

**Tendring District Council
Policy for the granting of Discretionary
Non-Domestic Rate Relief and Reductions**

Contents

1.0	Purpose of the Policy	3
2.0	Mandatory Relief - Legislative Background	5
	Charity Relief.....	5
	Rural Rate Relief.....	5
3.0	Discretionary Relief – Legislative Background	6
	Introduction	6
	The Council's approach to granting Discretionary Relief	6
4.0	Effect on the Council's Finances	8
5.0	Discretionary Relief – EU State Aid requirements.....	10
6.0	Administration of Discretionary Relief	11
	Applications and Evidence	11
	Granting of relief.....	11
	Variation of a decision.....	11
7.0	Scheme of Delegation.....	13
	Granting, Varying, Reviewing and Revocation of Relief.....	13
	Appeals	13
	Appendix A.....	14
	Discretionary Relief – Mandatory Relief recipients	14
	Discretionary Relief – Mandatory Relief recipients	15
	General Explanation.....	15
	Charity registration.....	15
	Use of Premises – wholly or mainly used.....	16
	Offices, administration and similar premises	16
	Charity shops.....	16
	Charity Relief – Mandatory Relief recipients, the Council's Policy for granting discretionary relief.....	16
	Appendix B.....	18
	Discretionary Relief – Non Profit Making Organisations including Recreation.....	18
	Discretionary Relief – Non Profit Making Organisations including Recreation.....	19
	General explanation	19
	Definition of Recreation.....	19
	Access to clubs	20
	Provision of facilities.....	21
	Discretionary Relief - Non-Profit Organisations including Recreation – the Council's Policy	21
	Appendix C	22
	Discretionary Relief - Rural Rate Relief – Mandatory Relief recipients	22
	Discretionary Relief - Rural Rate Relief – Mandatory Relief recipients	23
	What are the qualifying criteria for Mandatory Relief?	23
	What rural settlements exist within the Tendring District?	23
	What is the definition of a General Store?	24
	What is the definition of a Public House?	24
	What is the definition of a Petrol Filling Station?.....	24
	What is the definition of a Food Shop?.....	24
	What are the qualifying criteria for Discretionary Relief?	25
	Rural Rate Relief – Mandatory Relief recipients, the Council's Policy for granting discretionary relief.	25
	Appendix D	26
	Discretionary Relief – Premises within Rural Settlements	26
	Discretionary Relief – Premises within Rural Settlements	27
	Rural Rate Relief – the Council's Policy for granting discretionary relief.	27
	Appendix E.....	28
	Discretionary Relief – Localism Act 2011.....	28
	Discretionary Relief – Localism Act 2011.....	29
	General explanation.....	29
	Discretionary Relief – Localism – the Council's Policy.....	29
	Appendix F	30

Discretionary Relief – Unoccupied New Structures	30
Discretionary Relief – Unoccupied New Structures	31
General explanation.....	31
Appendix G	33
Discretionary Relief – Retail Relief.....	33
Discretionary Relief – Retail Relief.....	34
General explanation.....	34
Discretionary Relief – Retail Relief – the Council’s Policy	36
Appendix H	37
Discretionary Relief – Reoccupation Relief.....	37
Discretionary Relief – Reoccupation Relief.....	38
General explanation.....	38
Discretionary Relief – Reoccupation Relief – the Council’s Policy.....	38
Appendix I.....	40
Discretionary Relief – Transition	40
Discretionary Relief – Transition	41
General explanation.....	41
How will the relief be provided?	41
Which properties will benefit from relief?	41
How much relief will be available?.....	41
Recalculations of relief.....	42
Calculating the extension of transitional relief where other reliefs apply.....	42
Discretionary Relief – Transition – the Council’s Policy	42
Appendix J	43
Section 44a – Partly Occupied Hereditaments	43
Section 44a – Partly Occupied Hereditaments	44
General explanation.....	44
How will the relief be provided?	44
Section 44a Partly Occupied Hereditaments – the Council’s Policy	44
Appendix K.....	45
Section 49 – Hardship Relief	45
Section 49 – Hardship Relief	46
General explanation.....	46
Section 49 Hardship Relief – the Council’s Policy	46
Appendix L	47
Application Forms for Reliefs and Reductions	47

