

South Lakeland District Council Discretionary Rate Relief Policy

Effective 1st April 2017

The Council has adopted a revised Discretionary Rate Relief policy effective from 1st April 2017. This policy covers all the Councils Discretionary Powers under Sections 43 to 49 of the Local Government Finance Act 1988 as revised. Existing recipients will be re-assessed from April 2018.

Details of the revised policy are:

- (1) No discretionary relief shall be given to Charity Shops, Housing Associations, and Voluntary Schools, hospitals or colleges that are charitable trusts.

No discretionary relief will be awarded to charities that are occupying hereditaments in return for a payment/donation from the landlord/owner/agent of the hereditament and occupying premises for a nominal rent.

No discretionary relief will be awarded to charities that are occupying hereditaments for the transmission of "Bluetooth" messages, the provision of wireless internet services and Art Exhibitions.

Explanatory notes:

- a. Charity Shops are in direct competition with conventional shops and relief over and above mandatory relief could lead to commercially run shops suffering loss of trade.
- b. Housing Associations, Hospitals and Voluntary Schools are already publicly funded to a substantial degree and any discretionary relief would essentially be moving money from one public body to another.
- c. There have been a number of charities who have been set up to exploit the rules governing charitable occupation. This is being used as means of avoiding payment of empty property rates by a number of landlords nationally.

Although this practise is legal South Lakeland District Council does not feel it is in the interest of its Council Tax Payers to fund such tax avoidance schemes. These

schemes often involve the broadcasting of free Bluetooth messages and/or the provision of free wireless internet, or art exhibitions.

- (2) 20% discretionary relief shall be given to charities other than those mentioned in (1) where the Rateable Value does not exceed £ 30,000 and the description in the rating list Includes Hall and Premises, Institute or Village Hall or Community Centre. In addition discretionary relief will be awarded to charities whose activities may result directly in the saving of human lives or who are managing and operating toilets available to the general public formerly run by the council. In addition discretionary rate relief may be awarded to the council once regulations allow under this policy.

Explanatory notes:

This mirrors previous provisions included within the Discretionary Rate Relief Policy with a slight increase in the rateable value threshold.

- (3) Other Charities not detailed in Paragraphs 1 & 2 may receive support up to a maximum of 20% of the gross rate liability providing the organisation objectives and actions support the delivery of the “Council Plan” and its priorities and the Rateable Value does not exceed £75,000. For charities occupying premise with a rateable value over this figure the additional relief will be limited to 10%.
- (4) It is expected that any entitlement to Small Business Rate Relief (SBRR) will be determined before any application for Discretionary Rate Relief is considered.

Explanatory notes:

Note recipients of Mandatory relief cannot claim Small Business Rate Relief, qualifying criteria for SBRR are clearly defined in legislation and can be determined without placing additional administrative burdens up on the organisation and the council.

- (5) Sporting Organisations
 - a. 100% discretionary relief shall be given to sporting and recreational clubs that are not established or conducted for profit, are not accredited by the Inland Revenue as Community Amateur Sports Clubs and which do not have bar facilities included in the rating assessment for which relief is given;
 - b. 20% discretionary rate relief shall be given to sporting and recreational clubs that are not established or conducted for profit, are accredited by the Inland Revenue as Community Amateur Sports Clubs and which do not have bar facilities included in the rating assessment for which relief is given.
 - c. Discretionary relief will only be given to sporting and recreational clubs that are not accredited by the Inland Revenue as Community Amateur Sports Clubs and have bar facilities included in the rating assessment for which relief is given, if they are not established or conducted for profit and the following criteria met:

The organisation must not be eligible for Small Business Rate Relief.

Organisation's displaying restrictions upon membership and access will not be granted Discretionary Rate Relief:

- An excessive membership fee will be seen as restrictive (in excess of £150.00)
- Membership should be open to everybody
- 75% of members must be South Lakeland residents
- Playing members should be mainly residents of South Lakeland and not be receiving payment for playing other than travelling expenses; except where the individual is providing coaching to other members and residents as a condition of receiving payment

The level of effort made by the organisation to encourage membership from groups such as young people, pensioners, disabled persons, unemployed.

- The facilities should be made available to people other than members
- Reduced fee structures for such groups
- Schemes of education or training for such groups
- Accessibility to the building for disabled people will enhance the application

Where these criteria are met the relief shall be up a maximum of 100% on the first £9,000 of rateable value, 50% on the second £6,000 of rateable value and zero on any excess of rateable value over £15,000.

- d. Sporting and recreational clubs that have bars included in the rating assessment and are accredited by the Inland Revenue as Community Amateur Sports Clubs will not be awarded discretionary relief unless the rateable value is below £ 15,000. A calculation will be made to award relief at a level equivalent of Small Business Rate Relief if they were eligible for this relief.

