

## **Cabinet**

**16 April 2014**

### **Review of Discretionary Rate Relief Policy**



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### **Report of Corporate Management Team Don McLure, Corporate Director Resources Cllr Alan Napier, Cabinet Member for Finance**

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#### **Purpose of the Report**

- 1 To review the Council's policy on discretionary rate relief, including partly occupied and new building rate relief.
- 2 The review of the policy takes into account changes in the funding of discretionary rate relief as a result of the Localisation of Business Rates from April 2013; consultation with the Voluntary Community Sector Working Group; and the announcements in the Government's Autumn Statement with regards to 'Retail Relief' and a 'Reoccupation Relief'.
- 3 The review of the policy will help ensure that the policy is up to date and 'fit for purpose'; provide the powers to implement the Retail Relief and a Reoccupation Relief; and ensure that all applications continue to be assessed in a fair and open process, based on agreed policy criteria that will work in tandem with the Council Tax Discretionary Reduction and Business Rates Hardship Policy, which was approved by Cabinet in December 2012.

#### **Background**

- 4 The existing Discretionary Rate Relief Policy (the policy) came into force with effect from 1 April 2012. It does not currently include provisions for local discounts and there is no definition or provision for the new forms of community and voluntary sector organisations that are now more commonly being established, for example Community Interest Companies (known as CICs).
- 5 The current criteria for granting relief are set out in the Discretionary Rate Relief Report, approved by Cabinet 11 November 2009.
- 6 Durham County Council recognises the valuable role the Voluntary and Community Sector (VCS) plays within the community and works in partnership with the sector in order to improve quality of life for local people. The County Durham Compact outlines the principles for the working relationship between the public sector and the VCS and needs to be taken into account in any proposed changes to Discretionary Rate Relief.
- 7 In June 2013 Cabinet approved the VCS Strategy, which supports the building of a resilient and sustainable VCS in a rapidly changing economic and political

environment. The strategy acknowledges that all sectors are facing challenging budget pressures and have to make significant savings.

- 8 Encouragement and support is being given to VCS organisations to become more socially enterprising which for some will entail developing different organisational structures such as CIC's and Charitable Incorporated Organisations (CIO's). Any proposed changes to Discretionary Rate Relief needs to be consistent with the Council's support for the VCS whilst also giving value for money for local council tax payers.
- 9 In December 2013, the Chancellor announced a range of amendments to Business Rates as part of his Autumn Statement:
  - the Retail Price Index increase in 2014-15 will be capped at 2% instead of 3.2%
  - the doubling of the Small Business Rate Relief will be extended for a further 12 months until 31 March 2015;
  - ratepayers receiving Small Business Rate Relief that take on an additional property which would currently disqualify them from receiving relief will continue to receive their existing relief for 12 months;
  - **a discount of £1,000 for shops, pubs and restaurants with a rateable value below £50,000 for two years up to the state aid limits, from 1 April 2014;**
  - **a 50 per cent business rates relief for 18 months - between 1 April 2014 and 31 March 2016 - for businesses that move into retail premises that have been empty for a year or more;**
  - ratepayers will be allowed to elect to pay bills over 12 instalments instead of ten; and
  - 95% of the September 2013 backlog in business rates appeals will be cleared by the Government's Valuation Office Agency before July 2015.

### Overview of Current Arrangements

- 10 With the exception of properties that are exempt from business rates, each non-domestic property has a rateable value assigned to it by the Valuation Office Agency (VOA), part of HM Revenues and Customs. The VOA maintains a full list of all rateable values for all non-domestic dwellings in each locality. This broadly represents the annual rent the property could have been let for on the open market on a particular date. For the revaluation that came into effect on 1 April 2010, this date was set as 1 April 2008.
- 11 Legislation states that Councils must award mandatory rate relief (80% of the rates liability) to qualifying charitable organisations, and provides the power to grant discretionary rate relief to top up this relief or offer 100% discretionary rate relief to organisations that meet certain criteria. As the title suggests the power is discretionary and can therefore be limited by other factors, notably the budget

and funds available for this purpose. Any relief is used to reduce the amount the organisation is required to pay in Business Rates.