1.0 Purpose of the Policy

- 1.1 The purpose of this policy is to determine the level of discretionary relief and related areas 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);
 - Retail reoccupation relief (from 1st April 2014); and
 - Transitional relief (from 1st April 2015).

- 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 and reductions 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 This document outlines the following areas:
- Details of the criteria for receiving Discretionary Reliefs and Reductions for all relevant areas;
 - The Council's policy for granting of all types of Discretionary Reliefs;
 - Details of the criteria for granting Section 44a of the Local Government Finance Act 1988 - Part Occupied relief;
 - The Council's policy for granting Section 44a of the Local Government Finance Act 1988 - Part Occupied relief;
 - Details for granting a reduction or remission of rate liability under Section 49 of the Local Government Finance Act 1988;
 - The Council's policy for granting a reduction or remission of rate liability under Section 49 of the Local Government Finance Act 1988;
 - Guidance on granting and administering the reliefs and reductions;
 - European Union requirements including provisions for State Aid; and
 - The Council's Scheme of Delegation.
- 1.7 This document covers all aspects of discretionary rate relief and reductions (subject to changes in legislation). Where organisations apply for relief or reductions they will be granted (or not granted) relief or reductions in line with the following policy.

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 - Reoccupation Relief (available from 1st April 2014)
 - j. Discretionary Relief – Transitional Relief (available from 1st April 2015)
- 3.7 In addition to the above the following policy covers the application of relief under S44a of the Local Government Finance Act 1988 (Part Occupation Relief) and also S49 of the Local Government Finance Act 1988 (Reduction or remission of liability).
- 3.8 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 g, h, i and j above, Central Government has provided specific guidance and finance.

The Council's approach to granting Discretionary Relief

- 3.9 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 the district and not compete directly with existing businesses in an unfair manner;
 - c. Help and encourage business, charities, organisations, groups and communities to become self-reliant;
 - d. Awarding discretionary relief should not distort competition or significantly change the provision of services within the districts;
 - e. Every business/ organisation should contribute something towards the provision of local services; and
 - f. Local organisations will be given priority over national organisations. In particular the organisation will need to supply the Council with clear evidence of the amounts of monies raised and used / invested locally within the Tendring District. This will be particularly important where the organisation is national in nature.
 - g. Where discretionary relief is to be given, the Council will require evidence to determine the level of any business rates charged by the district compared to the organisation's annual turnover

4.0 Effect on the Council's Finances

4.1 The granting of discretionary relief or reducing or remitting liability 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.

4.4 The following reliefs and reductions are covered within this policy:

Appendix	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 including Sports Clubs and societies	40% borne by the Council
	Rural Rate Relief	
C	Discretionary relief granted to Mandatory Rural Relief recipients	40% borne by the Council
D	Other premises within a rural settlement under £16500 RV	40% borne by the Council
	Localism	
E	Discretionary Relief granted to ratepayers generally and not covered by any other section	40% borne by the Council
	Unoccupied New Structures	
F	Granted on or after 1 st October 2013	Funded in full by Central Government under S31 Local Government Act 2003
	Retail Relief	
G	Granted on or after 1 st April 2014	Funded in full by Central Government under S31 Local Government Act 2003
	Re-Occupation Relief	
H	Granted on or after 1 st April 2014	Funded in full by Central Government under S31 Local Government Act 2003
	Transitional Relief	
I	Granted on or after 1 st April 2015	Funded in full by Central Government under S31 Local Government Act 2003
	S44a – Part Occupation Relief	

