

## DCC Rate Relief Criteria

### 1 Introduction

If an organisation occupies a property on which it pays National Non Domestic Rates (NNDR) it may be eligible for up to 100% Discretionary Rate Relief if it is operated within some or all of the following guidelines appropriate to the particular organisation.

The guidelines for determining relief are not intended to be a rigid set of rules; neither are all the guidelines applicable to every organisation. Each case will be judged on its merits taking into account the contribution which each organisation / business makes to the County's amenities, objectives and its residents' lifestyles and wellbeing.

### 2 Qualifying Property

<b>Property Eligible for Rate Relief</b>	<b>Rate Relief</b>	<b>Amount of Relief</b>
Property wholly or mainly used for charitable purposes which is occupied by a registered charity or registered Community Amateur Sports Club (CASC) or can clearly demonstrate it meets the conditions set down in the Charities Act 2006 & 2011.	Mandatory  Discretionary	80%  20% (maximum)
Property, all or part of which is occupied for the purposes of a non-profit making:  a) Institution or other organisation whose main objects are philanthropic or religious or concerned with social welfare, education, science, literature or the fine arts.  b) Club ,society or other organisation and is used for the purposes of recreation.	Discretionary	100% (maximum)
Property, all or part of which is occupied for the purposes of a profit making organisation	Discretionary	100% (maximum)
Charity Shop – where solely or mainly selling donated goods	Mandatory	80%

### **3 Scope**

The guidelines will be adhered to by all staff and members involved with consideration of Rate Relief applications.

### **4 Applications**

Applications must be supported by the organisation's constitution, main purposes and objectives e.g. written constitution, memorandum of association, membership rules etc. For registered charities these will be available to view on the Charity Commission website.

For an established body a full set of audited accounts for the latest financial year at the application date will be required to be supplied. If the applicant is a newly formed organisation or company then a copy of the projected accounts with the business plan will be required.

Details will be required as to how the organisations / businesses meet the criteria within the guidelines.

Applications from excepted businesses / organisations that cannot be considered are those occupied by a billing or precepting authority e.g. Parish, District or County councils or Police Authorities.

### **5 Period of Relief**

Relief will be granted for up to a maximum period of two years at a time, however interim reviews will be conducted on an annual basis. The granting of relief will be reviewed at the conclusion of this period and those in receipt of relief will be asked to supply or confirm relevant information for the purposes of the review.

### **6 Approval**

Initial recommendations are to be made by the Revenues Officer (NNDR) with final approval from the Head of Revenues and Benefits.

Applicants will be notified in writing of any decision whether they are successful or not. A revised bill will be sent where appropriate.

There is no stated time limit for applications to be made in respect of discretionary relief; however authorities must determine applications within six months after the end of the financial year for which the application for relief is made. If a decision is not made on an application until more than 6 months after the end of the financial year in respect of which the application is made, the decision is invalid.

## **7 Legal Powers**

Relief is granted in accordance with the following legislation as appropriate:

- Section 43 of the Local Government Finance Act (LGFA) 1988
- Section 47 LGFA 1988
- Section 47-49 LGFA 1988
- Section 45 LGFA 1988

## **8 Costs to the Council**

### **Rate Relief Cost Apportionment**

Where top up relief is granted, the cost of granting that relief is borne by the National Pool and the Tax payers of Denbighshire in the following proportions:

	<b>National Pool</b>	<b>DCC</b>
Charitable Bodies top up Relief	25%	75%
Community Amateur Sports Club (CASC)	25%	75%
Non Profit Making Organisations e.g. sports & social Clubs,	90%	10%
Hardship Discretionary Relief	75%	25%
Profit Making Organisations	0	100%

## **9 Rights of Appeal**

Unsuccessful applicants should, in the first instance put in writing their reasons for not agreeing with any decision to the Revenues Officer (NNDR). If they remain aggrieved following the response to this 'first' appeal they should write to the Head of Revenues and Benefits who will arrange for their case to be brought before the Head of Finance and Assets and the Cabinet Lead Member.

If the applicant is still aggrieved then following the Liability Order hearing at the Magistrates Court they would be required to submit the relevant details to the High Court for a Judicial Review.

## **Guidelines Rate Relief**

### **Mandatory Relief**

This is granted where the ratepayer of a property is a charity or the trustees of a charity and

- the property is wholly/mainly used for charitable purposes (including charity shops, where the goods sold are mainly donated and the proceeds are used for the purposes of the charity) or
- the ratepayer of a property is registered with Her Majesty's Revenues and Customs (HMRC) as a Community Amateur Sports Club (CASC).

Registration under the Charities Act 1993 as amended is conclusive evidence of charitable status. Bodies which, under the 1993 Act, are excepted from registration or are exempt charities are also eligible for mandatory relief.

Other organisations, not specifically registered as Charities with the Charity Commissioner may also qualify for relief, as long as they can meet the charitable objectives as set down by the Charities Act 2006 & 2011.

