**Appendix 2**

**South Ayrshire Council**

**Non Domestic Rates Discretionary Relief Policy**

**1. Background**

1.1 Prior to the creation of South Ayrshire Council, the predecessor authority, Strathclyde Regional Council, had a range of policies and guidance on the application of discretionary rates relief. This had developed over a number of years to such an extent that the policy was spread across numerous documents and was no longer contained within a single document. South Ayrshire Council adopted these policies at its inception, as well as amending and adding to them over time.

1.2 This policy now consolidates the various discretionary rates policies into a single document, with some minor amendments aimed at reflecting changes in the way that charities and non-profit making organisations now conduct their business.

1.3 It should be noted that some organisations entitled to claim discretionary rates relief may also be entitled to other types of mandatory rates relief, such as small business relief, where this is the case mandatory reliefs will be considered in the first instance.

**2.** **Relief Policy**

2.1 The following reliefs will apply where the property is occupied in furtherance of the aims of the charity or non-profit making organisation:

* + - Registered Scottish Charities are eligible for 20% relief as a top up to any 80% mandatory relief awarded
    - Other charitable and non-profit making organisations are eligible for up to 100% discretionary relief
    - Recreational and sports clubs are eligible for up to 100% discretionary relief, depending on their alcohol licence status
    - Charity Shops are eligible for 20% relief as a top up to any 80% mandatory relief awarded due to being a registered Scottish charity, or 100% relief for any other non-profit making organisation
    - Local authority schools located in defined rural settlements, with a rateable value (RV) of £17,000 or less are eligible for 100% discretionary relief

2.2 There is currently no provision to award discretionary relief for Hardship cases or Local Reliefs (other than Empty Relief) in terms of the Community Empowerment (Scotland) Act 2015 as additional costs would require to be met by the Council.

3. **Categories and value of Relief**

3.1 ***Relief for Charities and Other Non-profit Making Organisations - Up to 100% mandatory and discretionary relief. (Mandatory relief fully funded by the Rating Pool with no cost to the Council with 25% of any discretionary relief funded by the Council)***

The council has discretion to grant up to 100% rate relief to non-profit making organisations, whether they are registered charities or not. The main provision conferring the current discretionary power on billing authorities to grant rate relief is Section 4 of the Local Government (Financial Provisions etc) (Scotland) Act 1962.

To qualify, an organisation must either be:

• charitable,

• religious, or

• concerned with education,

• social welfare,

• science,

• literature or the fine arts.

3.1.1 Registered Scottish charities, who are entitled to 80% mandatory relief, are eligible for a 20% discretionary relief top up.

3.1.2 Other charitable or non-profit making organisations not in receipt of mandatory relief, and that fall within one of the categories noted above, are eligible for discretionary relief up to 100%. These may include community interest companies, companies limited by guarantee, and voluntary organisations.

3.1.3 Non-profit making organisations that have a license to sell alcohol may only be considered for discretionary relief where the sale of alcohol is incidental to the main purposes for which a property is occupied. For example, a licensed restaurant, café, or other community facility that mainly serves food but provides alcohol along with this may be considered for relief, whereas a community pub would not. The organisation must not be a national body and its aims and objectives must be to benefit South Ayrshire Council residents. Relief will be limited to properties with a Rateable Value of £51,000 or under as 25% of any reliefs awarded will be met directly by the Council.

3.1.5 Registered Scottish Charities that are licensed to sell alcohol, such as Royal British Legion clubs, are eligible for discretionary relief subject to the calculation method used for Licensed Sports Clubs as noted at Para. 2.3.2 below. Where the notional RV exceeds 60%, the occupation of the property will be considered charitable, and the organisation awarded 80% mandatory relief. Where the notional RV exceeds 80%, the organisation will be eligible for a discretionary relief top up to the value of the excess percentage.

3.1.6 The following organisations etc. are not eligible for discretionary rates relief:

* Local authority occupied premises
* private or fee-paying schools
* colleges and universities
* premises occupied by MPs, MSPs or Councillors
* Masonic halls may only be considered if they are the only community facility within a neighbourhood and are available for public use by local organisations.

3.2 ***Recreational Organisations or Sports Clubs up to 100% discretionary relief (see funding arrangements below)***

The Council has discretion to grant up to 100% rate relief to non-profit making organisations occupying property that is used wholly or mainly for the purpose of recreation (sport). As part of this policy the Council will require to ascertain whether a club is licensed to sell alcohol or not, and whether it is registered with His Majesty’s Revenues and Customs (HMRC) as a Community Amateur Sports Club (CASC).The Council requires that organisations and clubs demonstrate, through the inclusion of an equalities statement within their constitution and rules, a strong commitment to equal opportunities for all sectors of the community, ensuring that all participants, volunteers, coaches or parents receive equal treatment regardless of age, gender, marital status, employment status, social class, colour, race, ethnic or national origin, religious belief or disability.

