

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

Version Control

<i>Version</i>	<i>Version date</i>	<i>Revised by</i>	<i>Description</i>
1	September 2017	LM	Policy
2	September 2017	DA	Revisions
3	September 2017	LM	Revisions & Sign off

Contents

1.0	Purpose of the Policy	6
2.0	Mandatory Relief - Legislative Background	7
	Charity Relief.....	7
	Rural Rate Relief.....	7
3.0	Discretionary Relief – Legislative Background	9
	Introduction	9
	The Council’s general approach to granting Discretionary Relief	10
	The Council’s approach to granting Government led Discretionary Relief schemes	10
4.0	Effect on the Council’s Finances	12
5.0	Discretionary Relief – EU State Aid requirements	14
6.0	Administration of Discretionary Relief.....	15
	Applications and Evidence	15
	Granting of relief.....	15
	Variation of a decision	16
7.0	Scheme of Delegation	17
	Granting, Varying, Reviewing and Revocation of Relief	17
	Reviews.....	17
	Appeals	17
8.0	Reporting changes in circumstances.....	17
9.0	Fraud.....	18
	Appendix A.....	19
	Discretionary Relief – Mandatory Relief recipients	20
	General Explanation.....	20
	Charity registration	20
	Use of Premises – wholly or mainly used.....	21
	Offices, administration and similar premises.....	21
	Charity shops.....	21
	Granting of Mandatory Relief - the Council’s Policy	21
	Charity Relief – Mandatory Relief recipients, the Council’s Policy for granting discretionary relief.....	21
	Appendix B.....	23
	Discretionary Relief – Non-Profit Making Organisations including Recreation	24
	General explanation	24
	Definition of Recreation	24
	Access to clubs	25
	Provision of facilities.....	26
	Discretionary Relief - Non–Profit Organisations including Recreation – the Council’s Policy	26
	Appendix C.....	27
	Discretionary Relief - Rural Rate Relief – Mandatory Relief recipients.....	27
	Discretionary Relief - Rural Rate Relief – Mandatory Relief recipients.....	28
	What are the qualifying criteria for Mandatory Relief?	28
	What rural settlements exist within the Tendring District Council area?	28
	What is the definition of a General Store?	29
	What is the definition of a Public House?.....	29
	What is the definition of a Petrol Filling Station?	29
	What is the definition of a Food Shop?	30
	What are the qualifying criteria for Discretionary Relief?	30

Rural Rate Relief – Mandatory Relief recipients, the Council’s Policy for granting discretionary relief.....	30
Appendix D.....	31
Discretionary Relief – Premises within Rural Settlements.....	32
Benefit to the local community	32
Rural Rate Relief – the Council’s Policy for granting discretionary relief.....	32
Appendix E.....	34
Discretionary Relief – Localism Act 2011	34
General explanation.....	35
Discretionary Relief – Localism – the Council’s Policy	35
Appendix F.....	37
Local Newspaper Relief	37
General Explanation.....	38
Eligibility criteria	38
Local Newspapers.....	38
Office Space.....	38
Amount of Relief.....	38
Local Newspaper Relief – the Council’s policy for granting discretionary relief.....	38
Appendix G	39
Supporting Small Businesses Relief	39
General Explanation.....	40
Who is eligible for the relief and how much relief will be available?	40
Recalculation of relief.....	41
Other Reliefs	41
Supporting Small Businesses Relief – the Council’s policy for granting discretionary relief. .	41
Appendix H.....	43
Public House Relief.....	43
General Explanation.....	44
Eligibility criteria	44
Other Reliefs	44
Public House Relief – the Council’s policy for granting discretionary relief.	44
Appendix I.....	45
Discretionary Business Rate Relief Scheme	45
General Explanation.....	46
Consultation	47
State Aid.....	47
Decisions by the Council	47
Applications for relief under this scheme.....	47
Variation and amendment of relief under the scheme	48
Appendix J	50
Section 44a – Partly Occupied Hereditaments.....	51
General explanation	51
How will the relief be provided?	51
Section 44a Partly Occupied Hereditaments – the Council’s Policy.....	51
Appendix K.....	52
Section 49 – Hardship Relief.....	53
General explanation	53
Section 49 Hardship Relief – the Council’s Policy.....	53

