

**South Somerset District Council
Policy for the granting of Discretionary
Non-Domestic Rate Relief**

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1.0 Purpose of the Policy

- 1.1 The purpose of this policy is to determine the level of discretionary relief to be granted to certain defined ratepayers within the Council's area.
- 1.2 The Local Government Finance Act 1988 and subsequent legislation requires the Council to grant mandatory relief for premises occupied by Charities and similar organisations that own or occupy them wholly or mainly for charitable purposes. Likewise certain premises situated within a rural settlement area will be eligible for mandatory relief. Powers have also been granted under the Localism Act 2011, which allow for the granting of discretionary rate relief to any premises where the Council feels the granting of such relief would be of benefit to the local community.
- 1.3 Further guidance has also been received from Central Government in respect of the granting of relief for:
- Unoccupied new structures (from 1st October 2013);
 - Retail relief (£1000) (from 1st April 2014);
 - Flood Relief; and
 - Retail reoccupation relief (from 1st April 2014).
- 1.4 Whilst the Council is obliged to grant relief to premises, which fall within the mandatory category, the Council also has powers to grant discretionary relief to ratepayers subject to certain criteria being met. In the case of new reliefs, guidance has been issued by Central Government outlining actions expected to be taken by local authorities.
- 1.5 Full details of the legislative requirements for both mandatory and discretionary relief are given within the following sections of this report.
- 1.6 This document also outlines the following areas:
- Details of the criteria for receiving Discretionary Relief for all relevant areas;
 - The Council's policy for granting of all types of Discretionary Relief;
 - Guidance on granting and administering the relief;
 - European Union requirements including provisions for State Aid; and
 - The Scheme of Delegation.
- 1.7 This policy covers all aspects of discretionary rate relief (subject to changes in legislation). Where organisations apply for relief they will be granted (or not granted) relief in line with the following policy.
- 1.8 This policy has been created after extensive work by the Council's Task & Finish group and in consultation with both internal and external (business stakeholders).

2.0 Mandatory Relief - Legislative Background

Charity Relief

- 2.1 The powers relating to the granting of mandatory¹ and discretionary relief are given to the Council under the Local Government Finance Act 1988². Charities and Trustees for Charities are only liable to pay one fifth of the Non Domestic Rates that would otherwise be payable where property is occupied and used wholly or mainly for charitable purposes. This amounts to mandatory relief of 80%. For the purposes of the Act a charity is an organisation or trust established for charitable purposes, whether or not it is registered with the Charity Commission. The provision has recently been extended under the Local Government Act 2003 (effective from 1st April 2004) to registered Community Amateur Sports Clubs (CASCs).
- 2.2 The Council has discretion to grant relief of up to a further 20% for these cases under the discretionary provisions.

Rural Rate Relief

- 2.3 From 1st April 1998, under powers originally granted to the Council under the Local Government and Rating Act 1997³, certain types of business in rural settlements, with a population below 3000 may qualify for mandatory rate relief of 50 per cent. Businesses that qualify for this relief are the sole general store and the sole post office in the village, provided it has a Rateable Value of up to £8500; any food shop with a Rateable Value of up to £8500; and the sole pub and the sole petrol station in the village provided it has a Rateable Value of up to £12500.
- 2.4 The Council has discretion to grant up to a further 50% relief of the remaining rates on such property.
- 2.5 In addition to this the Council may decide to give up to 100 per cent relief to any other business (not in receipt of mandatory relief) in such a rural settlement, with a Rateable Value of up to £16,500, if it is satisfied that the business is of benefit to the community and having regard to the interests of its Council Taxpayers.

¹ S43 & S45 Local Government Finance Act 1988

² S47 & S48 Local Government Finance Act 1988

³ LGFA 1988, s.47, as amended by Sch. 1 to the Local Government and Rating Act 1997

3.0 Discretionary Relief – Legislative Background

Introduction

- 3.1 The original purpose of discretionary relief was to provide assistance where the property does not qualify for mandatory relief, or to ‘top’ up cases where ratepayers already receive mandatory relief.
- 3.2 Over recent years and particularly since 2011, the discretionary relief provisions have been amended to allow authorities the flexibility to provide assistance to businesses and organisations. Recent announcements by Central Government have also allowed for relief:
- to be targeted to certain business ratepayers;
 - to encourage building of business premises even though the developer may not be able to sell or let the premises immediately;
 - to alleviate the effects of the recession; and
 - to encourage the use of retail premises which have been unoccupied for a period of time.
- 3.3 The range of bodies, which are eligible for discretionary rate relief, is wide and not all of the criteria laid down by the legislation will be applicable in each case.
- 3.4 Unlike mandatory relief, ratepayers are obliged to make a written application to the Council.
- 3.5 The Council is obliged to consider carefully every application on its merits, taking into account the contribution that the organisation makes to the amenities of the area. There is no statutory appeal process against any decision made by the Council although as with any decision of a public authority, decisions can be reviewed by Judicial Review.
- 3.6 Granting of the relief falls broadly into the following categories:
- a. Discretionary Relief – Charities who already receive mandatory relief.
 - b. Discretionary Relief – Premises occupied by organisations not established or conducted for profit whose main objects are charitable or are otherwise philanthropic or religious or concerned with education, social welfare, science, literature or the fine arts;
 - c. Discretionary Relief – Premises occupied by organisations not established or conducted for profit and wholly or mainly used for purposes recreation;
 - d. Discretionary Relief – Rural Rate relief - premises that already receive mandatory relief (not applicable to the Council);
 - e. Discretionary Relief – Rural Rate relief - premises not receiving mandatory relief but of benefit to the local community and less than £16,500 RV.(not applicable to the Council);
 - f. Discretionary Relief – Granted under the Localism Act 2011 provisions
 - g. Discretionary Relief – Unoccupied New Structures (available from 1st October 2013);
 - h. Discretionary Relief - Retail relief (available from 1st April 2014);
 - i. Discretionary Relief – Flooding;
 - j. Discretionary Relief - Reoccupation Relief (available from 1st April 2014).