3.2.1 ***Unlicensed Sports Clubs (100% relief funded by Rating Pool – no costs to council***) Where a sports or recreational club meets the qualifying criteria and is not licensed to sell alcohol, it will be eligible for 100% discretionary rates relief. Occasional licences granted to voluntary organisations in accordance with the Council’s licensing policy who are sports clubs will be disregarded when deciding whether a club is licensed or not.

3.2.2 ***Licensed Sports Clubs (100% relief funded by Rating Pool – no costs to council)*** Where a sports or recreational club meets the qualifying criteria and is licensed to sell alcohol, it will be eligible for discretionary rates relief at a level that reflects its sporting activities as opposed to its non-sporting activities such as alcohol, food, tobacco, and gambling sales. This means that the amount of relief awarded will reduce proportionally with respect to bar turnover as well as catering sales, tobacco sales and slot machine income. See Appendix 2A below (application template) for details of how the bar turnover and other non-sporting income is analysed in order to arrive at the discretionary relief awarded.

3.2.3 ***Community Amateur Sports Clubs (25% of any discretionary relief funded by the Council)*** The Council will encourage all sports clubs to attain Community Amateur Sports Club (CASC) status and thereby secure themselves 80% mandatory relief. A key part of the CASC registration process ensures that sports clubs must be open to the community as a whole and have affordable membership fees. CASC status also allows clubs to receive 'charity type' tax reliefs provided the club meets certain qualifying conditions. Where a sports or recreational CASC meets the qualifying criteria and is not licensed to sell alcohol, it will be eligible for 20% discretionary rates relief top-up to the 80% mandatory relief already awarded. Licensed CASCs will be eligible for a top up for any amount of discretionary relief that may have been due above 80% had the relief been calculated in the same way as a Licensed Sports Club.

3.3 ***Charity Shops - up to 100% mandatory and discretionary relief (25% of any discretionary relief funded by the Council)***

Charity shops qualify for 80% mandatory relief provided that they:

* Are only occupied by a registered Scottish charity.
* The charity utilises the profits from sales for the purpose of that charity.
* The charity sells primarily donated goods, equating to a minimum of 60% of the turnover.

Qualifying charity shops will be eligible for a 20% discretionary relief top up, or 100% discretionary relief if not a registered Scottish charity.

3.4 ***Rural Rate Relief Up to 100% Relief (25% of any discretionary relief funded by the Council)***

Certain types of businesses located within a rural settlement with a population below 3,000, and in an area designated as rural by the Scottish Government, may be eligible for the following mandatory relief of rates.

* the only general store or post office with a rateable value of £8,500 or less;
* a food shop with a rateable value of £8,500 or less;
* the only public house/small hotel (with appropriate license), with a rateable value of £12,750 or less;
* a petrol filling station with a rateable value of £12,750 or less.

From 1 April 2017 Qualifying general stores, post offices, small food shops, petrol filling stations, public houses and small hotels will be entitled to 100% mandatory rate relief therefore discretionary relief does not apply in these cases.

Councils also have discretionary powers to grant up to 100% rate relief to properties within a rural settlement with a rateable value of £17,000 or less, used for purposes that are beneficial to the local community. Discretionary relief will be awarded in the following circumstances;

3.4.1 Rural schools with a rateable value of £17,000 or less will be eligible for 100% discretionary rates relief.

**4.** **Subsidy Control**

4.1 Any discretionary relief applying to activity not economic in nature is unlikely to be considered as a subsidy and therefore subject to the provisions on subsidy control set out in the Trade and Cooperation Agreement (TCA) agreed between the UK and European Union, effective from 1 January 2021.

However, for charity shops and other commercial activity, the Council will have to consider whether this must be awarded with respect to the TCA minimum financial assistance (MFA) criteria. It is therefore important that applicants are made aware of this and that this is reflected within the application and award processes.

**5.** **Application Process**

5.1 In order to make an application for Discretionary Relief an application form must be fully completed and submitted with relevant supporting evidence. Application forms are available on the Councils website [Business rates reductions - South Ayrshire Council (south-ayrshire.gov.uk)](https://www.south-ayrshire.gov.uk/article/27713/Business-rates-reductions)

5.2 Not for profit organisations, CASC’s and other sports clubs are required to provide evidence of their constitution and rules to ensure they meet the qualifying criteria.

5.3 Discretionary relief will be awarded in accordance with this policy, subject to verification by Senior Revenues Advisor/Revenues Co-ordinator if required, e.g. where supporting evidence may be limited.

**6.** **Backdating**

6.1 Backdating an award of discretionary relief made under Section 4 of the Local Government (Financial Provisions etc) (Scotland) Act 1962 is generally restricted to the beginning of the year in which application is first made. However, consideration must be given where an organisation has been rated retrospectively either through the actions of the Council or the Assessor.