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 In addition to the above, Central Government is keen that in certain cases, assistance should be provided to businesses who have had increases in their rate liability due to the revaluation of premises in April 2017. In these cases, and where the Council meets Central Government guidelines, grants are available under section 31 of the Local Government Act 2003.
- 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 the new reliefs, some guidance has been issued by Central Government outlining actions expected to be taken by local authorities. This policy includes Government guidance where appropriate but also looks to target discretionary relief in line with the Council's priorities.
- 1.5 This document outlines the following areas:
- Details of the criteria for receiving Discretionary Reliefs for all relevant areas;
 - The Council's policy for the granting of all types of Discretionary Reliefs;
 - Guidance on granting and administering the reliefs and awards;
 - European Union requirements including provisions for State Aid; and
 - The Council's Scheme of Delegation.
- 1.6 Where organisations apply for relief 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 been extended under the Local Government Act 2003 (effective from 1st April 2004) to registered Community Amateur Sports Clubs (CASCs). Full details of the mandatory provisions are given later within this policy.
- 2.2 In the case of charity shops, the premises must meet the criteria laid down by section 64 (10) of the Local Government Finance Act 1988 which states that the premises are to be treated as used for charitable purposes at any time it is wholly or mainly used for the sale of goods donated to the charity and the proceeds of goods (after any deductions for expenses) are applied for the purpose of the charity.
- 2.3 The Council has discretion to grant relief of up to a further 20% for these mandatory cases under its discretionary provisions.

Rural Rate Relief

- 2.4 From 1st April 1998, under powers originally granted to the Council by 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 settlement, 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 settlement provided it has a Rateable Value of up to £12500.
- 2.5 From 1st April 2017, Central Government has indicated that it wants all authorities to give 100% relief to premises that receive mandatory rural rate relief. The legislation enabling this will not be forthcoming until 2018 and therefore it has indicated that where the additional 50% is granted, a section 31 grant will be made available to the Council. This is dealt with further within this policy and the Council will automatically grant the additional 50% discretionary relief where appropriate
- 2.6 Where businesses in rural settlements have a Rateable Value of up to £16,500 **and** are not in receipt of mandatory relief, the Council may decide to give up to 100 per cent discretionary relief 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 more assistance to businesses and organisations.
- 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. The Council will expect all businesses to make applications in such a format as is required (which may vary from time to time) and for the business to provide such information and evidence as required in order to determine whether relief should be awarded.
- 3.5 The Council is obliged to consider carefully every award of discretionary relief, taking into account the contribution that the organisation makes to the amenities within the authority’s area. There is no statutory appeal process or Tribunal against any decision made by the Council although, as with any decision of a public authority, decisions can be reviewed by Judicial Review. The authority will however, upon request, review decisions made. Details of the internal review process are given within this policy.
- 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 **or** premises occupied by organisations not established or conducted for profit and wholly or mainly used for purposes recreation;
 - c. Discretionary Relief – Rural Rate relief - premises that already receive mandatory relief;
 - d. Discretionary Relief – Rural Rate relief - premises not receiving mandatory relief but of benefit to the local community and less than £16,500 RV;
 - e. Discretionary Relief – Granted under the Localism Act 2011 provisions;
 - f. Local Newspaper Relief (from 1st April 2017 for a period of two years);
 - g. Local Public House Relief (from April 2017 for a one year period);
 - h. Supporting Small Businesses Relief (from 1st April 2017 for a period of five years or until business pay their full rate charge or their transitional rate charge (calculated in accordance with the Non-Domestic Rating (Chargeable Amounts) (England) Regulations 2016));
 - i. Discretionary Business Rates Relief Scheme (from 1st April 2017 for a period of up to four years);

- j. S44A Part occupation relief; and
- k. S49 hardship Relief.