Explanatory note

The reasons for different rates of relief for clubs with and without bars are twofold. The first is moral in that there is an argument that public funds should not be used for funding bars. The second is financial in that a club with a bar is better placed to raise its own funds via bar profits rather than being reliant upon public funds. The sliding scale of relief mentioned in paragraph 5 c. is to represent the concept that a larger club is more likely to be able to raise its own funds via sponsorship and other fund raising thereby reducing the need for public funds.

In relation to paragraph 5d. this means Community Amateur Sports Clubs (CASC's) are not disadvantaged by being classified as such. Small Business Rate Relief would be available if not for the CASC status.

- (6) 50% discretionary relief shall be given to businesses qualifying for mandatory rate relief under the rural settlement scheme where the business is either the sole post office or, where the only post office is not also a general store, the sole general store in the settlement receiving mandatory relief.

- (7) 50% discretionary relief shall be given to businesses qualifying for mandatory rate relief under the rural settlement scheme where the business is sole food store in the settlement receiving mandatory relief.
- (8) 50% discretionary relief shall be given to businesses qualifying for mandatory rate relief under the rural settlement scheme where the business for other than the presence of Mandatory Rate Relief would receive 100% small business rate relief. Relief for rural businesses with Rateable value between £12,000 and £15,000 the relief will be calculated as if they were in receipt of Small Business rate relief.

Explanatory note:

Ensures that no such business would be disadvantaged against a similar business who is entitled to small business rate relief deals with the response from Eastern Area Committee during the 2005 consultation.

- (9) 80% Discretionary relief will be given to any other business that would qualify as the sole post office or food store providing the rateable value is between £ 15,000 and £ 16,500 or within the boundaries prescribed in legislation for Rural Discretionary Rate Relief.

Explanatory note:

This paragraph is inserted to simplify and replicate the previous provisions of the policy to ensure no rural post office is worse off under the new policy.

- (10) Discretionary relief will not be given to businesses qualifying for mandatory Small Business Rate Relief under the Local Government Act 2003 unless the business satisfies one or more of the specific qualifying conditions contained elsewhere in this policy.

Explanatory note:

This exclusion is recommended because these businesses could be anything and, unless they satisfy any of the specific criteria elsewhere in the policy, special cases can be dealt with under section 12.

- (11) Discretionary relief will be awarded in line with any nationally defined scheme for which the council will be fully compensated.

Explanatory note:

Upon Government Guidance and Advice in appropriate circumstances future similar schemes will be triggered, in consultation between the council's Section 151 Officer and the Department of Communities and Local Government (or any appropriate successor department)

This will enable the council to award discretionary relief in line with any such scheme, for example flood relief schemes as in the case of Storm Desmond

and Eva, the Local Paper Relief and retail relief. This is restricted to confirmed details of any such scheme and where the cost does not exceed that outlined and provided by central government. Any scheme outside of these criteria would be brought before members for approval.

This will enable the council to react quickly in mobilising support for businesses in South Lakeland.

- (12) All applications for relief under S44A (Partly Occupied Hereditament Relief) shall be determined in accordance with the rules governing empty property charges and assessed in accordance with the principals covering Hardship Relief.
- (13) All formal applications under S49 for Hardship Relief will be referred to the council's cabinet committee for a decision based on the appropriate legislation. All applications will be subject to an initial review by a council officer. Considerations that will be used will include whether making payment would cause actual hardship, the interests of the council tax payers and impact upon competition with other businesses.
- (14) In all cases the percentage quoted for discretionary or hardship relief is the percentage of rates payable after any transitional calculation but before any award of mandatory relief.

All applications must be submitted with supporting information on the Application form for discretionary rate relief.

All applications for relief under any of this policy will be administered and awarded by South Lakeland District Council, subject to State Aid de-minimis limits.

It is the responsibility of the applicant to ensure they do not make an application which results in rules governing State Aid are not broken. Further information can be obtained at <https://www.gov.uk/state-aid>.

Relief will only be awarded under Paragraph (11) between the specified dates.

The Revenues & Benefits Manager or responsible officer has authority to decide upon any application for this relief made under this policy taking into account the contents of this policy, the Council's priorities and policies and in addition to the advice provided by the Department for Communities and Local Government.

Appeals against decisions against the operation of this policy will be to the Assistant Director of Resources.

In exceptional circumstances officers have the authority to refer a decision to a panel consisting of 3 Cabinet members or as a final point of appeal if considered appropriate. This does not impede a ratepayer's normal rights of appeal against the council's operation of its policies and the decisions it takes.