- 3.7 The decision to grant or not to grant relief is a matter purely for the Council although the general principles are a matter of concern to Central Government and in the case of e., f., and g. above, Central Government has provided specific guidance and finance.

The Council's approach to granting Discretionary Relief

- 3.8 In deciding which organisations should receive discretionary Rate relief, the Council has taken into account the following factors and priorities:
- a. Provide assistance when there is evidence of financial need;
 - b. The policy should support business, charities, organisations and groups that help to retain services in rural areas;
 - c. Help and encourage business, charities, organisations, groups and communities to become self-reliant;
 - d. Awarding discretionary relief should not distort competition; and
 - e. Every business/ organisation should contribute something towards the provision of local services.

4.0 Effect on the Council's Finances

- 4.1 The granting of discretionary relief will, in all circumstances, involve a cost to the Council. Since the change to the funding for Non Domestic Rating in April 2013, the effect of the relief is complex.
- 4.2 Any amounts granted prior to 1st April 2013 and continuing since that date will be included in the Council's baseline within the Business Rates Retention Scheme. Any amounts granted for similar cases after 1st April 2013, the costs of the relief will be borne in accordance with the Business Rates Retention Scheme share namely 50% borne by Central Government and 40% by the Council. The remaining cost is borne by the major Precepting authorities.
- 4.3 The new areas for relief namely;
- Discretionary Relief – Unoccupied New Structures (available from 1st October 2013);
 - Discretionary Relief - Retail relief (available from 1st April 2014);
 - Discretionary Relief – Flooding
 - Discretionary Relief - Reoccupation Relief (available from 1st April 2014).
- are to be financed wholly by Central Government by direct grant under Section 31 of the Local Government Act 2003. A summary of the financial situation is given below.

	Relief Type	Granted after 1 st April 2013
	Charity Relief	
a.	Discretionary relief granted to Mandatory Relief recipients	40% borne by the Council
b.	Non profit Making Organisations	40% borne by the Council
c.	Sports Clubs and societies	40% borne by the Council
	Rural Rate Relief	
d.	Discretionary relief granted to Mandatory Relief recipients	40% borne by the Council
e.	Other premises within a rural settlement under £16500 RV	40% borne by the Council
	Localism	
f.	Discretionary Relief granted to ratepayers generally and not covered by any other section	40% borne by the Council
	Unoccupied New Structures	
g.	Granted after 1 st October 2013	Funded in full by Central Government under S31 Local Government Act 2003
	Retail Relief	
h.	Granted after 1 st April 2014	Funded in full by Central Government under S31 Local Government Act 2003
	Flooding Relief	
i.	Granted after 1 st April 2014	Funded in full by Central Government under S31 Local Government Act 2003

	Re-occupation Relief	
i.	Granted after 1 st April 2014	Funded in full by Central Government under S31 Local Government Act 2003

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5.0 Charity Relief – Mandatory Relief recipients

General Explanation

- 5.1 S43 of the Local Government Finance Act 1988 allows mandatory relief (80%) to be granted on premises if the ratepayer is a charity or trustees for a charity and the premises are wholly or mainly used for charitable purposes. No charge is made in respect of unoccupied premises where it appears that *when next in use* it will be used wholly or mainly for those purposes.
- 5.2 The legislation has been amended by the Local Government Act 2003 (effective from 1st April 2004) to include registered⁴ Community Amateur Sports Clubs (CASC). These organisations can now receive the mandatory (80%) relief.

Charity registration

- 5.3 Charities are defined within the legislation as being an institution⁵ or other organisation established for charitable purposes only or by persons administering a trust established for charitable purposes only.
- 5.4 The question as to whether an organisation is a charity may be resolved in the majority of cases by reference to the register of charities maintained by the Charity Commissioners under s.4 of the Charities Act 1960. Entry in the register is conclusive evidence. By definition, under the Non Domestic Rating legislation, there is no actual need for an organisation to be a registered charity to receive the relief and this has been supported by litigation⁶, however in all cases the organisation must fall within the following categories:
- trusts for the relief of poverty;
 - trusts for the advancement of religion;
 - trusts for the advancement of education; and
 - trusts for other purposes beneficial to the community, but not falling under any of the preceding heads.
- 5.5 Certain organisations are exempted from registration generally and are not required to make formal application to the Charity Commissioners these are:
- the Church Commissioners and any institution administered by them;
 - any registered society within the meaning of the Friendly Societies Acts of 1896 to 1974 ;
 - units of the Boy Scouts Association or the Girl Guides Association; and
 - voluntary schools within the meaning of the Education Acts of 1944 to 1980
- 5.6 The Council would consider charitable organisations, registered or not, for mandatory relief.

⁴ Registered with HMRC as a CASC

⁵ S67(10) Local Government Finance Act 1988

⁶ Income Tax Special Commissioners v Pemsell (1891)

Use of Premises – wholly or mainly used

- 5.7 Irrespective of whether an organisation is registered as a charity or not, the premises must be wholly or mainly used for charitable purposes. This is essential if any relief (either mandatory or discretionary) is to be granted. In most cases this can be readily seen by inspection but on occasions the Council has had to question the actual use to which the premises are to be put.
- 5.8 Guidance from the Department of Communities and Local Government (DCLG) has stated that in the case of 'mainly', at least 51% must be used for charitable purposes whether of that charity or of that and other charities
- 5.9 The following part of this section gives details on typical uses where relief may be given plus additional criteria that have to be satisfied. The list is not exhaustive but gives clear guidance on premises for which mandatory relief can be granted *and therefore* premises which could be equally considered for discretionary rate relief.

Offices, administration and similar premises

- 5.10 Premises used for administration of the Charity including:
- Offices
 - Meeting Rooms
 - Conference Rooms

Charity shops

- 5.11 Charity shops are required to meet additional legislative criteria if they are to receive mandatory relief. Section 64(10) of the Local Government Finance Act 1988 provides that a property is to be treated as being wholly or mainly used for charitable purposes at any time if, at the time, it is wholly or mainly used for the sale of goods donated to a charity and the proceeds of the sale of the goods (after any deduction of expenses) are applied for the purposes of the charity.
- 5.12 In order to ascertain whether an organisation meets these requirements, inspections may be made by staff when an application is received

Charity Relief – Mandatory Relief recipients, the Council's Policy for granting discretionary relief.