- 12 The existing policy has not been reviewed for a number of years and has been extended and rolled forward unchanged for the last four years.
- 13 To change the Policy the Council is required to give 12 months' notice to those businesses in receipt of the relief. All businesses currently in receipt of the relief under the current policy were provided with the notice in March 2013, thereby giving the required flexibility to change the policy criteria should the Council wish to do so.
- 14 In terms of the Retail and Reoccupation reliefs announced in December, it was not until the 23 January 2014 that CLG issued the Guidance notes for this change. This set out an intention that the relief should be included on the annual bill for 2014/15, without due consideration to the practicalities of implementing this change. The relief will impact on approximately 2,300 of the 14,600 businesses within County Durham.
- 15 In normal circumstances any discretionary rate relief award, including the award of Small Business Rate Relief, is dependent on a formal application form being issued, returned and subsequently processed before any relief is awarded.
- 16 While the government advised that the Retail Relief scheme should be included in the 2014/15 annual bill, the lateness of the announcement and associated guidelines has meant that this was not practicable due the required relevant software changes not being available (and fully tested) prior to annual billing and, most importantly, the capacity to implement the necessary administrative arrangements in time in terms of issuing and processing the necessary applications.
- 17 The 2014/15 annual bills did not therefore include these reliefs, but the explanatory notes included with the bill provided a summary of these reliefs and asked the ratepayer to contact the Council for further information.
- 18 CLG have yet to issue any guidelines in respect of the Reoccupation Relief but it is expected that any award would also need to follow the normal application procedure.
- 19 The review of the current Discretionary Rate Relief policy is required to reassess the impact of the changing priorities of the Council and assess the impact of the Localism Act 2011, which introduced powers to implement a local discount scheme, together with the fundamental changes to the financing of Business Rates that came into effect from 1 April 2013. Any revisions to the policy could come into effect from 1 April 2014.
- 20 The new Business Rates Retention scheme (effective from 1 April 2013) means that the amount of mandatory relief awarded to charitable organisations (80% of their liability), together with the impact of any decisions on top up through discretionary rate relief now impacts more directly on the Council's budgets. This is due to the change in funding arrangements between local authorities and central Government through the localisation of Business Rates.

- 21 In addition to these changes the Localism Act 2011 amended Section 47 Clause 69, of the Local Government Finance Act 1988 to allow local authorities to reduce the business rates of any local ratepayer (not just those who can currently be granted discretionary relief), via a local discount scheme.
- 22 Individual local authorities are responsible for fully funding any local discount scheme offered. Whilst this could in certain circumstances, provide the opportunity for a short term discount to be granted in order to attract new enterprise or retain existing ones in targeted areas, it is effectively no different from introducing a grants/industrial promotions budget to provide financial assistance to local businesses.
- 23 The Government has confirmed, through amending legislation, that whilst the £1000 annual business rates retail discount and the reoccupation relief announced in December will be delivered through authority local discount powers (under s47 of the Local Government Finance Act 1988), the Government will fully fund this relief through a s31 Grant, similar to the way the costs of extending the Small Business Rates Relief are being covered.

## Legislation

- 24 The law governing the granting of discretionary rate relief is found in Section 47 of the Local Government Finance Act 1988 and subsequent amending legislation. The legislation states the qualifying conditions as being one or more of the following:
- the ratepayer is a charity or trustee for a charity, and the hereditament [this is the term used to describe the liable property] is wholly or mainly used for charitable purposes (whether of that charity or of that and other charities);
  - the hereditament is not an excepted hereditament, if all or part of it is occupied by a charging authority or precepting authority for the purposes of one or more institutions or other organisations. None of which are established or conducted for profit and each of whose main objects are charitable or are otherwise philanthropic or religious or concerned with education, social welfare, science, literature or the fine arts;
  - the hereditament is not an excepted hereditament, it is wholly or mainly used for purposes of recreation, and all or part of it is occupied for the purposes of a club, society or other organisation not established or conducted for profit.
- 25 The Localism Act 2011 amended Section 47 Clause 69, of the Local Government Finance Act 1988 to allow local authorities to reduce the business rates of any local ratepayer (not just those who can currently be granted discretionary relief), via a local discount scheme.

- 26 The new Retail Relief and the new Reoccupation Reliefs are discretionary and a local scheme needs to be adopted by Councils. The Council has the power to extend the amount of relief awarded using Section 47 Clause 69 (above).