CASCs will have a Certificate of Registration issued by HMRC, a copy of which will prove their status.

Providing the above criteria are met 80% mandatory relief will be granted. This is fully funded from the National Pool.

### **Discretionary Rate Relief**

The Council has the discretion to increase rate relief up to 100% so as to reduce the ratepayer's liability still further and the policies detailed below are to be followed when dealing with an application.

When deciding whether to award discretionary rate relief consideration should be given to the interests of the taxpayers of Denbighshire as the Council must bear a percentage of the cost of any relief granted; the remainder is borne by the Non-Domestic Rating Pool.

### **Discretionary Rate Relief Cost Apportionment**

	<b>National Pool</b>	<b>DCC</b>
Charitable Bodies top up Relief'	25%	75%
CASC	25%	75%
Non Profit Making Organisations Sports & social Clubs,	90%	10%
Profit Making Organisations	0	100%

The guidelines for determining relief are not intended to be a rigid set of rules; neither are all the guidelines applicable to every organisation. Each case will be judged on its merits taking into account the contribution which each organisation / business makes to the County's amenities and its residents lifestyles and wellbeing.

Those organisations applying for relief whose work involves young children, young people or vulnerable adults must be able to demonstrate that appropriate checks have been carried out on staff and volunteers, and that sound child protection policies are in place.

### **Charitable Organisations 'Top Up' Discretionary Rate Relief Criteria**

Up to 20% Discretionary Rate Relief may be given. However there are some exceptions.

- Where the charity is a national or regional charity, rather than a local charity, however a locally affiliated charity such as Citizens Advice Bureau should be considered.
- Where the organisation is a Housing Association
- Where the organisation has either a significant operating surplus (above £25k) or in excess of £100k in unrestricted reserves.

### **Charity Shops**

Mandatory relief will be granted where the ratepayer for a property is:

- a charity or the trustees of a charity and
- donated goods relate to more than 50% of total sales and
- the proceeds of goods (after any deductions for expenses) are applied for the purpose of the charity

Providing the above criteria are met 80% mandatory relief will be granted.

Discretionary Rate Relief will not be awarded in respect of charity shops and relief will be limited to the 80% mandatory entitlement.

## **Not for Profit Organisations, Clubs and Societies**

The Council has the discretion to award up to 100% Discretionary Rate Relief to organisations whose main objects are charitable or philanthropic, or concerned with education, social welfare, science, literature, fine arts or recreation. The determination of charitable status largely relies on case law which has established 4 main divisions of charity:

- relief of poverty
- advancement of religion
- advancement of education and
- other trusts beneficial to the community and not falling under the other headings.

### **Criteria**

Discretionary relief can only be awarded if the organisation is not excepted (a billing authority or precepting authority) and

1	The main objects of the organisation are concerned with	<ul style="list-style-type: none"><li>• relief of poverty</li><li>• advancement of religion</li><li>• advancement of education</li><li>• social welfare</li><li>• science</li><li>• literature</li><li>• fine arts</li><li>• recreation</li><li>• in other ways that are beneficial to the community</li></ul>
2	Meets local needs in the County and benefits local people	<ul style="list-style-type: none"><li>• If the premises are used for the purposes of a national organisation or a semi-national organisation the Council will not normally grant any discretionary relief.</li><li>• If the premises are used for a local organisation the extent to which the County and its residents benefit from the organisation will be taken into account.</li></ul>
3	Provides a valuable service to the community	<ul style="list-style-type: none"><li>• which is complementary to those services provided by or supported by the Council or</li><li>• which relieves the need for the Council to provide such services.</li></ul>
4	Is open to all sections of the	<ul style="list-style-type: none"><li>• or access is restricted by</li></ul>

	community	providing a service for a specific sector of the community for justifiable reasons such as addressing inequality
5	Is able to demonstrate that the way in which it operates does not discriminate against any section of the community	<ul style="list-style-type: none"> <li>• please see (1) below</li> </ul>
6	Is non-profit making	<ul style="list-style-type: none"> <li>• as a guide, no more than 12 months expenditure in unrestricted reserves unless a Business Plan exists detailing how these reserves are to be used to the benefit of the local community</li> </ul>

If the organisation has licensed bar facilities - please see (2) below.

If the organisation requires a membership or entry fee – please see (3) below.

### **(1) Discrimination**

In order to qualify for Discretionary Rate Relief clubs must be able to show that all facilities are available to members without discrimination. Discrimination includes indirect discrimination and encompasses:

- Discrimination on grounds of ethnicity, nationality, sexual orientation, religion or beliefs.
- Discrimination on grounds of sex, age or disability, (except as a necessary consequence of the requirements of a particular sport).