- 5.13 The Council has resolved to grant the following discretionary relief where the applicants already receives mandatory charity relief:

Discretionary Relief where the organisation receives Mandatory Charity Relief

	Organisation	Mandatory Relief	Criteria	Situated within a Rural Settlement	Amount of Discretionary Relief
1	Village Halls, Community centres and meeting rooms with charitable status	80%	Where helping to achieve the ambitions of the Council plan and related strategies	No	10%
				Yes	20%
2	Scout, Guide and Youth Organisations with charitable status	80%	Where helping to achieve the ambitions of the Council plan and related strategies		10%
			Where helping to achieve the ambitions of the Council plan and related strategies and where it is helping to retain services in rural areas	Yes	20%
3	Pre-Schools/ Play Groups and Nurseries	80%	Where helping to achieve the ambitions of the Council plan and related strategies	No	10%
			Where helping to achieve the ambitions of the Council plan and related strategies and where it is helping to retain services in rural areas	Yes	20%
4	Schools/education & Academy's with charitable status, including private schools	80%		N/A	Nil
5	Local charity office	80%	Where solely an administration office	N/A	Nil
			Where Charitable service is also delivered from same premises	N/A	10%
			Where the charitable service is being delivered from the same premises and the work of the organisation helps SSDC meet its Council Plan and objectives to such an extent that if the organisation did not operate SSDC would have to do the work or contract another provider	N/A	20%

	Organisation	Mandatory Relief	Criteria	Situated within a Rural Settlement	Amount of Discretionary Relief
6	Local Charity Shop	80%		N/A	Nil
7	National charity shop	80%		N/A	Nil
8	National Charity Administration office	80%		N/A	Nil
9	Sports Clubs/recreational facilities (with charity status)	80%	Where there is a bar offering alcohol at discounted or reduced prices to its members or the general public	N/A	Nil
			Where the bar is ancillary and is not offering discounted alcohol	N/A	10%
			Where: <ul style="list-style-type: none"> • there is no bar; and • The club / facilities are open to all; and • Satisfies community need; and • Is run by a committee. 	N/A	20%
10	Community Amateur Sports Club (CASC)	80%	Where there is a bar offering alcohol at discounted or reduced prices to its members or the general public	N/A	Nil
			Where the bar is ancillary and is not offering discounted alcohol	N/A	20%
11	Hospice/end of life care provider with charitable status	80%		N/A	20%
12	Lifesaving/rescue organisations with Charitable Status	80%		N/A	20%
13	Museum/Heritage or Arts centre with charitable status	80%		N/A	10%
14	Theatres with charitable status	80%		N/A	10%
15	Housing Association Offices	80%		N/A	Nil
16	Religious Organisations and groups with charitable status	80%		N/A	Nil

6.0 Rural Rate Relief – Mandatory Relief recipients

What are the qualifying criteria for Mandatory Relief?

- 6.1 For a Post Office or General Store to be entitled to 50% Mandatory Relief, all the following criteria must be met:
- The Rateable Value of the property must not exceed £8,500 (from 1 April 2010);
 - The property must be used as a Post Office or a General Store (see below for definition), or both;
 - The property must be the only Post Office or the only General Store within the Rural Settlement.
- 6.2 For a Public House or Petrol Filling Station to be entitled to 50% Mandatory Relief, all the following criteria must be met:
- The Rateable Value of the property must not exceed £12,500 (from 1 April 2010);
 - The property must be used as a Public House (see below for definition) or a Petrol Filling Station (see below for definition); and
 - The property must be the only Public House or the only Petrol Filling Station within the Rural Settlement.
- 6.3 For a village food shop to be entitled to 50% Mandatory Relief, all the following criteria must be met:
- The Rateable Value of the property must not exceed £8,500 (from 1 April 2010); and
 - The property must be used as a shop selling mainly food (see below for definition).

What is the definition of a General Store?

- 6.4 For the purposes of Rural Rate Relief, 'General Store' means a business or trade, which wholly or mainly sells by retail both food (other than confectionery) for human consumption and general household goods. Where there are two or more General Stores within the same Rural Settlement, none can qualify for Mandatory Relief on that basis, although if one of them functions as a Post Office or a Food Shop relief may be claimed independently on that ground. However, both a General Store and a Post Office in the same Rural Settlement will qualify for Mandatory Relief, provided that they both meet the criteria. Although a General Store or a Post Office may not meet the criteria for Mandatory Relief, they may still be eligible to apply for Discretionary Relief.

What is the definition of a Public House?

- 6.5 For the purposes of Rural Rate Relief, 'Public House' means any premises as defined in the Licensing Act 2003, which has a premises license authorising sale by retail of alcohol for consumption on the premises. In addition the premises must be used principally for

retail sales of alcohol to members of the public for consumption on the premises, and sales must not be subject to the condition that buyers reside at or consume food on the premises.

What is the definition of a Petrol Filling Station?

- 6.6 For the purposes of Rural Rate Relief, 'Petrol Filling Station' means premises where petrol or other automotive fuels are sold retail to the general public for fuelling motor vehicles intended or adapted for use on roads

What is the definition of a Food Shop?

- 6.7 For the purpose of Rural Rate Relief, "Food Shop" means a trade or business consisting wholly or mainly of the sale by retail of food for human consumption (excluding confectionery and catering – in this context catering means any supply of food for consumption on the premises on which it is supplied and any supply of hot food for consumption off the premises). Thus, this definition may also include shops, which sell mainly household foods and which may partly also sell hot take away food or food consumed on the premises. But shops whose main business is a restaurant, tea-room, take-away, or confectionery sales are not Food Shops and so will not qualify for Mandatory Relief.

What are the qualifying criteria for Discretionary Relief?

- 6.8 The Council may grant up to 50% Discretionary Relief in respect of any property which qualifies for 50% Mandatory Relief and the Council may also grant up to 100% Discretionary Relief to any rural business which does not meet the mandatory provisions (see Section 7).