### **Summary / Conclusions**

- 27 There is a need to review the Discretionary Rate Relief policy to incorporate the two new reliefs announced in the Autumn Statement and to consider whether the national scheme should be enhanced. Guidance was issued by CLG with regards to Retail Relief on 23 January 2014; however, the Reoccupation Relief Guidance Notes have yet to be issued. It is expected that the application and award process will follow the normal discretionary rate relief procedure. Neither of these reliefs were included in the 2014/15 annual bills.
- 28 The two new additions to the policy are discretionary and the Council does have the option to increase the amounts to be awarded. This would be at a cost to the Council, creating budget pressures as a result of reduced business rate yield. It is therefore recommended that the scheme implemented is in line with the national scheme and in line with Section 31 grant funding being made available by Government.
- 29 The wider policy itself is discretionary and the Council could remove or reduce the scope of the policy to produce further MTFP savings going forward, via the generation of additional business rate yield. Equally, the Council could extend the scope of the policy to provide greater incentives and support to various organisations and businesses. This would however come at a cost to the MTFP through budget pressures as a result of reduced business rate yield.
- 30 In considering this report, members are asked to note that this is one of a number of financial support mechanisms provided to the VCS. The revised policy (attached at Appendix 2) has been updated to take into account legislative changes and the VCS Strategy adopted by Cabinet in June 2013. The policy at this stage assumes no change to the existing policy in terms of award limits, other than to extend the criteria to cover CIOs and include specific reference to CICs.
- 31 As part of the Community Buildings asset transfer programme, groups are being supported to ensure that they have appropriate governance arrangements. In particular groups are being encouraged to ensure that their trustees have limited liability. This includes registration with the Charity Commission either as a Charitable Incorporated Organisation (CIO) or with the Charity Commission and Companies House as a Company Limited by Guarantee. In either case Community Centres/Community Associations which are registered charities are already in receipt of mandatory relief and are eligible for discretionary relief.
- 32 A corporate cross cutting review of financial and other support to the Community and Voluntary Sector is currently underway, to ensure that available resources are effectively co-ordinated and targeted to achieve the aims of the VCS Strategy, which seeks to support growth and sustainability within the sector

- 33 Following consultation with the Voluntary and Community Sector, via the strategic VCS Working Group, the qualifying criteria, application form and application process has been refined to assist all applicants.

**Recommendations and Reasons**

- 34 Cabinet is recommended to approve the revised Discretionary Rate Relief Policy attached at Appendix 2.

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**Contact: Paul Darby 03000 261930**

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## **Appendix 1: Implications**

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### **Finance**

Prior to 31 March 2013, when the national pooling arrangements were in place, the funding of these schemes was split between the Government and the Council based on specified cost shares, depending on the circumstances under which the relief was awarded. The Council's share of the costs was a charge to the General Fund and a budget of £330,000 exists within the Resources Service grouping for this.

Following the localisation of Business Rates and changes to the local government finance arrangements in April 2013, the amount of discretionary rate relief awarded forecast for 2013/14 was built into the Council's Start-Up Funding Assessment calculation, with costs shared 50/50 in the calculation of business rate yield.

Effectively the costs of forecast relief based on the current policy have been accounted for in the Start Up Funding Assessment/Formula Funding calculation for 2013/14 and therefore the £330,000 budget for the Council's share of discretionary rate relief is no longer required, providing an in-year saving in 2013/14 and MTFP saving from 2014/15 onwards. This has been built into MTFP 4 as a corporate saving.

The revised policy takes into account the announcements in the Government's Autumn Statement with regards to Retail Relief and a Reoccupation Relief.

All awards in respect of Retail Relief and a Reoccupation Relief in line with the national scheme will be refunded directly by the Government via Section 31 grants.

### **Staffing**

None

### **Risk**

Given the scope and nature of the organisations supported through this policy any changes would have reputational risks to the Council and financial risks to the individual organisations.

### **Equality and Diversity / Public Sector Equality Duty**

An equality impact assessment has not been completed at this stage as the proposal is to retain the existing policy, as updated and extended to include Small Business Rate Relief (requirement to apply for SBRR in the first instance); inclusion of Community Interest Companies and linkages to the VCS Strategy; and Rural Rate Relief (Sole Public Houses); criteria associated with discretionary rate relief for Partially Unoccupied Relief; and New Building Empty Property Relief; plus the two introduction of the Retail and Reoccupation Relief, as a result of the announcements made in the Autumn Statement.

### **Accommodation**

None

## **Crime and Disorder**

None

## **Human Rights**

None

## **Consultation**

Consultation has been held with representatives from the Voluntary and Community Sector, via the strategic VCS Working Group, to enable them to fully understand the impact of the revised criteria and ensure that the criteria is consistent with supporting growth and sustainability within the sector. These discussions identified areas for improvement and refinement within the application form and process and future training and partnership working opportunities.

## **Procurement**

None

## **Disability Issues**

None

## **Legal Implications**

Section 47 of the Local Government Finance Act 1988 and subsequent amending legislation provides the provisions and criteria for awarding discretionary rate relief. The Localism Act 2011 amended Section 47 Clause 69, of the Local Government Finance Act 1988 to allow local authorities to reduce the business rates of any local ratepayer (not just those who can currently be granted discretionary relief), via a local discount scheme.

Statutory guidance states that any discretionary rate relief or local discount scheme must be in the interests of the wider council taxpayer.

Should the Policy be changed, particularly where the entitlement to relief was further restricted or substantially extended, the Monitoring Officer's advice is that this would need to be approved by Cabinet.