3.7 The decision to grant or not to grant discretionary relief is a matter purely for the Council.

The Council's general approach to granting Discretionary Relief

- 3.8 In deciding which organisations should receive discretionary rate relief, the Council has considered the following factors and priorities:
- a. The awarding of relief will be in line with the Council's vision and values;
 - b. That any award should support business, charities, organisations and groups that help to retain services in the Council's area and not compete directly with existing businesses in an unfair manner;
 - c. It should 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 Council's area;
 - e. Local organisations will be given priority over national organisations. Where requested, the organisation will need to supply the Council with clear evidence of **all** financial affairs (normally two full years) including, and most importantly, the amounts of monies raised, used and invested locally. This will be essential where the organisation is national in nature;
 - f. To enable appropriate organisations to start, develop or continue their activities, which deliver outcomes to the community and that also relate to the priorities of the Council, which without granting discretionary relief they would be unable to do;
 - g. To assist the delivery of services which could not be provided otherwise;
 - h. To enable the Council to determine the level of rate change in comparison with the organisation's financial situation; and
 - i. To ensure that the financial impact of awarding discretionary business rate relief is justified in terms of the local outcomes achieved by the organisation receiving it;
- 3.9 Where any reduction or remission is granted to a ratepayer under S49 Local Government Finance Act 1988 where hardship is proven to the Council, then there will be no requirement to grant Discretionary Rate Relief for that amount.
- 3.10 In certain cases, the order in which relief is granted is specified. Mandatory relief shall be granted in all cases where the criteria is met irrespective of whether discretionary relief can be granted or not.

The Council's approach to granting Government led Discretionary Relief schemes

- 3.11 Over the past few years, a number of schemes have been led by Central Government but without specific legislative changes. These are administered under S47 of the Local Government Finance Act 1988 and guidance is often provided. The Council is keen to

support such initiatives especially where they are designed to help local businesses and will look to maximise both the reliefs given as well as maximise any grants receivable. However, the Council reserves the right to vary its approach where thought appropriate.

4.0 Effect on the Council's Finances

- 4.1 The granting of discretionary relief will, in the main, 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. For 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.
- 4.3 Where Central Government leads an initiative, grants are often available through section 31 of the Local Government Act 2003. This is not automatic and Central Government will look to the Council to adopt the recommended approach when granting in these areas
- 4.4 The financial effects of discretionary reliefs covered by this policy are as follows:

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	50% Discretionary relief granted to Mandatory Rural Relief recipients	Section 31 Grant
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
	Local Newspaper Relief	
F	Discretionary Relief granted to local newspapers meeting the criteria (From 1 st April 2017 for a period of two years)	Section 31 Grant
	Public House Relief	
G	Discretionary Relief granted to public houses meeting the criteria (From 1 st April 2017 for a period of one year)	Section 31 Grant
	Supporting Small Business Relief	
H	Supporting Small Businesses Relief (from 1 st April 2017 for a period of up to five years if conditions are met)	Section 31 Grant
	Discretionary Business Rates Relief Scheme	
I	Discretionary Business Rates Relief	Section 31 Grant up to a

Appendix	Relief Type	Granted after 1 st April 2013
	Scheme (from 1 st April 2017 for a period of up to four years)	maximum level set by Central Government. Once the maximum has been reached any additional amount is borne 40% by the Council
	S49 Hardship Relief	
J	Partial or full relief for cases of hardship where it would be reasonable to do so having due regard to the interests of council tax payers	40% borne by the Council
K	S44a Part Occupation Relief	
	Partial relief where the ratepayer is unable to occupy part of the hereditament for a short term only.	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.

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 reliefs must be applied for. Application forms are produced by the Council and are available by contacting the Business Rate section on business.rates@tendringdc.gov.uk or 01255 686266 for further information. The Council will specify how applications are to be received and this may vary from time to time.
- 6.3 Unless stated elsewhere in this policy organisations are required to provide a completed application form plus any such evidence, documents, accounts (normally the last two years), financial statements etc. necessary to allow the Council to make a decision. Where insufficient information is provided, then no relief will be granted. In some cases, it may be necessary for officers to visit premises and we would expect organisations claiming relief to facilitate this where necessary.
- 6.4 Applications should initially be made to the Revenues and Benefits Service and will be determined in accordance with Section 7 of this policy.
- 6.5 **The Council will provide this service and provide guidance free of charge. Ratepayers are encouraged to approach the Council direct and NOT pay for such services through third parties.**

Granting of relief

- 6.6 In all cases, the Council will notify the ratepayer of decisions made.
- 6.7 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 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.
- 6.8 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).