Rural Rate Relief – Mandatory Relief recipients, the Council's Policy for granting discretionary relief.

- 6.9 The Council has resolved to grant the following discretionary relief where the applicants already receive mandatory rural rate relief:

Discretionary Relief where the organisation receives Mandatory Rural Rate Relief

	Organisation	Mandatory Relief	Criteria	Situated within a Rural Settlement	Amount of Discretionary Relief
1	Rural Public House (£12,500 RV or less)	50%	Discretionary relief for the provision of community facilities and activities not provided elsewhere in the community	Yes	20%
			If they can demonstrate they are making significant efforts to help the business succeed	Yes	20%
2	Rural Post Office up to £8500 RV	50%		Yes	40%
3	Rural General Store up to £8500 RV	50%		Yes	40%
4	Rural Post Office and General Store up to £8,500 RV	50%		Yes	40%
5	Rural Food Shops up to £8500 RV	50%		Yes	Nil
6	Rural Petrol Filling Stations up to £12,500 RV	50%		Yes	Nil

7.0 Discretionary Relief – Premises within Rural Settlements

- 7.1 In addition to having the ability to grant discretionary relief to those in receipt of mandatory relief, the Local Government and Rating Act 1997 allows discretionary relief of up to 100% to be granted where the rateable value is £16500 or less and:
- a. property is used for purposes which are of benefit to the local community, and
 - b. it would be reasonable for the billing authority to award relief, having regards to the Council's Council Taxpayers
- 7.2 As with all discretionary relief, part of the cost, is met by Central Government and the balance from local sources. In line with the Business Rates Relief principles, outlined earlier in this policy.
- 7.3 The main criteria for granting discretionary relief in respect of rural rate relief is that premises are used to benefit the local community.

Benefit to the local community

- 7.4 Whilst each application for the relief will be considered on its own merits there are certain factors which weigh heavily in the decision making process. It is this Council's belief that the spirit of the legislation is to assist businesses and amenities, which contribute significantly to the quality of life of the people who have their main home in the Rural Settlement.
- 7.5 To be successful for consideration, a business must show that its existence is a significant benefit to the local community with the majority of local residents directly benefiting from services or facilities provided by that business

Rural Rate Relief – the Council's Policy for granting discretionary relief.

- 7.6 The Council has resolved to grant the following discretionary relief where the applicants are not already in receipt of mandatory rural rate relief:

Discretionary Relief - where the organisation is not in receipt of Mandatory Rural Rate Relief

	Organisation	Mandatory Relief	Criteria	Situated within a Rural Settlement	Amount of Discretionary Relief
1	Rural Public House	No	Discretionary relief for the provision of community facilities and activities not provided elsewhere in the community	Yes	20%
			If they can demonstrate they are making significant efforts to help the business succeed	Yes	20%
2	Dentist, hairdresser, up to £16,500 RV	No		Yes	Up to 50%

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8.0 Discretionary Relief – Non Profit Making Organisations including Recreation

General explanation

Non-Profit

- 8.1 The legislation⁷ allows the Council to grant discretionary relief where the property is not an *excepted* one and all or part of it is occupied for the purposes of one or more institutions or other organisations none of which is 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.
- 8.2 Relief cannot be granted to any premises occupied by the Council, or any town, parish council or major Precepting Authority (*excepted premises*).
- 8.3 A number of issues arise from the term 'not established or conducted for profit'. This requires the Council to make enquiries as to the overall purpose of the organisation although if surpluses and such amounts are directed towards the furtherance or achievement of the objects of the organisation then it does not necessarily mean that the organisation was established or conducted for profit.⁸

Recreation Clubs

- 8.4 Ideally all recreation clubs should be encouraged to apply for CASC status, which would automatically entitle them to 80% relief.
- 8.5 Recreation Clubs can also apply to the Charity Commissioners for registration as a Charity (thereby falling under the mandatory provisions for 80% relief) where they meet the following conditions:
- a. The promotion of community participation in healthy recreation and by the provision of facilities for the playing of particular sports; and
 - b. The advancement of the physical education of young people not undergoing formal education.
- 8.6 Where sports clubs do not meet the CASC requirement, and are not registered charities, discretionary relief can be granted (0-100%) where the property is not an *excepted* one, it is wholly or mainly used for purposes of recreation and all or part of it is occupied for the purpose of a club, society or other organisation not established or conducted for profit.

Definition of Recreation

- 8.7 Recreation is clearly defined by the Sports Council as any of the following⁹

⁷ S47 Local Government Finance Act 1988

⁸ National Deposit Friendly Society v Skegness Urban District Council (1958)¹ and Guinness Trust (London Fund) v West Ham County Borough Council (1959)

⁹ Definition last reviewed by Sport England in 2002

Aikido	Croquet	Kabaddi	Real Tennis	Tang Soo Do
American Football	Crossbow	Karate	Roller Hockey	Tenpin Bowling
Angling	Curling	Kendo	Roller Skating	Trampoline
Archery	Cycling	Korfball	Rounders	Triathlon
Arm Wrestling Association	Disability Sport	Lacrosse	Rowing	Tug of War
Football	Dragon Boat Racing	Lawn Tennis	Rugby League	Unihoc
Athletics	Equestrian	Life Saving	Rugby Union	Volleyball
Australian Rules Football	Fencing	Luge	Sailing	Water Skiing
Badminton	Fives	Modern Pentathlon	Sand/Land Yachting	Weightlifting
Balloon	Flying	Motor Cycling	Shinty	Wrestling
Baseball	Gaelic Football	Motor Sports	Shooting	Yoga
Basketball	Gliding	Mountaineering	Skateboarding	
Baton Twirling	Golf	Movement, Dance, Exercise & Fitness	Skiing	
Biathlon	Gymnastics	Netball	Snowboarding	
Bicycle Polo	Handball	Orienteering	Softball	
Billiards and Snooker	Hang/Para Gliding	Parachuting	Sombo	
Bobsleigh	Highland Games	Petanque	Wrestling	
Boccia	Hockey	Polo	Squash	
Bowls	Horse Racing	Pony Trekking	Skater/Street Hockey	
Boxing	Hovering	Pool	Sub-Aqua	
Camogie	Hurling	Quoits	Surf Life Saving	
Canoeing	Ice Hockey	Racketball	Surfing	
Caving	Ice Skating	Rackets	Swimming & Diving	
Chinese Martial Arts	Jet Skiing	Raquetball	Table Tennis	
Cricket	Ju Jitsu	Rambling	Taekwondo	
	Judo			