**Discretionary Rates  
Relief and Empty  
Property Relief  
(including New Build  
Business Rates Relief)  
Policy**

*Altogether better*



**APRIL 2014**

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## **1 Introduction and Purpose of Policy Document**

1.1 This policy has been designed to ensure that all customers making an application for rate relief is treated in a fair, consistent and equal manner.

1.2 This policy has been written to:

- Demonstrate how Durham County Council will operate its discretionary powers set out in the Local Government Finance Act 1988 and Localism Act 2011 and the factors that will be considered when deciding if relief can be awarded and the way in which the value of relief will be granted
- Set guidelines for the factors that should be considered when making a decision to award or refuse an application
- Set out the delegated authority to award relief in appropriate circumstances;
- Establish an appeals procedure for customers dissatisfied with a decision;
- Safeguard the interest of the local taxpayers by ensuring that funds that are allocated for the award of relief are used in the most effective and economic way.

## **2 Legislation**

2.1 The law governing the granting of discretionary rate relief is found in Section 47 of the Local Government Finance Act 1988 and subsequent amending legislation. The legislation states the qualifying conditions as being one or more of the following:

- the ratepayer is a charity or trustee for a charity, and the hereditament [this is the term used to describe the liable property] is wholly or mainly used for charitable purposes (whether of that charity or of that and other charities);
- the hereditament is not an excepted hereditament, if all or part of it is occupied by a charging authority or precepting authority for the purposes of one or more institutions or other organisations. None of which are established or conducted for profit and each of whose main objects are charitable or are otherwise philanthropic or religious or concerned with education, social welfare, science, literature or the fine arts;
- the hereditament is not an excepted hereditament, it is wholly or mainly used for purposes of recreation, and all or part of it is occupied for the purposes of a club, society or other organisation not established or conducted for profit.

2.2 The Localism Act 2011 amended Section 47 Clause 69, of the Local Government Finance Act 1988 to allow local authorities to reduce the business rates of any local ratepayer (not just those who can currently be granted discretionary relief), via a local discount scheme.

### **3 Business Rates – Discretionary Rates Relief Policy**

#### **3.1 Equality and Fairness**

3.1.1 Each application for relief would be dealt with on its own merits and would treat all organisations that apply for discretionary rate relief equally and fairly. The scheme will operate in a manner that helps support Durham County Council priorities and key objectives contained in the Sustainable Community Strategy and the Council Plan. Public funds are not however unlimited, a proportion of the costs of relief granted is borne by council tax payers.

#### **3.2 Criteria Used in the Decision Making Process**

3.2.1 The criteria to be used in deciding whether or not to give discretionary rate relief are based on assessing how an organisation's work helps achieve the Council's priorities and meeting the community's needs for services and facilities.

3.2.2 The following essential criteria **must** be met before Durham County Council would consider awarding discretionary rate relief:

- the ratepayer must be a non-profit making body,
- the property must be used by the ratepayer wholly or mainly for charitable, philanthropic or religious purposes, or concerned with education, social welfare, science, literature and the fine arts, or the ratepayer must use the property wholly or mainly for recreation by a non-profit making club or society.

3.2.3 It is possible for a voluntary organisation to apply for 100% discretionary rate relief, and for registered charities to apply for an additional 20% discretionary relief in addition to the mandatory relief they already receive providing they meet the essential criteria detailed in the Levels of Discretion detailed in paragraphs 3.4.1 to 3.4.2.

3.2.4 Community Interest Companies (CICS) would not qualify for mandatory relief and any discretionary relief application would be considered based on the essential criteria detailed in the Levels of Discretion detailed in paragraphs 3.3.1 to 3.3.2.

3.2.5 There are however, exceptions to this general rule which include; Housing Associations, Leisure Trusts, Voluntary Schools, Colleges and Universities or similar, these organisations are charitable trusts for the purposes of the rating legislation and qualify for mandatory relief. However due to the funding streams available no discretionary top-up relief will be granted to these bodies.