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

- 6.9 Discretionary relief is to be granted from the beginning of the financial year in which the decision is made or when liability begins whichever is the later. Since 1997 decisions can be made up to 6 months after the end of the financial year for which the application was made. In such cases, the Council *may* backdate its decision.
- 6.10 A decision to award discretionary relief and how much relief is given is normally only applicable to the financial year for which the application is made. However, the Council reserves the right to grant relief for any other period as appropriate.
- 6.11 A fresh application for discretionary relief will be necessary for each financial year **or** at such time-period as the Council determines.

Variation of a decision

- 6.12 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 or a change in the Council's decision which increases the award – this will apply from a date determined by the Council as appropriate;
 - Where the amount is to increase for any other reason, it will take 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 or liability including any reduction in rateable value, awarding of another relief or exemption this will apply from the date of the decrease in rate charge; and
 - Where the amount is to be reduced for any other reason, it will take effect from a date determined by the Council as appropriate;
- 6.13 A decision may be revoked at any time however; a one year period of notice will be given and the change will take effect at the expiry of a financial year.

7.0 Scheme of Delegation

Granting, Varying, Reviewing and Revocation of Relief

- 7.1 All powers in relation to reliefs are 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. However section 223 of the Local Government Act 1992 allows for delegation of decisions by the Council to Cabinet, Committees, Sub-Committees or Officers.
- 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 Applications that are refused will, on request, be reconsidered if additional supporting information is provided or the refusal is subsequently considered to be based on a misinterpretation of the application.

Reviews

- 7.4 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 considered in accordance with the Council's constitution. The amount of funding to be provided by the Council in respect of discretionary relief will form part of the Council's overall budget setting 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.
- 7.6 Where the ratepayer wishes to appeal the decision of the Head of Revenues and Benefits, the case will be considered by the relevant Executive member whose decision on behalf of the Council will be final
- 7.7 Ultimately the formal appeal process for the ratepayer is Judicial Review although the Council will endeavour to explain any decision fully and openly with the ratepayer.

8.0 Reporting changes in circumstances

- 8.1 Where any award is granted to a ratepayer, the Council will require any changes in circumstances which may affect the relief, to be reported as soon as possible. This will be important where the change would result in the amount of the award being reduced or cancelled e.g. where the premises comes unoccupied or is used for a purpose other than that determined by the Council as eligible for relief.

- 8.2 Where a change of circumstances is reported, the relief will, if appropriate, be revised or cancelled as appropriate. Where any award is to be reduced, the Council will look to recover the amount from the date the change of circumstances occurred.

9.0 Fraud

- 9.1 Where a ratepayer falsely applies for any relief, or where the ratepayer provides false information, makes false representation, or deliberately withholds information in order to gain relief, prosecutions will be considered under the Fraud Act 2006.

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 will 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. In some cases, it will be necessary 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 may be equally considered for discretionary rate relief.

Offices, administration and similar premises

- A.10 Premises used for administration of the Charity include:
- Offices;
 - Meeting Rooms; and
 - 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

Granting of Mandatory Relief - the Council’s Policy

- A.13 Where the criteria for awarding mandatory relief are met, the rate charges shall be calculated in accordance with the legislation reducing the liability of ratepayers for each day that the criteria are met.

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

- A.14 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.