J	Granted after 1 st April 2013	40% borne by the Council
	S49 – Reduction or remission in rate liability	
K	Granted after 1 st April 2013	40% borne by the Council

5.0 Discretionary Relief – EU State Aid requirements

- 5.1 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.
- 5.2 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.
- 5.3 Relief will be State Aid compliant where it is provided in accordance with the De Minimis Regulations (1407/2013)⁴. 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).
- 5.4 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 Department for Communities and Local Government (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.
- 5.5 In all cases, where discretionary relief is to be granted or where liability is to be reduced, 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. It should be noted that the State Aid rules do not apply in the case of Section 44a of Local Government Finance Act 1988.

⁴ <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2013:352:0001:0008:EN:PDF>

6.0 Administration of Discretionary Relief

6.1 The following section outlines the procedures followed by officers in granting, amending or cancelling discretionary relief and reduction. This is essentially laid down by legislation⁵

Applications and Evidence

6.2 All relief and reductions must be applied for in writing by the ratepayer. Application forms are produced within the Council and issued to all ratepayers requesting the relief. The relevant application forms for all reliefs and reductions are shown within Appendix L of this policy.

6.3 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, then no relief will be granted.

Granting of relief

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

6.5 Where an application is successful, then the following will be 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. (It should be noted that reliefs and reductions are granted for the period specified in the appropriate Appendix and may vary from a day to a full financial year);
- 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.

6.6 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).

6.7 Discretionary 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.

6.8 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.

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

Variation of a decision

6.10 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;

⁵ The Non-Domestic Rating (Discretionary Relief) Regulations 1989

- 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

6.11 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).

7.0 Scheme of Delegation

Granting, Varying, Reviewing and Revocation of Relief

- 7.1 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 and reductions 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, are delegated to the Head of Revenues and Benefits.
- 7.2 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
- 7.3 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.
- 7.4 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

- 7.5 Where the Council receives an appeal from the ratepayer regarding the granting, non-granting or the amount of any discretionary relief, the case will be reviewed by the Head of Revenues and Benefits. Where a decision is revised then the ratepayer shall be informed, likewise if the original decision is upheld.

Appendix A

Discretionary Relief – Mandatory Relief recipients

Discretionary Relief – Mandatory Relief recipients

General Explanation

- A.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.
- A.2 The legislation has been amended by the Local Government Act 2003 (effective from 1st April 2004) to include registered⁶ Community Amateur Sports Clubs (CASC). These organisations can now receive the mandatory (80%) relief.

Charity registration

- A.3 Charities are defined within the legislation as being an institution⁷ or other organisation established for charitable purposes only or by persons administering a trust established for charitable purposes only.
- A.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 litigation⁸, 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.
- A.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
- A.6 The Council would consider charitable organisations, registered or not, for mandatory relief.

⁶ Registered with HMRC as a CASC

⁷ S67(10) Local Government Finance Act 1988

⁸ Income Tax Special Commissioners v Pemsell (1891)

Use of Premises – wholly or mainly used

- A.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. It will be an essential part of the process of the application for the Council to inspect any premises fully.
- A.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
- A.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

- A.10 Premises used for administration of the Charity including:
- Offices
 - Meeting Rooms
 - Conference Rooms

Charity shops

- A.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.
- A.12 In order to ascertain whether an organisation meets these requirements, inspections may be made by an officer of the Council when an application is received

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

- A.13 The Council will consider applications for a discretionary rate relief top up from charities based on their own merits, on a case-by-case basis. The Head of Revenues and Benefits will consider applications.
- A.14 In determining the application the following matters will be taken in to consideration:
1. How the charity supports and links into the Council's corporate vision and priorities;
 2. The purpose of the charity and the specific activity carried out within the premises for which the relief is requested; and
 3. Whether the charity operates at a local or national level and where appropriate, the local and national funding streams and financial position of the charity.
- A.15 In the case of registered Community Amateur Sports Clubs as defined earlier in this report, decisions as to whether to grant discretionary relief will be made by the Head of Revenues and Benefits. The key criteria in determining the application will be:
1. How the CASC supports and links into the Council's corporate vision and priorities;
 2. The membership and fee structure and whether the CASC is accessible to all residents, including whether there are concessions for certain groups, for example people on a low income or young people under 18;

