

Policy Guidelines for the granting of Discretionary Non-Domestic Rate Relief

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1. Purpose of the Policy Guidelines

- 1.1 The purpose of these guidelines is to outline the level of discretionary relief to be granted to certain defined non-domestic ratepayers within the borough of Runnymede.
- 1.2 The Local Government Finance Act 1988 and subsequent legislation requires local authorities 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.
- 1.3 Whilst the Council is obliged to grant relief to premises that fall within the mandatory category, the Council also has powers under the Local Government Finance Act 1988 to grant discretionary relief to ratepayers subject to certain criteria being met. In the case of new reliefs announced by the Government in recent years, guidance has been issued on the actions expected to be taken by local authorities. Powers have also been granted under the Localism Act 2011, which allow for the granting of discretionary relief to any premises where the authority feels the granting of such relief would be of benefit to the local community.
- 1.4 Full details of the legislative requirements for both mandatory and discretionary relief are given within the body of this document. All aspects of discretionary rate relief (subject to changes in legislation) are also covered. Where organisations apply for relief they will be granted (or refused) relief in line with the guidelines contained herein.
- 1.5 The document also outlines the following areas:
 - Details of the criteria for receiving discretionary relief for all relevant areas.
 - The Council's policy for granting all types of discretionary relief.
 - Guidance on granting and administering relief.
 - European Union requirements including provisions for State Aid.
 - The scheme of delegation.
 - Limitations for the award of relief.

2. Mandatory Relief – Legislative Background

Charity relief

- 2.1 The powers relating to the granting of mandatory and discretionary relief are given to local authorities under sections 43, 45, 47 and 48 of the Local Government Finance Act 1988, respectively. Charities and Trustees for Charities are only liable to 20% 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. This provision was extended under the Local Government Act 2003 to registered Community Amateur Sports Clubs (CASCs).
- 2.2 Local authorities have discretion to grant relief of up to a further 20% for these cases under the discretionary provisions.
- 2.3 Any relief granted is used to reduce the amount that the organisation is required to pay in Non-Domestic Rates, commonly known as Business Rates.

Rural rate relief

- 2.4 The qualifying criteria for a “rural settlement” as defined by Schedule 1 of the Local Government & Rating Act 1997 and the Non-Domestic Rating (Rural Settlements) (England) Order 1998 is one which meets the following criteria:
- a) that it is wholly or partly within the authority’s area;
 - b) that it appears to the authority to have had a population of not more than 3,000 on the last 31st December before the beginning of the chargeable financial year in question; and
 - c) that in that financial year it is wholly or partly within an area designated by the Department for Communities and Local Government as a “rural area” for the purposes of this scheme.
- 2.5 In respect of criterion (c) above, the Secretary of State has designated that all Green Belt land in the Borough of Runnymede shall be regarded as rural for the purposes of these provisions. Within the designated areas five qualifying rural settlements (3,000 people or less) have been identified. They are:

	<u>Settlement</u>	<u>Population</u>
(i)	Lyne	1,096
(ii)	Thorpe	1,098
(iii)	Stroude Road	620
(iv)	Penton Park	518
(v)	Hamm Court	229

Figures taken from 2011 Census.

Eligibility for relief

- 2.6 Mandatory – the Local Government Finance Act 1997 introduced 50% mandatory relief and up to 50% discretionary rural rate relief with effect from 1st April 1998 for certain rural business. The Act provides that, to qualify for 50% mandatory relief, the rated hereditament must be within the boundaries of a qualifying rural settlement and the only hereditament in each of the following categories in the settlement;

Qualifying hereditaments	The Rateable Value must be not be greater than
Post Offices	£8,500 after 1 April 2010
General Stores	£8,500 after 1 April 2010
Rural food shops	£8,500 after 1 April 2010
Public Houses	£12,500 after 1 April 2010
Petrol Filling Stations	£12,500 after 1 April 2010

- 2.7 Discretionary – Section 47 of the Local Government Finance Act 1988 provides that an authority may, if it so wishes, grant up to 100% relief to any general store and/or post office that qualifies for mandatory relief. The authority may also grant up to 100% to any rural business, provided that:

- it is within the boundaries of a qualifying settlement;
- it has a rateable value of not more than £16,500 after 1 April 2010;
- it is used for purposes that are of benefit to the local community; and
- it is reasonable for the authority to make such a decision having regard to the interests of local Council tax payers.

It should be noted that discretionary relief under these provisions is not limited to any particular type of business.

- 2.8 The Department for Communities and Local Government has indicated that billing authorities should consider every case on its own merits. It is suggested that although blanket decisions by the authority may be ultra vires, in order to ensure a consistent approach, it is not unreasonable for the authority to provide internal guidance on the kind of business(es) to which it will normally grant relief under these provisions.
- 2.9 At its meeting on 4 February 1998, the Council's Policy and Resources Committee decided that for a business to be considered for discretionary rate relief under these provisions, the hereditament in question should:
- be used, in whole or part, as a general store or a post office, or both; and
 - be either the only general store or the only post office in the settlement.