Access to clubs

- 8.8 Guidance issued by the DCLG also requires the Council to consider access to clubs within the community before granting discretionary relief.
- 8.9 Membership should be open to all sections of the community. There may be legitimate restrictions placed on membership which relate for example to ability in sport or to the achievement of a standard in the field covered by the organisation or where the capacity of the facility is limited, but in general membership should not be exclusive or restrictive.
- 8.10 Membership rates should not be set at such a high level as to exclude the general community. However, membership fees may be payable at different rates that distinguish the different classes of membership such as juniors, adults, students, pensioners, players, non-players, employed and unemployed. In general, the club or organisation must be prepared to show that the criteria by which it considers applications for membership are consistent with the principle of open access.

- 8.11 The Council also asks the following question to help establish the level of access 'Does the organisation actively encourage membership from particular groups in the community e.g. young people, women, older age groups, persons with disability, ethnic minorities' etc?' – Where an organisation encourages such membership, the Council looks more sympathetically at their application. Likewise where facilities are made available to people other than members e.g. schools, casual public sessions etc. the Council will generally grant relief.

Provision of facilities

- 8.12 Clubs which provide training or education are encouraged as are those who provide schemes for particular groups to develop their skills e.g. young people, the disabled, retired people.
- 8.13 A number of organisations run a bar. The mere existence of a bar should not in itself be a reason for not granting relief. However the Council focuses on the main purpose of the organisation. The Council is encouraged to examine the balance between playing and non-playing members. Likewise the level of bar profits is considered to be a gauge of how much relief should be given and the need for assistance.
- 8.14 Within this area the Council also considers whether the facilities provided relieve the Council of the need to do so, or enhance and supplement those that it does provide.

Discretionary Relief - Non-Profit Organisations including Recreation – the Council's Policy

- 8.15 Applications will be considered from non-profit making organisations, which can demonstrate the following:
- a. That the activities of the organisation are consistent with the Council's core values and priorities;
 - b. That they are non-profit making associations, groups, clubs which are accessible to all potential users, possess a representative management group and are clearly accountable to users, beneficiaries and members (e.g. evidence of constitution, membership and/or participation are required); and
 - c. That the membership comprises mainly residents of South Somerset or that activities are of direct benefit to residents of the District;
- 8.16 The current policy for granting relief is as follows:

	Organisation	Mandatory Relief	Criteria	Situated within a Rural Settlement	Amount of Discretionary Relief
1	Community Interest Company (or not for profit)	No	Where they operate similar to a charity with minimal costs and reinvest profit in the company up to a maximum Rateable Value of £8,500	No	90%
2	Sports Club / Recreational facility	No	Where the bar is ancillary and is not offering discounted alcohol, Rateable Value up to £8,500 (note not charities or CASCs)	No	90%
3	Sports Club / Recreational facility	No	Where the bar is ancillary and is not offering discounted alcohol, Rateable Value over £8,500 (note not charities or CASCs)	No	Sliding Scale

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9.0 Discretionary Relief – Localism Act 2011

General explanation

- 9.1 Section 69 of the Localism Act 2011 amended Section 47 of the Local Government Finance Act 1988. These provisions allow all Councils to grant discretionary relief in **any** circumstances where it feels fit having regards to the effect on the Council Tax payers of its area.
- 9.2 The provisions are designed to give authorities flexibility in granting relief where it is felt that to do so would be of benefit generally to the area and be reasonable given the financial effect to Council Tax payers.

Discretionary Relief – Localism – the Council's Policy

- 9.3 Applications will be considered from any ratepayer who wishes to apply however, where a ratepayer is suffering hardship or severe difficulties in paying their rates liability then relief can be granted under the existing provisions as laid down by Section 49 of the Local Government Finance Act 1988. There will be no requirement to grant relief in such cases under the Council's discretionary relief policy.
- 9.4 Any ratepayer applying for discretionary rate relief under these provisions and who does not meet the criteria for existing relief (charities, non profit making organisations or rural premises) must meet **all** of the following criteria and the amount of relief granted will be dependant on the following key factors:
- a. The ratepayer **must not** be entitled to mandatory rate relief (Charity or Rural Rate Relief);
 - b. The ratepayer **must not** be an organisation that could receive relief as a non profit making organisation or as a sports club or similar;
 - c. The ratepayer **must** occupy the premises (no discretionary rate relief will be granted for unoccupied premises);
 - d. The premises and organisation **must** be of *significant* benefit to residents of the District;
 - e. The premises and organisation **must** relieve the Council of providing similar facilities;
 - f. The ratepayer **must**;
 - a. Provide facilities to certain priority groups such as elderly, disabled, minority groups, disadvantaged groups; **or**
 - b. Provide *significant* employment or employment opportunities to residents of the District; **or**
 - c. Provide the residents of the area with such services, opportunities or facilities that cannot be obtained locally or are not provided locally by another organisation;
 - g. The ratepayer **must** demonstrate that assistance (provided by the discretionary rate relief) will be for a *short time only* **and** that any business / operation is financially viable in the medium and long term; **and**
 - h. The ratepayer **must** show that the activities of the organisation are consistent with the Council's core values and priorities.

- 9.5 Where a ratepayer can demonstrate that **all** of the above criteria are met, relief will be considered for a period of one year.
- 9.6 A formal application from the ratepayer will be required in each case and any relief will be granted in line with State Aid requirements.