3. Membership numbers and the number and percentage of these members that are Tendring residents;
4. If the CASC has due regard to equality issues and if it actively encourages members from under-represented groups, for example black and minority ethnic residents, people over 50 and people with disabilities;
5. Whether facilities are available to the wider community regardless of ability. We will also require additional financial information including:
6. If the CASC runs a bar or food provision, the level of income from this activity and how this money is used; and whether the CASC operates at a local or national level and where appropriate, the local and national funding streams and financial position of the CASC.

Appendix B

Discretionary Relief – Non Profit Making Organisations including Recreation

Discretionary Relief – Non Profit Making Organisations including Recreation

General explanation

Non-Profit

- B.1 The legislation⁹ 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.
- B.2 Relief cannot be granted to any premises occupied by the Council, or any town, parish council or major Precepting Authority (*excepted premises*).
- B.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.¹⁰

Recreation Clubs

- B.4 Ideally all recreation clubs should be encouraged to apply for Community Amateur sports Club (CASC) status, which would automatically entitle them to 80% relief. The relief granted to CASCs is covered earlier within this policy.
- B.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.
- B.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

- B.7 Recreation is clearly defined by the Sports Council as any of the following¹¹

⁹ S47 Local Government Finance Act 1988

¹¹ Definition last reviewed by Sport England in 2002

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

Access to clubs

- B.8 Guidance issued by the DCLG also requires the Council to consider access to clubs within the community before granting discretionary relief.
- B.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.
- B.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.
- B.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.?'

Provision of facilities

- B.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.
- B.13 A number of organisations run a bar. The mere existence of a bar will 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.
- B.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

- B.15 The Council will consider applications for discretionary rate relief from non-profit making organisations on their own merits on a case-by-case basis. The Head of Revenues and Benefits will consider applications. In determining the application the following matters will be taken in to consideration (The list is not exhaustive):
- How the organisation supports and links into the Council's corporate vision and priorities;
 - Whether the facilities provided include education and/or training for members as a whole or for special groups;
 - The extent to which the facilities provided reduce the demand for Council services or produce savings;
 - Any membership and fee structure and whether the facilities are accessible to all residents, including whether there are concessions for certain groups, for example people on a low income or young people under 18;
 - If covered by a membership scheme, membership numbers and the number and percentage of these members that are Tendring residents;
 - If the organisation has due regard to equality issues and if its facilities are used by all members of the community, for example black and minority ethnic residents, people over 50 and people with disabilities.
- B.16 The Council will also require additional financial information including:
- If the organisation runs a bar or food provision, the level of income from this activity and how this money is used; and
 - Whether the organisation operates at a local or national level and where appropriate, the local and national funding streams and financial position of the organisation.

Appendix C

Discretionary Relief - Rural Rate Relief – Mandatory Relief recipients

Discretionary Relief - Rural Rate Relief – Mandatory Relief recipients

What are the qualifying criteria for Mandatory Relief?

- C.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.
- C.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.
- C.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 rural settlements exist within the Tendring District?