This does not prevent a club from having different classes of membership depending on:

- The age of the member
- Whether the member is a student
- Whether the member is waged or unwaged
- Whether the member is a playing or a non-playing member
- How far from the club the member lives or
- Any restriction on the days or times when the member has access to the club's facilities

## **Sports Clubs**

There are additional considerations in the case of sports clubs. If a club effectively discriminates by only accepting members who have already reached a certain standard, rather than seeking to promote the attainment of excellence by enhancing access and the development of sporting aptitude, then it does not have an open membership policy. It follows that a club selecting members on the basis of existing attainment would not come within the requirements.

Although clubs should be open to all without discrimination, single sex clubs may be permitted where such restrictions are not discriminatory in intent but a genuine result of physical constraints (such as changing room facilities) or the requirements of the sport.

## **(2) Organisations with Licensed Bar Facilities**

### **Sports Clubs/Other Organisations**

Any Discretionary Rate Relief award will be aimed at the sporting activity of the club.

- If the bar income aids the overall operation and development of the organisation this would be allowable as long as the sporting activity remains the overall objective of the organisation. It should be noted the bar income should be ancillary to primary function, rather than being the main function. This will be particularly relevant where the organisation is the only such one in the Parish.

## **(3) Membership and Entry Fees**

If the organisation requires a membership or entry fee the Council will give regard as to whether:

- The subscription or fees are set at a high level which excludes the general community.
- Fee reductions are offered for certain groups such as under 18s or over 60s.
- Membership is encouraged from particular groups such as young people, older age groups, persons with disabilities or ethnic minorities
- Facilities are available to people other than members, e.g. schools, public sessions.
- 75% of the Clubs/organisations members should reside in the Denbighshire area.

Where the Council gives relief, practice has been to award 100% to Clubs and organisations, and 25% to Golf Clubs which operate bar facilities.



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

If a sports club is registered with HM Revenue and Customs (HMRC) as a CASC it will be entitled to 80% mandatory relief. The club may also be awarded 20% discretionary rate relief. Normally sports clubs that can register with HM Revenue & Customs as a CASC and have not done so will not be awarded discretionary rate relief.

Details can be found on the HMRC website at:

<http://www.hmrc.gov.uk/casc/index.htm>

## **Profit Making Organisations**

With effect from 1<sup>st</sup> April 2012 The Council has the discretion to award up to 100% Discretionary Rate Relief to profit making organisations. Each application should be accompanied by a copy of the business plan and cashflow forecast for the development plus, in the case of established companies, an up to date copy of the current trading accounts plus copies of the last two years audited accounts.

- A. A blanket approach, either to give or not to give relief, will not be adopted by the Authority, as each application should be considered on its own merits.
- B. Any application will consider the impact on the positive promotion of Denbighshire and its facilities.
- C. Where the granting of the relief would have an adverse effect on the financial interests of local tax payers, the case for reduction of rates may still on balance outweigh the cost to the local tax payers.
- D. The 'interests' of local tax payers in an area may go wider than direct financial interests. For example, where the employment prospects would be worsened by a company transferring to another region outside Denbighshire, or the amenities of an area might be reduced by, for instance, the loss of the only shop in a village.
- E. Discretionary relief will only be awarded to a business actively trading from the address for which the claim is being made.
- F. The relief will normally be awarded in respect of new start up companies or expanding companies moving to larger premises, who can show that the business will bring new or increased benefit to the local community and will develop and enhance the local area.
- G. This relief will be granted for a period of six months. If a further period is requested then a further application, accompanied by an up to date copy of the current trading accounts is to be provided within 30 days of the expiry of this period.

## Hardship Relief

Up to 100% relief can be awarded.

Legislative requirements (Section 49, Local Government Finance Act 1988) -

The billing authority has the power to reduce the amount a person is liable to pay provided the Authority is satisfied that the following apply:

- The ratepayer would sustain hardship if the authority did not grant relief; And
- It is reasonable for the Authority to grant the relief having due regard to the interests of the Council Tax payers.

Although there is no statutory definition of hardship some guidance has been provided by the government to assist in the consideration of hardship applications.

- H. A blanket approach, either to give or not to give relief, should not be adopted by the Authority, each application should be considered on its own merits
- I. Any relief granted should be the exception rather than the rule
- J. The test of hardship need not be confined to 'financial', all relevant factors affecting the ability of a business to meet its liability for rates should be taken into account
- K. The 'interests' of local tax payers in an area may go wider than direct financial interests. For example, where the employment prospects 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 shop in a village
- L. Where the granting of the relief would have an adverse effect on the financial interests of local tax payers, the case for reduction of rates may still on balance outweigh the cost to the local tax payers.

## **Council Policy Guidelines for Hardship Relief**

- A. Any decision must be balanced against the wider interests of the tax payers of the County.
- B. There must be proof that hardship exists.
- C. Evidence must be provided to support the application.
- D. A copy of the previous two years audited accounts for the organisation should be provided.
- E. The amount of rates that will be remitted will depend upon the circumstances of each case.
- F. Applications will be effective for a specific period and may then be reviewed. Relief will be withdrawn on the sale of the business.
- G. The purpose of this policy is to support local businesses in the community.

25% of the cost of this relief is met by the Authority.