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10.0 Discretionary Relief – Unoccupied New Structures

General explanation

- 10.1 Central Government announced in December 2012 that, it would exempt all newly built unoccupied commercial property completed between 1st October 2013 and 30th September 2016 from empty property rates for the first 18 months, up to the state aids limits.
- 10.2 As this is a temporary measure, the Government are not changing the rules on when a property becomes liable for empty property rates (which would be charged at 100%). Instead they are providing the exemption by reimbursing local authorities that use their discretionary relief powers (under section 47 of the Local Government Finance Act 1988) to grant relief in prescribed circumstances.
- 10.3 It will be for the Council to decide to grant relief under section 47 but Central Government will fully reimburse local authorities for the local share of the discretionary relief (using a grant under s31 of the Local Government Act 2003) based on outturn of relief granted in the circumstances specified. Through this mechanism, central government will guarantee to reimburse local within the rates retention system.
- 10.4 In order to receive the relief, the premises will be all unoccupied non-domestic properties that are **wholly or mainly** comprised of qualifying **new structures**.
- ‘Structures’ means:
- a) foundations ;and/or
 - b) permanent walls; and/ or
 - c) permanent roofs.
- The definition of ‘new’ means;
- a. Completed less that 18 months previously; and
 - b. Completed after 1st October 2013 and before 30th September 2016.
- 10.5 New structures are to be considered completed when the building or part of the building of which they form part is ready for occupation for the purpose it was constructed unless a completion notice has been served in respect of such a building or part of a building – in which case it would be the date specified in that notice.
- 10.6 The relief runs with the property rather than the owner so subsequent owners may also qualify.
- 10.7 In all cases the relief will be subject to State Aid requirements as mentioned later in this policy.
- 10.8 In all cases, an inspection of the premises shall be made by an officer of the Council, prior to granting any relief

Discretionary Relief – Unoccupied New Structures – the Council’s Policy.

- 10.9 The relief is designed to provide an incentive to owners, developers etc. to build new non-domestic premises without the fear of facing unoccupied property rate charges. Central Government is also prepared to finance the relief through the Business Rates Retention scheme. In view of this the Council will grant the relief in accordance with Central Government guidance for all qualifying new structures.
- 10.10 An application from the ratepayer will be required in each case and any relief will be granted in line with State Aid requirements.
- 10.11 This exemption is available for unoccupied new structures that were completed between 1st October 2013 and 30th September 2016 and will be granted for a period of 18 months to include existing empty property exempt periods.

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11.0 Discretionary Relief – Retail Relief

General explanation

- 11.1 The Government announced in the Autumn Statement in December 2013 that it would allow for a relief of up to £1000 to all **occupied** retail properties with a rateable value of £50,000 or less in each of the years 2014/15 and 2015/16.
- 11.2 As this is a temporary measure only, the Government is not changing the legislation around the reliefs available to properties. Instead local authorities will use their discretionary relief powers, introduced by the Localism Act (under section 47 of the Local Government Finance Act 1988, as amended) to grant relief. It will be for individual authorities to adopt a local scheme and decide in each individual case when to grant relief under section 47.
- 11.3 Central government will fully reimburse local authorities for the local share of the discretionary relief (using a grant under section 31 of the Local Government Act 2003).
- 11.4 The Government expects local government to grant relief to qualifying ratepayers.
- 11.5 Properties that will benefit from the relief will be occupied properties with a rateable value of £50,000 or less that are **wholly or mainly** being used as:
- Shops;
 - Restaurants;
 - Cafes; and
 - Drinking establishments
- 11.6 This policy will follow Government guidance that considers shops, restaurants, cafes and drinking establishments to mean:
- i. Properties that are being used for the sale of goods to visiting members of the public:**
- Shops (such as: florist, bakers, butchers, grocers, greengrocers, jewellers, stationers, off licence, chemists, newsagents, hardware stores, supermarkets, etc.)
 - Charity shops
 - Opticians
 - Post offices
 - Furnishing shops/ display rooms (such as: carpet shops, double glazing, garage doors)
 - Car/ caravan show rooms
 - Second hand car lots
 - Markets
 - Petrol stations
 - Garden centres
 - Art galleries (where art is for sale/hire)
- ii. Properties that are being used for the provision of the following services to visiting members of the public:**

- Hair and beauty services (such as: hair dressers, nail bars, beauty salons, tanning shops, etc)
- Shoe repairs/ key cutting
- Travel agents
- Ticket offices e.g. for theatre
- Dry cleaners
- Launderettes
- PC/ TV/ domestic appliance repair
- Funeral directors
- Photo processing
- DVD/ video rentals
- Tool hire
- Car hire

iii. Properties that are being used for the sale of food and/ or drink to visiting members of the public:

- Restaurants
- Takeaways
- Sandwich shops
- Coffee shops
- Pubs
- Bars

11.7 To qualify for the relief the property should be wholly or mainly being used as a shop, restaurant, cafe or drinking establishment. In a similar way to other reliefs (such as charity relief), this is a test on use rather than occupation. Therefore, properties which are occupied but not wholly or mainly used for the qualifying purpose will not qualify for the relief.

11.8 The list set out above is not intended to be exhaustive as it would be impossible to list the many and varied retail uses that exist. There will also be mixed uses. However, it will be used as a guide as to the types of uses that government considers for this purpose to be retail. Properties not listed above which are broadly similar in nature to those above will be considered for the relief. Conversely, properties that are not broadly similar in nature to those listed above would not be eligible for the relief.

11.9 The list below sets out the types of uses that government does not consider to be retail use for the purpose of this relief. Again, it is for local authorities to determine for themselves whether particular properties are broadly similar in nature to those below and, if so, to consider them not eligible for the relief under their local scheme.

i. Properties that are being used for the provision of the following services to visiting members of the public:

- Financial services (e.g. banks, building societies, cash points, bureau de change, payday lenders, betting shops, pawn brokers)
- Other services (e.g. estate agents, letting agents, employment agencies)
- Medical services (e.g. vets, dentists, doctors, osteopaths, chiropractors)
- Professional services (e.g. solicitors, accountants, insurance agents/ financial advisers, tutors)
- Post office sorting office

ii. Properties that are not reasonably accessible to visiting members of the public

- 11.10 Central Government guidance gives a range of premises that may benefit from the relief and the Council will use this when deciding entitlement. It is acknowledged that this is guidance and each application will be looked at on its own merits.
- 11.11 The total amount of relief available for each eligible property for each of the years under this scheme is up to £1000. The amounts will not vary with rateable value and there is no taper. There is no relief available under this scheme for properties with a rateable value of more than £50,000. The eligibility for the relief and the relief itself will be assessed and calculated on a daily basis for each day of occupation. It will be granted after the application of any other relief, which may be applicable and also be granted for all properties meeting the criteria.
- 11.12 Any amounts granted will be subject to State Aid requirements.