- C.4 The following settlements currently exist within the Tendring District. Each rural settlement area can be views at the Council Offices, 88-90 Pier Avenues, Clacton-on Sea CO15 1TN
- Aingers Green (as shown on local view map);
 - Alresford (as defined by the parish boundary);
 - Ardleigh (as defined by the parish boundary);
 - Beaumont (as defined by the parish boundary);
 - Bradfield (as defined by the parish boundary);
 - Elmstead Market (as defined by the parish boundary);
 - Frating (as defined by the parish boundary apart from the area known as Frating Green & Balls Green);
 - Frating Green & Balls Green (as shown on local view map);
 - Great Bentley (as defined by the parish boundary apart from the area known as Aingers Green);
 - Great Bromley (as defined by the parish boundary apart from the area known as Hare Green);
 - Great Holland (as shown on local view map);
 - Great Oakley (as defined by the parish boundary);
 - Hare Green (as shown on local view map);
 - Kirby Le Soken (as shown on local view map);

- Little Bentley (as defined by the parish boundary);
- Little Bromley (as defined by the parish boundary);
- Little Clacton North (as shown on local view map);
- Little Clacton South (as shown on local view map);
- Mistley (as defined by the parish boundary excluding Mistley Heath) ;
- Mistley Heath (as shown on the local view map);
- Point Clear (as shown on local view map);
- Ramsey (as shown on local view map);
- Seawick (as shown on local view map);
- St Osyth (as defined by the parish boundary excluding the areas known as Point Clear, St Osyth Heath and Seawick);
- St Osyth Heath (as shown on local view map);
- Tendring (as defined by the parish boundary apart from the area known as Tendring Green);
- Tendring Green (as shown on local view map) estimated population 110
- The Naze (as shown on local view map);
- Thorpe Le Soken (as defined by the parish boundary);
- Thorrington (as defined by the parish boundary)
- Weeley (as defined by the parish boundary apart from the area known as Weeley Heath);
- Weeley Heath (as shown on local view map);
- Wix (as defined by the parish boundary); and
- Wrabness (as defined by the parish boundary).

What is the definition of a General Store?

- C.5 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?

- C.6 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?

- C.7 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?

- C.8 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, tearoom, 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?

- C.9 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.

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

- C.10 The Council will consider applications for a discretionary rate relief top up from rural premises that receive mandatory relief on a case-by-case basis. The Head of Revenues and Benefits will consider applications on a case-by-case basis
- C.11 In determining the application the following matters will be taken in to consideration. Evidence will be required to support any application as outlined within this policy:
- The granting of any discretionary relief will be essential in ensuring the viability of any business within the rural settlement;
 - The granting of any discretionary relief is proportionate given the level of any business rates charged compared with the overall turnover of the business;
 - The granting of any discretionary relief will assist the business in continuing to be viable and / or prevent the business from failing;
 - The business is considered by the Council to be essential and that any reduction or withdrawal of the business will have a serious detrimental effect on the rural settlement; and
 - The granting of any discretionary relief is reasonable having regard to the effect on taxpayers of the district.

Appendix D

Discretionary Relief – Premises within Rural Settlements

Discretionary Relief – Premises within Rural Settlements

- D.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
- D.2 As with all discretionary relief, part of the cost, is met by Central Government and the balance from local sources.
- D.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

- D.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.
- D.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.

- D.6 The Council will also consider applications for a discretionary rural rate relief from all ratepayers, not entitled to mandatory relief. The Head of Revenues and Benefits will consider applications.
- D.7 In determining the application the following matters will be taken in to consideration:
- The granting of any discretionary relief will be essential in ensuring the viability of any business within the rural settlement;
 - The granting of any discretionary relief is proportionate given the level of any business rates charged compared with the overall turnover of the business;
 - The granting of any discretionary relief will assist the business in continuing to be viable and / or prevent the business from failing;
 - The business is considered by the Council to be essential and that any reduction or withdrawal of the business will have a serious detrimental effect on the rural settlement; and
 - The granting of any discretionary relief is reasonable having regard to the effect on taxpayers of the district.