- 3.2.6 Every application for discretionary rate relief will be considered on an individual basis.
- 3.2.7 The Council will need to be satisfied that value for money is being provided to the people of Durham County, bearing in mind the relief an organisation will receive. In making awards, consideration will be given to the financial impact on the Council and whether or not an organisation is already funded or commissioned by the Council. The decision to award relief must only be taken where it is in the wider interest of Council Taxpayers in County Durham.
- 3.2.8 Relief may be refused if it is considered that the cost to the Council and its taxpayers outweighs the benefit that will be gained from the award of the relief. If the benefit of the rate relief is kept locally, the relief is more likely to be awarded.
- 3.2.9 The finances of the organisation will be examined. This will include examination of the membership fees structure, examination and reasoning of level of reserves in relation to the amount of turnover and the rates actually charged, payments to staff and directors will all be taken into consideration when determining the application. If it appears that the reserve finances are not being used or partially used to benefit the local community, the application may be refused unless the ratepayer can demonstrate their reasoning
- 3.2.10 Some organisations or charities do not need to be registered with the Charity Commission where the annual income is under £5,000. In these cases if the organisation has applied to Her Majesty's Revenue and Customs (HMRC) for tax relief, a HMRC number will be provided and mandatory relief can be awarded.
- 3.2.11 Organisations that meet the qualifying criteria for small business rates relief will not be considered for discretionary rate relief until they have applied for small business rates relief. This will reduce the financial contribution on the authority. These organisations even though they may not be a small business, they are however ratepayers who are entitled to apply for this relief. Durham County Council will provide support and guidance on how to apply for small business rates relief from the Council

### **3.3 Discretionary Rate Relief Available**

- 3.3.1 Registered charities or equivalent already in receipt of mandatory relief will receive the following top up relief provided they meet the relevant criteria (as identified above):

<b>Category</b>	<b>% Relief Awarded (Top up to Mandatory Rate Relief)</b>
1. Community Centres/Community Associations and other registered charities responsible for paying rates on Community Centre and village halls.	100
2. Training Centres/Training Organisations offering schemes for particular groups to develop their skills e.g. young people, unemployed people.	100
3. National Charity Shops	0
4. Local Charity Shops	100
5. Local Heritage Projects	100
6. Essential Community Services e.g. CAB, Hospice, Samaritans	100
7. Sports Clubs (Must be CASC or registered Charity)	Up to 100*
8. Museums	100
9. Private Schools, Leisure Trust, Universities/Colleges and Academies	0
10. Housing Associations or similar organisations	0

3.3.2 Non Registered charities and community based organisations will receive the following relief provided they meet the relevant criteria.

<b>Category Not for Profit Making</b>	<b>% Relief</b>
1. Community Centre, Community Associations, Agencies, Community Resource Centres which are not conducted for profit and which occupy premises that provide a community focal point.	100
2. Recreational community based clubs or societies e.g. youth clubs, boy scouts, girl guides. (Sports Clubs would not normally qualify unless CASC or registered Charity)	100
3. Philanthropic organisations that are community based.	100
4. Religious organisations that promote an understanding of religion that leads to a greater awareness of religious differences within the community.	100
5. Educational organisations that provide education support or training.	100
6. Scientific organisations that promote an awareness of science etc.	100
7. Literature and Fine Arts that promote an awareness of Literature and Fine Arts.	100
8. Training Centres/Training Organisations offering schemes for particular groups to develop their skills e.g. young people, unemployed people.	100
9. Training Centres/Training Organisations offering schemes and advice to businesses.	50
10. Private Nurseries and Day Care Centres	0
11. Community Interest Companies (CICS)	Up to 100*

\* The following additional criteria will be used when dealing with applications from Community Amateur Sports Clubs, Sporting Organisations and Community Interest Companies (CICS) for discretionary rate relief.

**Reason for Increasing Amount of Relief:**

1. Active encouragement of membership for all groups
2. Affiliated to local or national organisations
3. More than 50% drawn locally

**Reason for Reducing Amount of Relief:**

1. Bar facilities\*\*
2. Restrictive fees and Restrictive membership\*\*\*

Category	Maximum Percentage of Relief to be Awarded
<p>Bar Facilities**</p> <p>Licensed Bar – Full licence operating through the year for registered charities or CASC, this to be link to the rateable value and what is attributable to the clubhouse.</p>	<p>10% Discretionary Rate Relief top-up.</p>
<p>Licensed bar is open but where the club/organisation has a restricted seasonal/match day licence for registered charities or CASC:-</p>	<p>10% or 20% Discretionary Rate Relief top-up.</p>
<p>No Bar and a registered charity or CASC</p>	<p>20% Discretionary Rate Relief or top-up.</p>
<p>Restrictive fees and membership***</p> <p>Where coaching, mentoring or training is at a minimal cost and the membership subscription can be shown not to exclude the general community.</p>	<p>50%</p>
<p>Where the organisation encourages the young, those with disabilities and the elderly to partake in their activities and where the organisation benefits the local community by its activities.</p>	<p>40%</p>
<p>Where the organisation actively seeks to eliminate all forms of discrimination in its activities, in line with the new authority’s own commitment to Equal Opportunities</p>	<p>10%</p>

3.3.3 Businesses in Rural settlement lists will receive the following relief provided they meet the relevant criteria and receive mandatory rural relief.

