which are used for other purposes will be considered on an individual basis by the Council.

#### **How will a decision be made?**

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

#### **Amount of award**

A maximum of £1000 will be awarded per property for each of the relevant financial years if the property is used for the purpose of a shop, restaurant or pub for the whole financial year.

#### **Period of award**

An award will be made for 2014/15 and 2015/16 only as per national government guidance.

## **9. Re-occupation relief**

This is new legislation effective from the 1<sup>st</sup> April 2014 only and is for a maximum period of 18 months from the date of occupation between 1<sup>st</sup> April 2014 and 31<sup>st</sup> March 2016.

### **In what circumstances might relief be awarded?**

**This relief applies to re-occupation of property on or after the 1<sup>st</sup> April 2014 only.**

Discretionary relief will be considered where;

- The property has been unoccupied for a period of at least 12 months.
- The property when previously in use was used wholly or mainly for retail purposes.

And the property becomes occupied.

### **How will a decision be made?**

Each application will be considered on its own merits. Applications must be made in writing. The Council must be satisfied that the property has been empty for over 12 months.

### **Amount of award**

The amount awarded will be 50%.

### **Period of award**

An award will be made for up to a maximum period of 18 months. However this will only apply for the 2014/15 and 2015/16 financial years as per Government legislation



## 10. **New build empty property relief**

### **In what circumstances might relief be awarded?**

Discretionary relief will be considered where;

- All newly built commercial property is completed between 1 October 2013 and 30 September 2016. These properties will be exempt from empty property rates for the first 18 months, up to the state aids limits.

Properties that will benefit from the relief will be all unoccupied business properties which are wholly or mainly comprised of qualifying new structures.

### **How will a decision be made?**

All applications will be considered on an individual basis. Each application must be made in writing.

### **Amount of award**

An award of 100% will be made.

### **Period of award**

The award will be made for properties completed between 1 October 2013 and 30 September 2016. It will apply for the first 18 months following completion.

## 11. Section 69/Section 47

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 business.

### **In what circumstances might relief be awarded?**

As this relief is fully funded by the local authority, applications will only be considered favourable where the Council is satisfied that an award will result in real benefits for local residents and has the potential to generate further investments and jobs

### **How will a decision be made?**

Application must fully detail the benefits to Council taxpayers that will be delivered should the relief be awarded. Due consideration will be given to any previous awards given, the benefit to local taxpayers, the cost to the Council as well as the probability of attracting new businesses, investments and jobs should the award be given.

### **Amount of award**

The amount of award will be determined on an individual basis, but the total amount of relief awarded will not exceed £20,000, unless exceptional circumstances apply.

### **Period of award**

When granted, the relief will apply to the current financial year only.

## **12. Review of Decisions**

All unsuccessful applicants will receive a letter detailing the reasons why their application has not been successful. If the ratepayer is dissatisfied with this decision they can request a review of the decision by writing to:

The Business Rates Team  
South Cambridgeshire Hall  
Cambourne Business Park  
Cambourne  
Cambridge  
CB23 6EA

A request for a review must be received within 6 weeks of the date of the decision regarding the award or refusal of a discretionary relief. The request should detail the reasons why a review is considered necessary and provide any additional supporting information which may assist the decision maker in support of the request.

Reviews will be dealt with by the Revenues Manager and the decision following the review will be notified in writing.

Where the taxpayer remains dissatisfied with the decision there is an appeal route by way of judicial review.

Business rates remain payable as demanded pending the decision on any application, review or appeal.