-
- A.15 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.16 The Council is keen to support businesses that have a critical role to play in the local economy and to assist the Council in meeting the Corporate aims and values
- A.17 In the case of registered Community Amateur Sports Clubs, the key criteria in determining the application will be:
1. The ratepayer occupies the whole hereditament;
 2. Relief cannot be granted in respect of premises that are occupied by the Council or precepting authority;
 3. How the CASC supports and links into the Council's corporate vision and priorities;
 4. 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;
 5. Membership numbers and the number and percentage of these members that are local residents;
 6. 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;
 7. Whether facilities are available to the wider community regardless of ability; and
 8. 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 Bowling
Angling	Curling	Kendo	Roller Skating	Bowling
Archery	Cycling	Korfball	Rounders	Trampolining
Arm Wrestling Association	Disability Sport	Lacrosse	Rowing	Triathlon
Football	Dragon Boat Racing	Lawn Tennis	Rugby League	Tug of War
Athletics	Equestrian	Life Saving	Rugby Union	Unihoc
Australian Rules Football	Fencing	Luge	Sailing	Volleyball
Badminton	Fives	Modern Pentathlon	Sand/Land Yachting	Water Skiing
Ballooning	Flying Gaelic Football	Motor Cycling	Shinty	Weightlifting
Baseball	Gliding	Motor Sports	Shooting	Wrestling
Basketball	Golf	Mountaineering	Skateboarding	Yoga
Baton Twirling	Gymnastics	Movement, Dance, Exercise & Fitness	Skiing	
Biathlon	Handball	Netball	Skipping	
Bicycle Polo	Hang/Para Gliding	Orienteering	Snowboarding	
Billiards and Snooker	Highland Games	Parachuting	Softball	
Bobsleigh	Hockey	Petanque	Sombo	
Boccia	Horse Racing	Polo	Wrestling	
Bowls	Hovering	Pony Trekking	Squash	
Boxing	Hurling	Pool	Skater/Street Hockey	
Camogie	Ice Hockey	Quoits	Sub-Aqua	
Canoeing	Ice Skating	Racketball	Surf Life Saving	
Caving	Jet Skiing	Rackets	Surfing	
Chinese Martial Arts	Ju Jitsu	Raquetball	Swimming & Diving	
Cricket	Judo	Rambling	Table Tennis	
			Taekwondo	

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. 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 local residents;
 - If the organisation has due regard to equality issues and if its facilities are accessible to all members of the community
- 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 Council area?

- 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). 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. It should be noted that for 2017 onwards Central Government has requested that Council grant 50% discretionary relief to all ratepayers who receive 50% mandatory rural rate relief.

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

- C.10 As Central Government has requested and fully funds any additional relief granted to ratepayers who receive mandatory rural rate relief, the Council will automatically grant the additional 50% until such time as primarily legislation is changed.

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 most 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 up to a maximum of 100%.
- 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 to the community and that any reduction or withdrawal of the business will have a serious detrimental effect on the rural settlement;
 - The granting of any discretionary relief is reasonable having regard to the effect on taxpayers of the Council;

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 etc.) 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 entitled to Central Government funded reliefs;
 - c. The ratepayer **must not** be an organisation that could receive relief as a non-profit making organisation or as a sports club or similar;
 - d. The ratepayer **must** occupy the premises (no discretionary rate relief will be granted for unoccupied premises);
 - e. The premises and organisation **must** be of *significant* benefit to residents of the Council’s area;
 - f. The premises and organisation **must** relieve the Council of providing similar facilities;
 - g. 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 Council; **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;
 - h. 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
 - i. 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 initially a short period.
- 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 as specified within section 6 of this policy.

Appendix F

Local Newspaper Relief

General Explanation

- F.1 This is a temporary relief for 2017-18 and 2018-19 and the Government is not changing the legislation around the reliefs available to these properties. Central Government will reimburse local authorities that use their discretionary relief powers (under section 47(3)) of the Local Government Finance Act 1988 to grant relief in line with the eligibility criteria set out in this guidance.
- F.2 The Council will be compensated by Central Government through a grant under section 31 of the Local Government Act 2003.

Eligibility criteria

- F.3 The scheme will provide a £1,500 relief for office space occupied by local newspapers up to a maximum of one discount per local newspaper title and per hereditament, for two years from 1 April 2017.

Local Newspapers

- F.4 The relief is to be specifically for local newspapers and by that, the Council means what would be considered a “traditional local newspaper.” The relief will not be available to magazines.

Office Space

- F.5 The hereditament **must** be occupied by a local newspaper and wholly or mainly used as office premises for journalists and reporters.