<b>Category</b>	<b>% Relief</b>
1. Sole shop in a rural settlement area selling mainly food and household goods meeting the criteria of mandatory relief	100
2. Sole Post Office in a rural settlement area meeting the criteria for mandatory relief	100
3. Sole public house in a rural settlement area meeting the criteria for mandatory relief	100
4. Sole petrol station in a rural settlement area meeting the criteria for mandatory relief.	100

### **3.4 Claiming Mandatory and Discretionary Rate Relief**

3.4.1 A claim must be made using the application form attached to this policy and available on the Councils website ([www.durham.gov.uk](http://www.durham.gov.uk)). This application form and supporting information, including the Memorandum or Articles of Association, the latest Annual Report and the last two years professionally prepared account should be completed and returned to:-

Durham County Council  
Revenues and Benefits  
PO Box 238  
Stanley  
Co Durham  
DH8 1FP

3.4.2 It is the responsibility of the organisation applying for the relief to provide sufficient information and documentary evidence to support applications. If the organisation applying does not or will not provide the required evidence the application will still be considered but only on the basis of the information and evidence provided.

### **3.5 Period of Award**

3.5.1 Entitlement to relief will be subject to a regular review or if there is a change in legislation that would affect its operation and taking into account Council policies and priorities, any withdrawal or variation of relief is subject to one financial years notice.

### **3.6 Notification of Award**

3.6.1 The Council will inform the organisation applying for relief, in writing of the outcome of their application for discretionary rate relief.

- 3.6.2 The Council will endeavour to determine any application received within 28 days of receipt of the full information required to assess the claim.
- 3.6.3 Where the application is not successful, the notification will provide full reasons why it has not been decided not to award discretionary rate relief and the applicant's right to ask us to look at the decision again.
- 3.6.4 Where the application is successful, the notification will include the percentage of relief awarded and details of when an amended Non Domestic Rate Demand will be issued.

### **3.7 Appeals**

- 3.7.1 If you disagree with a decision made under this policy, you must write and tell Durham County Council why you think the decision is wrong and provide any additional information in support of the claim. An independent panel will look at the case.
- 3.7.2 The panel will check the discretionary rate relief application thoroughly and take account of any additional information in your appeal letter. The panel will decide whether or not the criteria have been properly applied. The panel will confirm the decision, change the decision to pay more discretionary rate relief or change the decision to pay less Discretionary Rare Relief.
- 3.7.3 Durham County Council will write to tell you the outcome of the appeal. There is no further right of appeal against the decision of the panel. Any further appeal against this decision must be done through judicial review proceedings

## **4 Relief for Properties that are Partially Unoccupied for a Temporary Period**

### **4.1 Legislation**

- 4.1.1 Section 44A of the Local Government Finance Act 1988 enables a billing authority discretionary powers to grant relief on a property that is partly unoccupied or not fully occupied if it appears to the authority that this situation will remain for a "short period of time" only.
- 4.1.2 Partially occupied rate relief (also referred to as Section 44a Relief) is not intended to be used where part of a property is temporarily not used. The intention is aimed at situations where there are practical difficulties in occupying or vacating all of a property.

### **4.2 Making an Application**

- 4.2.1 Applications must be made by the ratepayer
- 4.2.2 Durham County Council will require a written application and the ratepayer must supply a plan of the property, with the unoccupied portions clearly identified

### **4.3 The Decision Making Process**

- 4.3.1 Durham County Council will require accompanied access to the property during normal working hours to verify the application.
- 4.3.2 Relief will not be awarded under any circumstance where it is not possible to verify the application.
- 4.3.3 Durham County Council will notify the applicant of the decision in writing and where the relief is refused, an explanation of the reasons why will be given.
- 4.3.4 Durham County Council will not consider applications where the customer has failed to provide information within the timescales provided to them and will notify the customer in writing that the application has been refused

### **4.4 Period of Section 44a Relief**

- 4.4.1 Section 44a Relief will only be applied to a property that is partly occupied for a temporary period. The relief can only be awarded for a maximum of 3 months in cases of offices and shops, or 6 months in the case of industrial properties
- 4.4.2 Section 44a Relief will end under the following circumstances
  - At the end of a financial year, regardless of the date relief was applied;
  - Where all or part of the unoccupied area becomes occupied;
  - The person liable for Business Rates changes

### **4.5 Calculation of Section 44a Relief**

- 4.5.1 Where Durham County Council agrees to award a Section 44a Relief, notification will be sent to the Valuation Officer to seek a reduction in the rateable value
- 4.5.2 The amount of relief is calculated on a statutory basis based on the rateable value of the empty portion of the property. The appropriate rateable value is provided to Durham County Council by the Valuation Office Agency

## **5 Business Rates - New Build Empty Property Relief**

### **5.1 Legal Requirements**

- 5.1.1 This relief has been introduced from 1 October 2013 as a temporary measure and under Section 47 of the Local Government Finance Act 1988 the billing authority has discretionary powers to grant the relief in the prescribed circumstances below.

