

# Non Domestic Rates Discretionary Relief Policy



## Document Management - Version Control

<b>Policy Title</b>	NDR – Discretionary Relief Policy	
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<b>Summary of Substantive Changes (if applicable)</b>	Discretionary Rates Relief applicable to Scotland wide Charities only. National Charities, ie Cross Border Charities no longer eligible.	
<b>Summary of Technical Changes (if applicable)</b>		
<b>Lead Officer</b>	Arun Menon - Business Support Manager	
<b>Legislative Reference</b>	Local Government (Financial Provisions etc.) (Scotland) Act 1962 Section 4(5)	
<b>Consultation &amp; Approval Process</b>	<i>Committee</i>	<i>Date</i>
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## **1. Introduction/Background**

Non Domestic Rates (NDR) represent charges on the occupancy of lands and heritages in the Valuation Roll. Non Domestic Rate Charges are levied in terms of the Local Government (Scotland) Act 1947 (as amended).

Non-domestic rates, often referred to as business rates, are levied on non-domestic properties, subject to statutory exemptions and reliefs. The NDR framework for Scotland is devolved to the Scottish Parliament and Scottish Government.

This document sets out West Dunbartonshire Council's policy for granting Discretionary Relief of Rates.

The cost of Discretionary Rates Reliefs is 75% funded by the Scottish Government and the remaining 25% funded by West Dunbartonshire Council.

## **2. Discretionary Rates Relief Legislation**

Entitlement to rates relief is determined by the Local Government (Financial Provisions Etc.) (Scotland) Act 1962. Section 4(2), 4(5) and 4(6) of the Act determine the appropriate level of relief that may be applied to any property and organisation meeting the criteria.

Section 4(2) provides reference for Mandatory Rates Relief where a charitable or non-profit organisation is in occupation of a property and using it for charitable purposes.

Section 4(5)<sup>[1]</sup> provides reference for entitlement to Discretionary Rates Relief in addition to entitlement to Mandatory Relief. The legislation provides that such relief *is at the discretion of the rating authority*.

- any lands and heritages which are occupied by, or by trustees for, a charity and are wholly or mainly used for charitable purposes (whether of that charity or of that and other charities).
- any lands and heritages occupied for the purposes of one or more institutions or other organisations (whether corporate or unincorporated) which are not established or conducted for profit and whose main objects are charitable or are otherwise philanthropic or religious or concerned with education, social welfare, science, literature or the fine arts.
- any lands and heritages occupied for the purposes of a club, society or other organisation not established or conducted for profit, and which are wholly or mainly used for the purposes of recreation.

Section 4(6) provides that any reduction of rates determined above may, at the discretion of the rating authority, be granted for an indefinite period beginning not earlier than the preceding year, subject to the exercise by the rating authority.

Whether a ratepayer is eligible for Mandatory and/or Discretionary relief is dependent on evidence of:

- the organisation concerned is non-profit making or of a charitable nature
- the organisation is in rateable occupation and using the premises for charitable or non-profit making purposes

[1] Section 4(5) <https://www.legislation.gov.uk/ukpga/Eliz2/10-11/9>

## **2.1 Discretionary Relief – Registered Charities**

Properties which are either (i) occupied by a charity entered in the register of Scottish Charities with the Office of the Scottish Charity Regulator (OSCR) or by trustees thereof, and used wholly or mainly for charitable purposes, or (ii) held on trust for use as an almshouse, may be entitled to 80% Mandatory Rates Relief, by application, funded wholly by the Scottish Government.

West Dunbartonshire Council will accept applications to award a further 20% Discretionary Relief where the Charity is registered solely with OSCR.

West Dunbartonshire Council will determine whether occupation is wholly or mainly for charitable purposes. A trading arm of a charity, which is itself a separate entity that is not a charity, may not be eligible for mandatory relief. For charities trading arms to be eligible their use must be wholly or mainly for the sale of goods donated to the charity and the proceeds of sale (after expenses) must be applied for the purposes of the charity.

## **2.2 Discretionary Relief – Not for Profit (100%)**

Discretionary Rates relief is available from West Dunbartonshire Council for non profit making organisations where the main objective and use of the property is concerned with recreation, education, science, social welfare, literature, fine arts or otherwise philanthropic.

Applicants should submit a completed application form along with supporting documentation which will be reviewed and determination by the Council that the organisation meets the relevant property use and is solely in use by and for the local community of West Dunbartonshire.