Discretionary Relief – Retail Relief – the Council's Policy.

- 11.13 The relief is designed primarily to assist businesses during the recession. Central Government is prepared to finance the relief through the Business Rates Retention scheme. In view of this the Council will grant the relief in accordance with Central Government guidance for all qualifying premises.
- 11.14 An application from the ratepayer will be required in each case.
- 11.15 This relief will only be available during the financial years 2014/15 and 2015/16

12.0 Discretionary Relief – Reoccupation Relief

General explanation

- 12.1 Central Government has introduced a 50% discount from non-domestic rates for new occupations of previously empty retail premises. The discount will last for 18 months and be available from 1st April 2014 until 31st March 2016.
- 12.2 The relief, which is available from 1st April 2014, can be granted for all occupations of premises, which meet the following criteria:
- The premises, when last in use were wholly or mainly used for retail purposes (see Section 8.6 above for definition of retail purposes);
 - The premises have been unoccupied for a period of 12 months or more immediately before their reoccupation;
 - The premises become reoccupied between 1 April 2014 and 31 March 2016; and
 - The premises are being used for any purpose (although it should be noted that the Government will only reimburse the Council for any relief granted so long as it is for any type of occupation except for those wholly or mainly being used as betting shops, payday loan shops, and pawn brokers).
- 12.3 There is no rateable value limit for the hereditament in respect of either the previous or reoccupied use and the amount of the relief is limited to 50% of the rate charge after taking into account all other mandatory and discretionary reliefs that may be available to the ratepayer.
- 12.4 The relief will run with the property rather than the ratepayer. So if premises are in receipt of the relief and a new ratepayer becomes liable for the property they will benefit from the remaining term of the relief.
- 12.5 The definition of retail premises is identical to that given within the retail relief provisions within this policy.
- 12.6 As this is a temporary measure only, the Government is not changing the legislation around the reliefs available to properties. Instead local authorities will use their discretionary relief powers, introduced by the Localism Act (under section 47 of the Local Government Finance Act 1988, as amended) to grant relief. It will be for individual authorities to adopt a local scheme and decide in each individual case when to grant relief under section 47.
- 12.7 Central government will fully reimburse local authorities for the local share of the discretionary relief (using a grant under section 31 of the Local Government Act 2003).
- 12.8 The Government expects local government to grant relief to qualifying ratepayers and any amounts granted will be subject to State Aid requirements.

Discretionary Relief – Reoccupation Relief – the Council’s Policy

- 12.9 The relief is designed primarily to assist businesses during the recession and particularly in this case, to encourage the re-occupation of vacant retail premises. Central Government is prepared to finance the relief through the Business Rates Retention scheme. In view of this the Council will grant the relief in accordance with Central Government guidance for all qualifying premises.
- 12.10 An application from the ratepayer will be required in each case. This relief is available for a maximum of 18 months as long as it is claimed prior to 31st March 2016.

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13.0 Discretionary Relief – Flooding Relief

General explanation

- 13.1 Central Government has introduced a new business rates relief for properties that have been flooded. It does not replace existing legislation or any other relief.
- 13.2 The Government will fund 100% rate relief for three months, for those properties, which meet the following criteria:
- For any day between 1st December 2013 and 31st March 2014:
- i. the property has been flooded in whole or in part as a result of adverse weather conditions; and
 - ii. on that day, as a result of the flooding at the property, the business activity undertaken at the property was adversely affected; and
 - iii. the rateable value of the property on that day was less than £10 million.
- 13.3 The impact of the flooding will be considered in the full context of all business activities undertaken at the hereditament. Very small or insignificant impacts will not attract this relief.
- 13.4 As this is a temporary measure only, the Government is not changing the legislation around the reliefs available to properties. Instead local authorities will use their discretionary relief powers, introduced by the Localism Act (under section 47 of the Local Government Finance Act 1988, as amended) to grant relief. It will be for individual authorities to adopt a local scheme and decide in each individual case when to grant relief under section 47.
- 13.5 Central government will fully reimburse local authorities for the local share of the discretionary relief (using a grant under section 31 of the Local Government Act 2003).
- 13.6 The Government expects local government to grant relief to qualifying ratepayers.

Definition of Flood

- 13.7 The funding is for the impacts of flooding from the adverse weather conditions between 1st December 2013 and 31st March 2014, and not, for instance, from the failure of a water main, internal water systems or the failure of a sewerage system (unless the failure was itself caused by the adverse weather conditions).
- 13.8 A flood is defined in Section 1 of the Flood & Water Management Act 2010:
- 1(1) "Flood" includes any case where land not normally covered by water becomes covered by water.
- (2) It does not matter for the purpose of subsection (1) whether a flood is caused by—

- (a) heavy rainfall,
- (b) a river overflowing or its banks being breached,
- (c) a dam overflowing or being breached,
- (d) tidal waters,
- (e) groundwater, or
- (e) anything else (including any combination of factors).

(3) But “flood” does not include—

- (a) a flood from any part of a sewerage system, unless wholly or partly caused by an increase in the volume of rainwater (including snow and other precipitation) entering or otherwise affecting the system, or
- (b) a flood caused by a burst water main (within the meaning given by section 219 of the Water Industry Act 1991).