Appendix E

Discretionary Relief – Localism Act 2011

Discretionary Relief – Localism Act 2011

General explanation

- E.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.
- E.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

- E.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.
- E.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.
- E.5 Where a ratepayer can demonstrate that **all** of the above criteria are met, relief will be considered for a period of initially six months.
- E.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. The Head of Revenues and Benefits will consider applications

Appendix F

Discretionary Relief – Unoccupied New Structures

Discretionary Relief – Unoccupied New Structures

General explanation

- F.1 Central Government announced in December 2012 that, it would assist in reducing 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.
- F.2 As this is a temporary measure, the Government have not changed 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.
- F.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.
- F.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 than 18 months previously; and
 - b. Completed after 1st October 2013 and before 30th September 2016.
- F.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.
- F.6 The relief runs with the property rather than the owner so subsequent owners may also qualify.
- F.7 In all cases the relief will be subject to State Aid requirements as mentioned later in this policy.
- F.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.

- F.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.

- F.10 An application from the ratepayer will be required in each case and any relief will be granted in line with State Aid requirements.
- F.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.
- F.12 The Council has agreed to use the above powers and invites applications from organisations that meet the criteria in full. The Head of Revenues and Benefits will consider applications.

Appendix G

Discretionary Relief – Retail Relief

Discretionary Relief – Retail Relief

General explanation

- G.1 The Government announced in the Autumn Statement in December 2013 that it would allow for a relief of up to £1000 (2014/15) and £1500 (2015/16) to all **occupied** retail properties with a rateable value of £50,000 or less in each of the years 2014/15 and 2015/16.
- G.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.
- G.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).
- G.4 The Government expects local government to grant relief to qualifying ratepayers.
- G.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
- G.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

G.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.

G.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.

G.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

G.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.

G.11 The total amount of relief available for each eligible property for each of the years under this scheme is up to £1000 (2014/15) and £1500 (2015/16). 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.

G.12 Any amounts granted will be subject to State Aid requirements.

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

- G.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.
- G.14 The Council will consider each award based on individual merits and will refuse the award where it is considered that the business/retail property is not supporting the Council's wider objectives or determined to be having a detrimental impact on neighbourhoods and communities. This is especially relevant for off-licenses, take away and late night food establishments and pubs, bars and shisha bars where applications will be considered in the context of their impact on the neighbourhood and community.
- G.15 For example the Council would be unlikely to favourably consider an application for relief if a retail property / business has had their premises licence reviewed by the Council within the last twelve months. The Council reserves the right to decline an application or withdraw an award where the retail property and business is determined to be having a detrimental impact on the neighbourhood or community
- G.16 An application from the ratepayer will be required in each case. This relief will only be available during the financial years 2014/15 and 2015/16. The Head of Revenues and Benefits will consider applications.

Appendix H

Discretionary Relief – Reoccupation Relief

Discretionary Relief – Reoccupation Relief

General explanation

- H.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.
- H.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 Appendix G 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).
- H.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.
- H.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.
- H.5 The definition of retail premises is identical to that given within the retail relief provisions within this policy.
- H.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.
- H.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).
- H.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

- H.9 In considering the exercise of the discretion Tendring District Council will consider each application for relief based on:
- a. The individual merits of each application taking into account whether the business property is or is not supporting the Council's wider objectives and/or whether it is determined to be having a detrimental impact on neighbourhoods and communities. This is especially relevant for off licenses, take away and late night food establishments and pubs, bars and shisha bars where

applications will be considered in the context of the impact on the neighbourhood and community.

- b. The impact (as it does currently through the planning regime) of a business property designation transferring from retail to other use.
- c. Whether the property is wholly occupied and bona fide within the spirit of the guidance. Relief will not be granted where occupation of the property/business is contrived so as to mitigate the impact of empty property charges.

H.10 This description is not exhaustive and the Council reserves the right to decline an application or withdraw an award where the property and business is determined to be having a detrimental impact on the neighbourhood or community. For example the Council would be unlikely to favourably consider an application for relief if a property/business has had their premises licence reviewed by the Council within the last twelve months.