Amount of Relief

- F.6 The amount of relief is limited to a maximum of one discount per newspaper title (e.g. per newspaper name) **AND** per hereditament. As with all discretionary rate relief, any grant will be subject to State Aid limits as defined within section 6 of this policy.

Local Newspaper Relief – the Council’s policy for granting discretionary relief.

- F.7 The Council has decided to grant relief strictly in accordance with Central Government guidelines.

Appendix G

Supporting Small Businesses Relief

General Explanation

- G.1 Central Government has increased the thresholds for Small Business Rate Relief from 1 April 2017 to £12,000 for the 100% relief and £15,000 for the tapered relief. They have also allowed rural rate relief to be granted up to 100% using S47 of the Local Government Finance Act 1988 as a top up to the mandatory level of 50%, albeit that the rateable value limits have not been changed in respect of rural hereditaments (see section D of this policy). Unfortunately, despite these changes, some small businesses and businesses in rural areas may lose their entitlement to the relief due to increases in Rateable Value through the revaluation on 1st April 2017.
- G.2 The transitional relief scheme (provided under the Non-Domestic Rating (Chargeable Amounts) (England) Regulations 2016 No. 1265) does not provide support in respect of changes in reliefs. Therefore, those ratepayers who have lost some or all of their small business or rural rate relief may face large percentage increases in bills from 1 April 2017.
- G.3 In view of this, Central Government announced that a new scheme of relief would be made available to those ratepayers who are faced with the loss of small business or rural rate relief due to the revaluation. All authorities are encouraged to grant the relief in accordance with the guidelines laid down by Central Government and if granted strictly in accordance with guidance, the Council will be compensated by Central Government through a grant under section 31 of the Local Government Act 2003.
- G.4 The relief is to be known as the ‘Supporting Small Businesses Scheme’

Who is eligible for the relief and how much relief will be available?

- G.5 The Supporting Small Businesses relief will help those ratepayers who as a result of the change in their rateable value at the revaluation are losing some or all of their small business or rural rate relief and, as a result, are facing large increases in their bills.
- G.6 To support these ratepayers, the Supporting Small Businesses relief will ensure that the increase per year in the bills of these ratepayers is limited **to the greater of:**
- a. a percentage increase per annum. of 5%, 7.5%, 10%, 15% and 15% for the period 2017/18 to 2021/22 all plus inflation. (Unlike the transitional relief scheme under the Chargeable Amount regulations), for the first year of the scheme the percentage increase is taken against the bill for 31 March 2017 after small business rate relief or rural rate relief; **or**
 - b. a cash value of £600 per year (£50 per month).
- G.7 In the first year of the scheme, this means all ratepayers losing some or all of their small business rate relief or rural rate relief will see the increase in their bill capped at £600. The cash minimum increase is £600 per year thereafter. This means that ratepayers who in 2016/17 paid nothing under small business rate relief and are

losing all of their entitlement to relief (i.e. moving from £6,000 rateable value or less to more than £15,000) would under this scheme be paying £3,000 in year 5.

- G.8 The Government has also decided that those on the Supporting Small Businesses relief scheme whose 2017 rateable values are £51,000 or more will not be liable to pay the supplement (1.3p) to fund small business rate relief while they are eligible for the Supporting Small Businesses relief scheme.
- G.9 Ratepayers will remain in the Supporting Small Businesses relief scheme for either 5 years or until they reach the bill they would have paid without the scheme (this would be the charge payable as their true rates payable or the charge calculated under the Non-Domestic Rating (Chargeable Amounts) (England) Regulations 2016).
- G.10 A change of ratepayer will not affect eligibility for the Supporting Small Businesses relief scheme **but** eligibility will be lost if the property falls vacant or becomes occupied by a charity or Community Amateur Sports Club.
- G.11 The rules for state aid (as detailed in section 6 of this policy) shall apply when considering Supporting Small Businesses Relief.