Successful applications would receive 100% Discretionary Rates Relief.

## **2.3 Discretionary Relief - Sports Club (Unlicensed)**

Applications will be accepted from non profit making Recreational/Sports clubs not licensed to sell alcohol. Applicants should submit a completed application form along with supporting documentation of the club constitution and latest audited accounts. These are examined to establish that the applicant is a Sports or Recreational Club as a condition of awarding relief, applicants are required to show that they are open to all members of the community, with no restriction.

Successful applications would receive 100% Discretionary Rates Relief.

## **2.3 Discretionary Relief – Sports Club (Licensed)**

Applications will be accepted from non profit making Recreational/Sports Clubs licensed to sell alcohol. This typically applies to Golf Clubs, Bowling Clubs etc. Supporting documentation of the

club constitution and latest audited accounts are required. Noting, the gross turnover figures for bar, food, gaming and tobacco will be considered on which the Council will calculate the non-licensed element of Rateable Value. This is the figure on which relief may be awarded.

In addition, clubs must clearly demonstrate they operate an equal opportunities policy and are open to all members of the community. The council reserves the right to refuse relief to organisations where it is considered that membership is unacceptably restricted.

## **2.4 Multiple Occupation**

Premises where there is more than one organisation in occupation, a calculation based on the hours of occupation will be made to determine the value of any potential relief, having satisfied all other relevant criteria.

Plans of the building and schedules of use, maybe requested to determine % of usage by not for profit and profit drawing organisations.

## **3. Exclusions from WDC Discretionary Relief**

Discretionary Rates Relief will not be considered where the use is

- Not for Profit – Cross Border Charities
- Gun Clubs
- Housing Associations
- Local Authority occupied premises
- Masonic Lodges
- Private or Fee Paying Schools
- Private Hospitals or Nursing Homes
- Premises used by professional bodies
- Playing fields, etc., of commercial and industrial firms
- Trade Union Offices
- Organisations where membership is unacceptably restricted

## **4. How to Apply for Discretionary Rates Relief**

West Dunbartonshire Council will require a separate application for each rateable property. All requests for rates relief must be made on the relevant online application form and supported by the appropriate documentation as applicable;

- Memorandum of Association or Constitution of the Club, Society or Organisation
- Latest Set of Audited / Independently Verified Accounts
- Latest Annual Report
- OSCR Charitable Status
- Property Plans and relevant Schedules of Use as appropriate

Relief is granted from the start of the financial year in which the application is made and only backdated in exceptional circumstances.

The Council may at any time review and require confirmation that the Charity/Organisation remains eligible for relief.

The Council will give twelve months' notice in writing should relief be reduced or withdrawn.

Applications are available online via West Dunbartonshire Council Business Webpage. Further assistance can be provided by contacting the Finance Service Centre via email: [rates@west-dunbarton.gov.uk](mailto:rates@west-dunbarton.gov.uk) or by telephoning 01389 737737.

Discretionary Rates Relief will be awarded annually and be subject to review on

## **5. Rights of Appeal**

Where an organisation has been refused Discretionary Relief for any reason an appeal may be heard by the Council's Corporate Services Committee.

To submit an appeal this must be made in writing to the Chief Officer of Resources providing grounds of appeal and any relevant supporting evidence/documentation. Appeals must be made within 28 days of receipt of West Dunbartonshire Council written decision.

## **6. Other funding considerations**

Local authority funded organisations receiving rates relief should reduce the grant assistance required from the Council, as 25% of the rates relief is met from the Council.

## **7. Fraudulent Application**

Any applications found to be made fraudulently will result in reliefs being cancelled and reappportioning all relevant invoices and reissued for immediate payment. Police Scotland will be advised alongside all other relevant authorities/bodies.

## **8. Additional Discretionary Relief**

The Community Empowerment (Scotland) Act 2015 (Commencement No.1) Order 2015 provided West Dunbartonshire Council with the authority to consider a scheme of locally agreed relief to be applied from 1<sup>st</sup> April 2015. Additional schemes would be fully funded by the Council. All West Dunbartonshire Council Discretionary Relief is as published via this Policy.

## **9. Policy Review**

A review of the Non Domestic Rates Discretionary Relief Policy will be undertaken in light of any legislative changes, or other factors that impact the effectiveness of the policy.

## **Related Policies**

West Dunbartonshire Council Corporate Debt Policy (Section 5.2)