H.11 Relief will be available for eighteen months maximum only from the first day the property/business becomes occupied as long as the first day falls between 1 April 2014 and 31 March 2016, subject to the property/business remaining continuously occupied. The eligibility for the relief and the relief itself will be assessed and calculated on a daily basis.

H12 An application from the ratepayer will be required in each case. The Head of Revenues and Benefits will consider applications.

Appendix I

Discretionary Relief – Transition

Discretionary Relief – Transition

General explanation

- I.1 The original transitional relief scheme was introduced in 2010 to help those ratepayers who were faced with higher bills. The scheme ends on 31 March 2015 and as a result a small number of ratepayers will face a jump to their full rates bill from 1 April 2015. The government announced that it would assist local authorities to extend the current transitional relief scheme up to March 2017 for properties with a rateable value up to and including £50,000.

How will the relief be provided?

- I.2 As this is a measure for 2015/16 and 2016/17, the government is not changing the legislation around transitional relief. Instead the government will, in line with the eligibility criteria set out in this guidance, reimburse local authorities that use their discretionary relief powers, under section 47 of the Local Government scheme and decide in each individual case when to grant relief under section 47. 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). In view of the fact that such expenditure can be reimbursed, the government expects local government to grant discretionary relief to qualifying ratepayers.
- I.3 Central government will reimburse billing authorities and those major precepting authorities within the rates retention system for the actual cost to them under the rates retention scheme of the relief that falls within the definitions in this guidance.

Which properties will benefit from relief?

- I.4 Properties that will benefit are those with a rateable value up to and including £50,000 who would have received transitional relief in 2015/16 or 2016/17 had the existing transitional relief scheme continued in its current format. In line with the existing thresholds in the transitional relief scheme, the £50,000 rateable value threshold should be based on the rateable value shown for 1/4/10 or the substituted day in the cases of splits and mergers. This policy applies to transitional relief only (i.e. those moving to higher bills).

How much relief will be available?

- I.5 It has been agreed that where granted, the government will fund the relief to ensure eligible properties receive the same level of protection they would have received had the transitional relief scheme extended into 2015/16 and 016/17.
- I.6 For the purposes of the calculation, the transitional relief scheme will be assumed to remain as it is in the current statutory scheme except that:
- the cap on increases for small properties (with a rateable value of less than £18,000) in both 2015/16 & 2016/17 will be 15% (before the increase for the change in the multiplier) and the cap on increases for other properties (up to and including £50,000 rateable value) in both 2015/16 and 2016/17 will be 25% (before the increase for the change in the multiplier)
 - The scheme applies only to properties up to and including £50,000 rateable value based on the value shown for 1/4/10 or the substituted day in the cases of splits and mergers. Changes in rateable value which take effect from a later date will be calculated using the normal rules in the transitional relief scheme

- c. For the avoidance of doubt, properties whose rateable value is £50,000 or less on 1 April 2010 (or the day of merger) but increase above £50,000 from a later date will still be eligible for the relief.
- d. Where necessary the Valuation Office Agency will continue to issue certificates for the value at 31 March 2010 or 1 April 2010
- e. The relief **will be** calculated on a daily basis.

Recalculations of relief

- I.7 The amount of relief awarded will be recalculated in the event of a change of circumstances. The Council will make decisions, which are conditional upon eligibility criteria or rules for calculating relief which allow the amount of relief to be amended within the year to reflect changing. On this basis the relief will be granted on a daily basis.

Calculating the extension of transitional relief where other reliefs apply

- I.8 As this relief will be granted via section 47 of the Local Government Finance Act 1988 (as amended by the Localism Act), it will be granted after other reliefs (including other Localism Act delivered reliefs such as retail relief).

Discretionary Relief – Transition – the Council’s Policy

- I.9 The Council will also consider applications for a discretionary transitional relief from all ratepayers, whose premises meet the criteria. The Head of Revenues and Benefits will consider applications.
- I.10 In determining the application, the Council will follow directly the guidelines issued by DCLG and specified within this appendix.
- I.11 An application from the ratepayer will be required in each case. The Head of Revenues and Benefits will consider applications.