Recalculation of relief

- G.12 The amount of relief awarded under the Supporting Small Businesses relief scheme will be recalculated in the event of a change of circumstances including the following:
- This could include, for example, a backdated change to the rateable value or the hereditament; or
 - The awarding of another relief.
- G.13 The Council will, in effect, calculate the award on a daily basis taking into account the above, and the relief will be re-calculated if the rateable value changes.

Other Reliefs

- G.14 Hereditaments eligible for charity or Community Amateur Sports Club relief or hereditaments which are unoccupied are not eligible for Supporting Small Businesses Relief. Likewise, the same principle applies to properties for which a Section 44A certificate has been granted (apportionment of rateable values for partly occupied properties). The presence of a section 44A certificate will not further reduce the bill found under the Supporting Small Business scheme.
- G.15 In accordance with Central Government guidelines, all other discretionary reliefs, will be considered **after** the application of Supporting Small Businesses relief.

Supporting Small Businesses Relief – the Council’s policy for granting discretionary relief.

- G.16 The Council has decided to grant relief strictly in accordance with Central Government guidelines

Appendix H

Public House Relief

General Explanation

- H.1 This is a temporary relief for 2017-18 and 2018-19 and the Government is not changing the legislation around the reliefs available to premises. Central Government will reimburse local authorities that use their discretionary relief powers (under section 47(3)) of the Local Government Finance Act 1988) to grant £1000 relief in line with the eligibility criteria set out in guidance to be produced by Central Government
- H.2 Central Government guidelines have been issued and it has been established that any amount granted will be reimbursed by a section 31 grant.

Eligibility criteria

- H.3 The Council's policy, in line with Central Government requirements, will provide a relief of £1,000 relief for two years only (1st April 2017 to 31st March 2018 and 1st April 2018 to 31st March 2019) for all eligible public houses who have a rateable value of less than £100,000 on 1st April 2017.
- H.4 The definition of a '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.
- H.5 It will be for the Council to decide whether any premises falls within the definition give in the above paragraph. No relief shall be given where the premises are unoccupied.

Other Reliefs

- H.4 Public House relief will be granted after applying any other mandatory reliefs and reductions

Public House Relief – the Council's policy for granting discretionary relief.

- H.5 The Council has decided to grant relief strictly in accordance with Central Government guidelines.

Appendix I

Discretionary Business Rate Relief Scheme

General Explanation

- I.1 In March 2017, Central Government announced that it would make available a discretionary fund of £300 million over four years from 2017-18 to support those businesses that face the steepest increases in their business rates bills as a result of the revaluation. Government determined that Councils would be best placed to determine how this fund should be targeted and administered to support those businesses and locations within their area that are in the greatest need.
- I.2 Every authority within England is to be provided with a share of a £300 million fund to support their local businesses. This is to be administered through billing authorities' discretionary relief powers under section 47 of the Local Government Act 1988.
- I.3 Government also believes that local authorities are best placed to judge the particular circumstances of local ratepayers and direct the funding where it is most needed to support local economies.
- I.4 The funding is not provided equally over the four-year period but in the following approximate proportions:
- Year 1 (2017/18) 58%
- Year 2 (2018/19) 28%
- Year 3 (2019/20) 12%
- Year 4 (2020/21) 2%
- I.5 Councils will be compensated for any relief granted under section 31 of the Local Government Act 2003 up to the amount set out below. The Government is unclear at this stage as to whether any underspend can be 'vired' from one year to the next although their initial guidance is that any underspend will be returned to Treasury¹².
- I.6 A key criteria of reimbursement will be that all Billing Authorities will consult with major precepting authorities when formulating their schemes.
- I.7 The funding available to the Council is set out below.

Amount of discretionary fund awarded (£000s) – Tendring District Council			
2017-18	2018-19	2019-20	2020-21
261	127	52	7

¹² DCLG Letter 27th April 2017 – Discretionary Rates Relief Scheme – Payment of Section 31 grant to reimburse cost of relief

Consultation

- I.8 The Council has consulted with the major preceptors in relation to this scheme and has taken their comments into account when determining the eligibility criteria. This is an essential part of the Discretionary Business Rates Relief Scheme and is in line with the grant determination issued by the Department of Communities and Local Government (DCLG) No.31/3071.
- I.9 The grant determination states that a condition of the fund is that consultation is undertaken with 'relevant authorities'. Relevant authorities for the purposes of this scheme means:
- a. Any major precepting authority; and
 - b. Any combined authority.
- I.10 In the case of Tendring District Council the relevant major precepting authorities have been consulted.