Discretionary Relief – Flooding Relief – the Council’s Policy

- 13.9 An application from the ratepayer will be required in each case.
- 13.10 The scheme applies to all types and uses of non-domestic hereditaments (other than those occupied by the Council).
- 13.11 Funding will be provided to authorities for the 3 months of relief granted starting on the day the hereditament first met the criteria set out in paragraph 8. The 3 months relief will apply irrespective of how long the flooding or adverse business impacts last.
- 13.12 Where a hereditament has been flooded more than once and business activities are adversely impacted, only one period of 3 months relief will be funded and will be applied from the first date on which the criteria were met.
- 13.13 This flooding relief will be applied after any other relief has been applied, e.g. retail relief.
- 13.14 This relief will be calculated ignoring any prior year adjustments in liabilities, which fall to be liable on the day.
- 13.15 Ratepayers that occupy more than one property may be granted relief within the scheme for each of their eligible properties.
- 13.16 Funding for rate relief will continue to be given following a change of ratepayer. The relief will run with the property rather than the ratepayer.
- 13.17 Where a new hereditament is created as a result of a split or merger from a hereditament, which for the day immediately prior to the split or merger met the criteria above, funding will be provided to allow relief to be given for the remaining balance of the three months.

- 13.18 The scheme does not cover relief for any hereditament, which was empty at the time it was flooded as there was no business activity on the premises at the time.
- 13.19 Where a hereditament becomes empty after the flood then it will receive the normal 3 or 6 months (as applicable) empty property rate free period or will continue to receive the balance of the flooding relief.
- 13.20 Funding for the relief will be granted by Central Government as a Section 31 grant.

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14.0 Discretionary Relief – EU State Aid requirements

- 14.1 European Union competition rules generally prohibit Government subsidies to businesses. Relief from taxes, including non-domestic rates, can constitute state aid. The Council must bear this in mind when granting discretionary rate relief.
- 14.2 Rate relief for charities and non-profit making bodies is not generally considered to be state aid, because the recipients are not in market competition with other businesses. However, where other bodies receive relief and are engaged in commercial activities or if they are displacing an economic operator or if they have a commercial partner, rate relief could constitute state aid.
- 14.3 Relief will be State Aid compliant where it is provided in accordance with the De Minimis Regulations (1407/2013)¹⁰. The De Minimis Regulations allow an undertaking to receive up to €200,000 of De Minimis aid in a three year period (consisting of the current financial year and the two previous financial years).
- 14.4 Where the relief to any one business is greater than the De Minimis level then permission will need to be obtained from the European Commission. In such cases the matter will be referred to the DCLG for advice and then referred back to the Council for consideration. It will be for the ratepayer to provide confirmation as to whether the State Aid provisions apply to them.
- 14.5 In all cases, when making an application, ratepayers will be required to provide the Council with sufficient information to determine whether these provisions are applicable in their case.

¹⁰ <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2013:352:0001:0008:EN:PDF>

15.0 Administration of Discretionary Relief

15.1 The following section outlines the procedures followed by officers in granting, amending or cancelling discretionary relief. This is essentially laid down by legislation¹¹

Applications and Evidence

15.2 Discretionary rate relief must be applied for in writing by the ratepayer. Application forms are produced within the Council and issued to all ratepayers requesting the relief.

15.3 Organisations are required to provide a completed application form plus any such evidence, documents, accounts, financial statements etc. necessary to allow the Council to make a decision. Where insufficient information is provided, despite reminders, then no relief will be granted.

Granting of relief

15.4 In all cases, the Council will notify the ratepayer of decisions made.

15.5 Where an application is successful, then the following is notified to them in writing:

- The amount of relief granted and the date from which it has been granted;
- If relief has been granted for a specified period, the date on which it will end;
- The new chargeable amount;
- The details of any planned review dates and the notice that will be given in advance of a change to the level of relief granted; and
- A requirement that the applicant should notify the Council of any change in circumstances that may affect entitlement to relief.

15.6 Where relief is not granted then the following information is provided, again in writing:

- An explanation of the decision within the context of the Council's statutory duty; and
- An explanation of the appeal rights (see below).

15.7 Relief is to be granted from the beginning of the financial year in which the decision is made. Since 1997 decisions can be made up to 6 months after the end of the financial year for which the application was made. Where the relief is only available for a limited period as defined by Central Government then it will only be granted for that period.

15.8 A decision to award discretionary relief and how much relief is given is only applicable to the financial year for which the application is made.

15.9 A fresh application for discretionary relief will be necessary for each financial year.

¹¹ The Non-Domestic Rating (Discretionary Relief) Regulations 1989

Variation of a decision

15.10 Variations in any decision will be notified to ratepayers as soon as practicable and will take effect as follows:

- Where the amount is to be increased due to a change in rate charge – from the date of the increase in rate charge;
- Where the amount is to increase for any other reason (other than a general termination of relief under Central Government guidelines)– takes effect at the expiry of a financial year, and so that at least one year’s notice is given;
- Where the amount is to be reduced due to a reduction in the rate charge – from the date of the decrease in rate charge;
- Where the amount is to be reduced for any other reason (other than a general termination of relief under Central Government guidelines) – takes effect at the expiry of a financial year, and so that at least one year’s notice is given

15.11 A decision may be revoked at any time and the change will take effect at the expiry of a financial year (other than a general termination of relief under Central Government guidelines).

16.0 Scheme of Delegation

Granting, Varying, Reviewing and Revocation of Relief

- 16.1 Under powers given to the Council by section 223 of the Local Government Act 1992, all permissions for the granting, varying, reviewing and revocation of discretionary relief given under the Local Government Finance Act 1988, the Local Government and Rating Act 1997, the Local Government Act 2003 and the Localism Act 2011 be delegated to the Head of Revenues and Benefits.
- 16.2 The method of administration shall be that laid down within this policy document. The level of the discretionary relief shall be calculated in accordance with guidance given within this policy and determined by the Head of Revenues and Benefits
- 16.3 The policy for granting relief will be reviewed where there is a substantial change to the legislation or funding rules. At such time a revised policy will be brought before the relevant committee of the Council.
- 16.4 The amount of funding to be provided by the Council in respect of discretionary relief granted shall be determined by the S151 Officer and approved by Council in the normal budgeting process.

Appeals

- 16.5 Where the Council receives an appeal from the ratepayer regarding the granting non-granting or the amount of any discretionary relief, in line with DCLG guidelines, the case will initially be reviewed by the Head of Revenues and Benefits in conjunction with the s151 Officer. Where a decision is revised then the ratepayer shall be informed likewise if the original decision is upheld.