Appendix J

Section 44a – Partly Occupied Hereditaments

Section 44a – Partly Occupied Hereditaments

General explanation

- J.1 A ratepayer is liable for the full non-domestic rate whether a property is wholly occupied or only partly occupied. Where a property is partly occupied for a **short term**, the local authority has discretion in certain cases to award relief in respect of the unoccupied part.

How will the relief be provided?

- J.2 The Council will consider written (including email) applications. The ratepayer will need to provide the following:
- a. A detailed plan of the premises clearly identifying the occupied and unoccupied areas;
 - b. Access to the premises so that they can be inspected fully by the Council's representative;
 - c. Details of how long the premises are likely to be temporarily unoccupied;
 - d. Details of any future plans to occupy the premises;
 - e. Full contact details of the ratepayer and any agent they have representing them

Section 44a Partly Occupied Hereditaments – the Council's Policy

- J.3 The Council will also consider applications for S44a from all ratepayers, whose premises meet the criteria. Each case will be considered on its own merits on a case-by-case basis. The Head of Revenues and Benefits will consider applications.
- J.4 In determining the application the following matters will be taken in to consideration:
- a. Whether, the premises will be unoccupied for a short term;
 - b. The reasons for the temporary un-occupation;
 - c. Whether it would be more appropriate for the ratepayer to apply to the Valuation Officer Agency to have the premises reassessed; and
 - d. Whether it is reasonable to grant the relief;
- J.5 The Council will grant any relief based on the Valuation Office Agency's certificate (as required by the legislation). The Head of Revenues and Benefits will determine the period of any relief and it will be for a short term only. It should be noted that where the premises is not otherwise exempt from unoccupied property rating, the period will be 3 months maximum (6 months maximum where the premises are qualifying industrial hereditaments).

Appendix K

Section 49 – Hardship Relief

Section 49 – Hardship Relief

General explanation

- K.1 The Council is able to exercise its discretion under Section 49 of the Local Government Finance Act 1998 to provide either partial or full relief for non-domestic rate payments in cases of hardship where it would be reasonable to do so having due regard to the interests of council tax payers in general.

Section 49 Hardship Relief – the Council’s Policy

- K.2 The Council will consider applications for hardship relief from individuals and organisations based on their own merits on a case-by-case basis. The Head of Revenues and Benefits will consider applications.
- K.3 In making decisions on whether to award the relief the Council takes into account the following criteria (not listed in any priority):
- Any reduction or remission of rates on the grounds of hardship should be the exception rather than the rule;
 - Any reduction of the rates must be shown to be significant to the future viability of the business;
 - The business must continue to trade;
 - Cash flow forecast for a minimum of the next twelve months must be provided together with a comprehensive Business Plan incorporating a brief history of the business;
 - The test of "hardship" is not strictly confined to financial hardship and that this, in itself, is not a deciding factor;
 - The loss of the business would reduce amenities of an area if it is the sole provider of a service in the area;
 - Details of any state aid, grants or subsidies either from central or local government over the previous three years.
 - The loss of the business would worsen the employment prospects in the area;
 - The interests of the Council Tax payers of the area would be best served by awarding the relief.
 - The business must demonstrate how it is beneficial to the local community and why it is currently suffering financial hardship;
 - The business provides employment to local residents in an area where employment opportunities are limited;
 - Independent advice given by banks or financial advisors should be sought to demonstrate the future viability of the company;
 - Applications will only be considered where signed by the ratepayer, or, where an organisation is the ratepayer, an appropriately authorised representative of the organisation; and
 - The ratepayer will provide additional information as deemed necessary by the Council to be essential in order for a fair evaluation of the application;

Appendix L

Application Forms for Reliefs and Reductions