**7.** **Appeals**

7.1 In cases where applications for rates relief have been rejected the rate payer may request an appeal be heard by the Council’s Appeals Panel. The decision of the Appeals Panel will be final.

**8.** **Removal of Relief**

8.1 The removal of a discretionary relief award previously made under Section 4 of the Local Government (Financial Provisions etc) (Scotland) Act 1962 can only be affected following notice of a full financial year from the end of the current financial year. This is to ensure that non-profit making organisations have time to make appropriate arrangements for the loss of relief that may have resulted from either a change in legislation or Council policy.

**9.** **Funding**

9.1 Funding arrangements for reliefs between local authorities and the Scottish Government are set out in The Non-Domestic Rating Contributions (Scotland) Regulations 1996. The cost of discretionary reliefs is generally 75% funded by the Scottish Government, and 25% funded by the awarding council, except for 100% discretionary sports clubs relief, which is fully funded by the Scottish Government. The discretionary reliefs are:

* Discretionary Relief ‘top-up’ of up to 20% for OSCR-registered charities;
* Discretionary Relief of up to 100% for certain other not-for-profit organisations;
* Sports Club Relief ‘top-up’ of up to 80% for HMRC-registered Community Amateur
* Sports Clubs (CASCs);
* Sports Club Relief of up to 100% for certain other not-for-profit organisations;
* Discretionary Rural Relief;
* Hardship Relief;
* Stud Farms Relief

Local Reliefs awarded under the Community Empowerment (Scotland) Act 2015 require to be fully funded by the Council.

**10.** **Legislation**

10.1 The relevant legislation is listed below for information purposes:

* + Section 4(5) of the Local Government (Financial Provisions etc.) (Scotland) Act 1962, as amended
  + Section 25A of the Local government (Scotland) Act 1966
  + The Non-Domestic Rating Contributions (Scotland) Regulations 1996
  + Schedule 2 to the Local Government and Rating Act 1997
  + Non-Domestic Rating (Rural Areas and Rateable Value Limits) (Scotland) Order 2005
  + Non-Domestic Rates (Rural Areas) (Scotland) Regulations 2017
  + Section 140 of the Community Empowerment (Scotland) Act 2015 – this inserts sections 3A into the Local Government (Financial Provisions etc.) (Scotland) Act 1962

10.2 The Scottish Government provides further information on NDR reliefs which can be found on the website [Non-domestic rates guidance - mygov.scot](https://www.mygov.scot/non-domestic-rates-guidance)

Revenues and Benefits Service

November 2022

Appendix 2A

SOUTH AYRSHIRE COUNCIL

**DISCRETIONARY RELIEF OF RATES - LICENSED SPORTS CLUBS ETC CALCULATION**

|  |  |
| --- | --- |
| Ratepayer Name |  |
| Rates Reference |  |
| Rateable Value (RV) |  |

Turnover

Alcohol, gaming (slot machines etc), catering, and tobacco sales will be supplied by the club using the audited accounts from the Revaluation reference year, or the first set of accounts if a new club (estimates are acceptable in the interim). These will then be adjusted using the percentages set out below to provide the turnover figure required for relief calculation purposes.

|  |  |  |  |
| --- | --- | --- | --- |
| Per Accounts | Actual  £ | Percentage  % | Adjusted  £ |
| Bar |  | 100% |  |
| Gaming |  | 100% |  |
| Food |  | 50% |  |
| Tobacco |  | 25% |  |
| Total |  |  |  |

Non-Sporting Turnover

The total adjusted turnover figure requires to be factored to arrive at the Notional (i.e., non-sporting) rateable value (RV) using the following percentage bands.

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| Adjusted Turnover Range | | (c) | (d) | (e) = (c x d) |
| Greater than | Up to or equal to | Adjusted Turnover | Percentage  % | Notional RV  £ |
| £0.00 | £30,000 |  | 5.5% |  |
| £30,000 | £50,000 |  | 6.0% |  |
| £50,000 | £75,000 |  | 7.0% |  |
| £75,000 | £100,000 |  | 8.5% |  |
| £100,000 |  |  | 9.0% |  |

Relief Calculation

The “Sporting” RV used for calculating the relief due is arrived up by subtracting the “Non-Sporting” RV from the actual RV and then multiplying by the appropriate poundage rate. Relief is calculated on a daily basis therefore may need re-calculated for part year charges.

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| (a) | (b) | (c) = (a - b) |  | (d) | (e) = (c x d) |
| Actual RV  £ | Notional (Non-Sporting) RV  £ | Amended (Sporting) RV  £ | Year | Rate Poundage  £ | Relief Amount (FYr)  £ |
|  |  |  |  |  |  |
|  |  |  |  |  |  |