State Aid

- I.11 The rules relating to State Aid (as defined within section 6 of this policy) apply. The Council will ensure full compliance in this area.

Decisions by the Council

- I.12 Decisions by the Council are made directly in line with the Scheme of Delegation as outlined within section 7 of this policy. Any decision to award relief under this scheme will follow the core principles of the Council's discretionary relief policy as defined by section 3.8.

Discretionary Business Rate Relief Scheme– the Council's policy for granting discretionary relief.

Applications for relief under this scheme

- I.13 The Council is keen to identify ratepayers who may qualify for the relief and as such will look to encourage certain ratepayers to apply. The Council will look to simplify the application process wherever possible, but it will expect any ratepayers to provide such information as is required by the Council to support their application.
- I.14 The Council has decided that relief under the scheme will be awarded using the following criteria:
- a. The scheme is designed to assist ratepayers who have suffered significant increases in rate liability due to the revaluation and the subsequent increase to their Rateable Value;
 - b. Relief will not be awarded where mandatory relief is granted;
 - c. In assessing any potential entitlement to an award under this scheme, the Council will compare the following:

- i. The rate liability of the ratepayer at 31st March 2017 after any reliefs and reductions; and
- ii. The rate liability of the ratepayer at 1st April 2017 taking into account any transitional relief or discretionary relief within this policy;
- d. Relief will be awarded where the calculation in c. above would result in an increase of more than **1%**
- e. Relief will only be given to premises which are liable for occupied rates. No relief within this scheme will be granted for unoccupied premises;
- f. Relief will only be granted to ratepayers who were in occupation at 31st March 2017 and in occupation on 1st April 2017 and for each day subsequently.
- g. Ratepayers taking up occupation after the 1st April 2017 will **not** be eligible for relief on the basis that new ratepayers would not have suffered from increases due to a revaluation;
- h. Relief will be targeted to local businesses and not those businesses that are national or multi-national in nature. Local businesses are, for the purposes of this scheme, those which have premises wholly in the Councils area;
- i. Relief may be awarded for more than one premises as long as **all** other criteria are met;
- j. Relief will **not** be awarded where:
 - i. mandatory relief is awarded; or
 - ii. where the ratepayer has applied for a reduction under S44a of the Local Government Finance Act 1988; and
 - iii. the hereditament has an increase in Rateable Value after the 1st April 2017 which increases the rate charge above the 1st April 2017 value.

Amount of Relief

- I.15 The amount of relief is tapered and will be calculated as follows:
- 2017/18**
Award = Increase in rate liability calculated in (I.14 c above) LESS 1% (acceptable increase)
- 2018/19**
Award = 2017/18 award x 50% (for clarity this will be half of the relief awarded in 2017/18)
- 2019/20**
Award = 2018/19 award x 40% (for clarity this will be half of the relief awarded in 2018/19)
- 2020/21**
Award = 2019/20 award x 10% (for clarity this will be 10% of the relief awarded in 2019/20)

Variation and amendment of relief under the scheme

- I.16 As with all reliefs, the amount of relief awarded under the Discretionary Businesses Rates relief scheme will be recalculated in the event of a change of circumstances. This will include, for example, a backdated change to the rateable value or the hereditament. This change of circumstances could arise during the year in question or during a later year.
- I.17 The Non-Domestic Rating (Discretionary Relief) Regulations 1989 (S.I. 1989/1059) requires the Council to provide ratepayers with at least one year's notice in writing before any decision to revoke or vary a decision so as to increase the amount the ratepayer has to

pay takes effect. Such a revocation or variation of a decision can only take effect at the end of a financial year. But within these regulations, the Council may still 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 circumstances.

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 and demonstrate future sustainability once any relief awarded under this policy is no longer applicable;
 - 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;
 - 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.