## **5.2 Properties that will Benefit from this Relief**

- 5.2.1 Properties that are empty and entered into the rating list between 1 October 2013 and 30 September 2016 could be eligible for exemption from empty property rates for the first 18 months, up to state aid limits.
- 5.2.2 Properties that will benefit from relief will be all unoccupied non domestic hereditaments that are wholly or mainly (more than half) comprised of qualifying new structures completed within this timeframe

## **5.3 Criteria used in the Decision Making Process**

- 5.3.1 Durham County Council will require a written application form.
- 5.3.2 The relief will stay with the property rather than the owner.
- 5.3.3 The new build empty property relief is granted as de minimis aid for State Aid purposes. There is currently a ceiling of 200,000 Euros of de minimis aid that can be granted over a three year rolling period.
- 5.3.4 Durham County Council will notify the applicant of the decision in writing and where the relief is refused, an explanation of the reasons why will be given.
- 5.3.5 Durham County Council will not consider applications where the customer has failed to provide information within the timescales provided to them and will notify the customer in writing that the application has been refused

## **5.4 Period of Relief New Build Empty Property**

- 5.4.1 The relief is for a maximum of 18 months, this includes the first 3 or 6 months unoccupied empty relief.

## **6 Business Rates - Retail Relief**

### **6.1 Legal Requirements**

- 6.1.1 This relief has been introduced from 1 April 2014 for 2 year period under Section 47 of the Local Government Finance Act 1988 the billing authority has discretionary powers to grant the relief in the prescribed circumstances below.

## **6.2 Properties that will Benefit from this Relief**

- 6.2.1 Discount of £1,000 for shops, pubs and restaurants with a rateable value under £50,000 for two years up to state aid limits from 1 April 2014.
- 6.2.2 Premises that will benefit from the relief will be occupied premises with a rateable value of £50,000 or less and are wholly or mainly being used as shops, restaurants, cafes and drinking establishments.
- 6.2.3 As this is a discretionary relief, the reliefs are measured in the following order,
- Charitable/Community Amateur Sports Clubs/Rural Rate Relief/Top up and not for property/Small Business Rate Relief
  - Other discretionary reliefs (Local Discounts)
  - Long Term Empty Relief (50% business rate relief for 18 months between 1 April 2014 and 31 March 2016 for businesses that move into retail premises that have been empty for a year or more.
  - Retail Relief of £1,000.

## **6.3 Criteria used in the Decision Making Process**

- 6.3.1 Durham County Council will require a written application form.
- 6.3.2 The relief will stay with the property rather than the owner.
- 6.3.3 The new retail relief is granted as de minimis aid for State Aid purposes. There is currently a ceiling of 200,000 Euros of de minimis aid that can be granted over a three year rolling period.
- 6.3.4 Durham County Council will notify the applicant of the decision in writing and where the relief is refused, an explanation of the reasons why will be given.
- 6.3.5 Durham County Council will not consider applications where the customer has failed to provide information within the timescales provided to them and will notify the customer in writing that the application has been refused

## **6.4 Period of Retail Relief**

- 6.4.1 The relief is only applicable for the financial years 2014/15 and 2015/16.

## **7 Business Rates - Reoccupation Relief**

### **7.1 Legal Requirements**

7.1.1 This relief has been introduced from 1 April 2014 for 2 year period under Section 47 of the Local Government Finance Act 1988 the billing authority has discretionary powers to grant the relief in the prescribed circumstances below.

## **7.2 Properties that will Benefit from this Relief**

7.2.1 A 50 per cent business rates relief for 18 months - between 1 April 2014 and 31 March 2016 - for businesses that move into retail premises that have been empty for a year or more;

7.2.2 As this is a discretionary relief, the reliefs are measured in the following order,

- Charitable/Community Amateur Sports Clubs/Rural Rate Relief/Top up and not for property/Small Business Rate Relief
- Other discretionary reliefs (Local Discounts)
- Long Term Empty Relief (50% business rate relief for 18 months between 1 April 2014 and 31 March 2016 for businesses that move into retail premises that have been empty for a year or more.
- Retail Relief of £1,000.

## **7.3 Criteria used in the Decision Making Process**

7.3.1 Durham County Council will require a written application form.

7.3.2 The relief will stay with the property rather than the owner.

7.3.3 The new reoccupation relief is granted as de minimis aid for State Aid purposes. There is currently a ceiling of 200,000 Euros of de minimis aid that can be granted over a three year rolling period.

