Rotherham Metropolitan Borough Council
Business Rates Discretionary Relief Policy

1. General Provisions

1.1. This policy sets out the Council's intentions for dealing with discretionary rate relief applications (including hardship relief requests) from Charities, Community Amateur Sports Clubs (CASCs), Non-Profit Making Organisations (NPMOs), rural businesses (village shops, post offices, foodstores, petrol filling stations, public houses and other small businesses) and other businesses situated within the borough of Rotherham.

1.2. Although allowing for discretion, the regulations do prohibit Councils from adopting a strict policy or rule for granting discretionary relief. The Government has however provided good practice guidance to advise Councils of the criteria to use when considering applications for relief. Authorities are strongly advised to treat each case on its own merits. Councils can, however, agree on a general basis on which it will approach any application made.

1.3. The Council will generally exclude public sector organisations principally funded by the public sector for eligibility for relief, although each case will be assessed on its own merit.

1.4. The policy has regard to the use to which business premises are put and, in particular, the contributions that businesses seeking rate relief make to their local communities. It also has regard to the financial cost to the council taxpayers of the borough. The policy will be applied consistently and in accordance with the Council's priorities.

1.5. The policy applies to any business ratepayer within the discretionary rate relief qualifying groups and criteria set out in legislation, guidance issued by the Department for Communities and Local Government (DCLG) and this document. Some of them will also receive mandatory rate relief.

2 Qualifying criteria for Charities, Non-Profit Making Organisations and Community Amateur Sports Clubs (CASCs)

2.1 We will expect membership of any organisation applying for relief to be open to all sections of the community. This would not apply where legitimate restrictions are required which relate, for example, to ability in a sport or the achievement of a standard or where the capacity of the facilities is limited. Organisations will not be given relief if they have membership subscription rates set at such a high level that they exclude the general community.

2.2 We will also take into account the following:

Access to Facilities

Whether the organisation:

- is open to **all** sections of the community;
- actively encourages membership for particular groups in the community e.g. young people, women, persons with a disability, ethnic minorities, etc;
- makes the facilities available to non-members;
- provides services that enhance community spirit;
- organises community events; and
- makes information on itself available electronically.

Provision of Facilities:

Whether:

- the organisation provides training or education to its members;
- the facilities will be provided by self-help or grant aid;
- the organisation runs a bar (where a bar is the main activity it would be expected that any bar profits would be used to offset expenses negating the reliance on public funds);
- the organisation provides facilities that indirectly relieve the Authority of the need to do so;

- the organisation promotes healthy living and fitness.

Employment

Whether the organisation:

- employs staff or relies heavily on unpaid volunteers.
- employs Rotherham residents.
- offers work placements such as apprenticeships to the young people of Rotherham.

Other Considerations

Whether:

- the organisation is affiliated to any local or national bodies.
- the membership is drawn from people mainly resident in the Rotherham area.
- the organisation requires financial assistance.

3 Discretionary Rate Relief Awards under the Localism Act

3.1 Section 69 of the Localism Act 2011 amends the 1988 Act to allow local authorities the discretion to award rate relief to all types of businesses. The Guide to the Act gives details as follows:

> *"The Localism Act gives councils more freedom to offer business rate discounts - to help attract firms, investment and jobs. Whilst councils would need to meet the cost of any discount from local resources, they may decide that the immediate cost of the discount is outweighed by the long-term benefit of attracting growth and jobs to their area."*

3.2 The Localism Act allows the Council to award up to 100% rate relief in any one year for qualifying businesses. Rate relief awarded under this policy shall normally apply for the current financial year at a time but new applications may be made each financial year.

3.3 Applications under this section will only be considered after consideration of any other forms of rate relief to which the applicant may be eligible (excluding hardship rate relief).

4 Hardship Relief Awards

4.1 The Council has a duty under section 49(1) of the Local Government Finance Act 1988 to consider remitting rates by awarding hardship relief where a ratepayer would sustain hardship if a remission was not granted and it would be reasonable to make a remission after taking regard to the interests of council tax payers.

4.2 Government guidelines advise that the granting of a reduction or remission of rates should be the exception rather than the rule, so hardship relief will only be awarded in exceptional circumstances. The Council will, wherever possible, signpost ratepayers to any of the range of other options that are available to support businesses.

4.3 Hardship relief can be granted in respect of rates on occupied and unoccupied properties where the Council is satisfied that the ratepayer would sustain hardship if it did not do so, and it is in the best interests of council tax payers.

4.4 The considerations adopted in this guidance do not represent a blanket policy on hardship relief and all applications will be considered on their individual merits.

4.5 The Council will consider whether, and the degree to which:

- the hardship being suffered is as a direct result of unusual factors outside the control of the business;
- granting relief would help a business through a particularly difficult short term period;
- not granting relief would impact on employment in the borough if the business were to close;
- the loss of the business would result in the removal of a particularly important service or amenity in the borough;

- granting relief will have on the long term sustainability of the business (for which evidence must be provided);
- granting relief would give the business an unfair trading advantage;

4.6 The Council will also seek to ensure that hardship is not being incurred:

- solely due to general economic or market forces;
- the business is suffering hardship due to poor financial management;
- the proprietors or directors continue to take remuneration from the business;
- the business could be supported from reserves or elsewhere within its wider organisation;
- by excessive outgoings or drawings.

4.7 The test of 'hardship' is not necessarily confined strictly to financial hardship and all relevant factors affecting the ability of a business to meet its liability for rates will be taken into account by the Council.

4.8 Hardship rate relief could in some cases constitute state aid and consideration will be given to the implications this could have in coming to a decision.

4.9 Applications for hardship rate relief will only be considered after consideration of any other forms of rate relief to which the applicant may be eligible.

4.10 Relief will normally be granted for specific determined period depending on the circumstances of the application, but not beyond 12 months.

4.11 All awards shall terminate at the end of the financial year if the award has not ended at an earlier date. Where the hardship continues a further application may be made in the new financial year, however in considering repeated applications consideration should be given to the number and value of previous awards.

5 Application Process

5.1 Business rate payments remain legally due and payable in accordance with the most recent bill until such time as any rate relief is awarded. The rate relief will usually be awarded by means of a reduction shown on the business rate bill issued to the ratepayer. Where this puts the account in credit for the year, a refund will be made at that time.

5.2 Written applications will be required for each case. The Council will ensure that application forms are made available to business ratepayers.

5.3 With the exception of hardship relief and discretionary relief awarded under section 69 of the Localism Act 2012, everyone receiving rate relief at the time will be sent a renewal application form before the start of each financial year. A completed application form must be returned to the Council if relief is to continue.

5.4 New ratepayers occupying a property part way through a financial year should apply at the time they move in. Wherever possible, applications for discretionary rate relief should be made within the financial year for which the relief is being sought. Accepting applications made after this time will be at the discretion of the Council. Applications have to be determined by law within six months of the end of the financial year for which relief is being sought.

5.5 All applicants are required to complete the Council's rate relief application form. Such information and evidence as the Council requires must be provided to support an application and in the event that the requested information and evidence is not provided the application may be refused.

6 Decision Making Process

6.1 Decisions on granting or refusing an application for discretionary rate relief or hardship relief are subject to approval by Cabinet Members.

6.2 Each application received under these provisions will be considered on a case by case basis by Cabinet based on evidence and recommendations provided by the service.

6.3 Rating legislation provides no right of appeal against the decision of the Council not to grant relief.