7.3.4 Durham County Council will notify the applicant of the decision in writing and where the relief is refused, an explanation of the reasons why will be given.

7.3.5 Durham County Council will not consider applications where the customer has failed to provide information within the timescales provided to them and will notify the customer in writing that the application has been refused

## **7.4 Period of Reoccupation Relief**

7.4.1 The relief is for a maximum of 18 months with an effective start date between 1 April 2014 to 31 March 2016.

Revenues and Benefits  
PO Box 238  
Stanley  
Co Durham  
DH8 1FP

Telephone: 03000 268 997  
Fax: 01207 218876  
[www.durham.gov.uk/businessrates](http://www.durham.gov.uk/businessrates)  
Email: [businessrates@durham.gov.uk](mailto:businessrates@durham.gov.uk)



## Local Government Finance Act 1988 - Application for rate relief

### Account Ref Number:

This form must be completed if a charity, community amateur sports club (or any other organisation not established and conducted for profit) wishes to apply for mandatory and/or discretionary rate relief on a property within Durham County Council area. A separate application form is required for each property within the Council's area.

Please indicate below which type of relief you are applying for:-

Mandatory relief

Yes

No

Discretionary relief

Yes

No

Both Mandatory and Discretionary relief  
No

Yes

**IF YOU ARE APPLYING FOR DISCRETIONARY RATE RELIEF PLEASE SEND US THE FOLLOWING INFORMATION ABOUT YOUR ORGANISATION WHEN YOU RETURN THIS FORM. IN THE CASE OF A RECENTLY FORMED ORGANISATION/COMPANY PLEASE PROVIDE ANY FINANCIAL INFORMATION YOU HAVE TO DATE.**

- Memorandum or Articles of Association
- The latest Annual Report
- The last two years professionally prepared accounts

1. The **organisation/ratepayers** name and contact address or billing address

2. The address of the property for which you are claiming relief (if different from 1 above)

3. Is the organisation registered with the Charity Commission?

Yes

No

If 'YES' please provide the Charity Commission registration number

4. If the organisation is exempt from registration as a charity, please state below the grounds for exemption.

5. Is the organisation a registered Community Amateur Sports Club?

Yes

No

If 'YES' please provide the Inland Revenue registration number

6. What are the organisation's main objectives and purposes?

7. What is the main use of the property?

8. Is any part of the premises occupied or sublet to another organisation/company? If 'YES' please provide full details

9. Please provide details how your organisation is beneficial to the tax payer?

10. How long has the organisation been trading?

11. Is the property used for the sale of donated goods?  Yes  No

If 'YES' what percentage of goods sold from the premises are donated?

**If the property is used for recreation purposes or as a meeting place for a club, society or association, please complete questions 12 to 18.**

12. Is membership open to all sections of the community irrespective of sex, ethnic origin, religion or any other possible discriminatory factor?  Yes  No  
(If NO, please give details below of any restrictions.)

13. Are facilities open to people other than members e.g. schools, casual public sessions etc (If NO, please give details below of any restrictions.)  Yes  No

14. Does the organisation provide education/training or coaching?  Yes  No  
(If YES, please give details below.)

15. What proportion of members live within Durham County Council Area?

16. Is there any membership fees charged?  Yes  No  
(If 'YES' please provide details below)

17. Is the organisation affiliated to any local or national bodies?  Yes  No

(If 'YES' please provide details below)

18. Does the organisation run a bar on any of its premises?

Yes

No

If YES, Is Licensed Bar operating all year or restricted seasonal/match days

If you have applied for discretionary relief, please provide details of any state aid/de minimis state aid which your organisation has received during the last three years? Please include the date the aid was received, the amount of aid and the scheme title. If any aid has been received, please provide copies of the offer letters.

**If you have not received any state aid (de minimis or otherwise) please enter "None"**

I certify that the information supplied is correct to the best of my knowledge

Signature .....

Capacity in which signed.....

Date: .....

Contact Telephone Number.....

For Office Use Only: «ActRef»/ «PlaceRef»

**Please return your completed form to:**

**Durham County Council, PO Box 238, Stanley, Co Durham DH8 1FP**

**If you have any queries relating to completion of the form please contact 03000 268 997**

Data Protection Act 1998

The information you have provided will be held by the Council on computerised and manual files within the Revenues Department. The data may be disclosed to other departments within the Council or other organisations, but only in order to ensure compliance with the relevant legislation or for identification purposes or to prevent or detect fraud or a crime. Durham County Council is a registered Data Controller in accordance with the Data Protection Act 1998.