3. Discretionary Relief – Legislative Background

- 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 Under s.69 of the Localism Act 2011, with effect from 1st April 2012 the discretionary relief provisions have been amended and added to by central government to allow authorities to provide assistance to businesses and organisations including:
- to be targeted to certain business ratepayers;
 - to encourage the building of business premises even though the developer may not be able to sell or let the premises immediately;
 - to alleviate the effects of the recession;
 - to encourage the use of retail premises which have been unoccupied for a period of time.
- 3.3 The range of bodies that are eligible for discretionary 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 will be obliged to make a written application to the Council for which forms are provided.
- 3.5 The Council has a duty to carefully consider every application on its merits, taking into account the contribution that the organisation makes to the amenities of the area. There is no statutory appeal process against any decision made by the Council. However, as with any decision of a public authority, decisions can be challenged by Judicial Review (see Chapter 15 below - Scheme of Delegation).
- 3.6 Granting of discretionary relief falls broadly into the following categories:
- a) Charities that already receive mandatory relief.
 - b) 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.
 - c) Premises occupied by organisations not established or conducted for profit and wholly or mainly used for purposes of recreation.
 - d) Rural rate relief – premises that already receive mandatory relief.
 - e) Rural rate relief – premises with a rateable value of less than £16,500 not receiving mandatory relief but of benefit to the local community.
 - f) Section 44A relief.
 - g) Hardship relief under s.49 of the LGFA 1988.
 - h) Granted under s.69 of the Localism Act 2011.
 - i) New Build Empty Property relief.
 - j) Retail relief.
 - k) Reoccupation relief.

3.7 The decision to grant or refuse relief is a matter purely for the Council. However, the general principles are a matter of concern to central government and in the case of i), j) and k) above, specific guidance and finance has been provided.

4. Charity Relief – Mandatory

- 4.1 Section 43 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. From 1st April 2008 Section 45A of the Local Government Finance Act 1988, as amended, allows for no charge to be made in respect of unoccupied premises where it appears that *when next in use* it will be wholly or mainly used for those purposes.
- 4.2 The legislation was amended by the Local Government Act 2003 to include Community Amateur Sports Clubs (CASC) registered with HMRC as a CASC.

Charity registration

- 4.3 Charities are defined by s.67 (10) of the Local Government Finance Act 1988 as being an institution or other organisation established for charitable purposes only or by persons administering a trust established for charitable purposes only.
- 4.4 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 Commission 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. 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 categories.
- 4.5 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 and 1974;
 - units of the Boy Scouts Association and Girl Guides Association; and
 - voluntary schools within the meaning of the Education Acts of 1944 and 1980.
- 4.6 The Council will consider charitable organisations, registered or not, for mandatory relief.

Use of premises – wholly or mainly

- 4.7 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 occasion, the Business Rates office has had to question the actual use of the premises.
- 4.8 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.
- 4.9 For the purposes of any of the reliefs in this policy, the Council defines wholly or mainly as the entire premises being used for 51% or more of the time or 51% or more of the premises being used all of the time or some combination of both that amounts to 51% or more in total.
- 4.10 In May 2013, three councils successfully defended appeals by the Public Safety Charitable Trust in a hearing heard by Justice Sales in the High Court of Justice in London regarding “wholly or mainly”. Justice Sales said *“it is reasonable to infer that parliament intended that substantial mandatory exemption from rules for a charity in occupation of a building should depend upon the charity actually making extensive use of the premises for charitable purposes (i.e. use of the building which is substantially and in real terms for the public benefit, so as to justify exemption from ordinary tax in the form of non-domestic rates) rather than leaving them mainly unused”*. This is an important judgement that helps councils defend decisions that premises are not being wholly or mainly used for charitable purposes.
- 4.11 The above judgement prompted the Charity Commission to issue a warning to charities.

Offices, administration and similar premises

- 4.12 Premises used for administration of the Charity include:
- Offices
 - Meeting Rooms
 - Conference Rooms

Charity shops

- 4.13 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.

4.14 In order to ascertain whether an organisation meets these requirements, inspections may be made by staff when an application is received.

5. Discretionary Relief

- 5.1 Section 47 of the Local Government Finance Act 1988 allows the authority to grant discretionary relief where the property is not an excepted one (see 5.3 below) 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.
- 5.2 A number of issues arise from the term 'not established or conducted for profit'. This requires the authority 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.
- 5.3 Relief cannot be granted to excepted properties, i.e. one where all or part of it is occupied by any of the following:
- a billing authority, such as Runnymede Borough Council, or
 - a precepting authority (County & Parish councils or a Police and Crime Commissioner), other than charter trustees, or
 - a functional body within the meaning of the Greater London Authority Act 1999.

Charities

- 5.4 Charities must meet the following criteria to qualify for 20% discretionary relief:
- The hereditament must be used wholly or mainly for the purpose of the charity.
 - The rateable value must be less than £50,000.
 - The annual turnover of the organisation must be less than £50,000.
 - There must be evidence in the Constitution or Articles of Association that the organisation is non-profit making.
 - Membership or access is open to all sections of the community. Membership fees should be set so as to be accessible to people on low incomes.
 - The facilities are made available to other sections of the community, e.g. schools.
 - The organisation provides training/education or coaching to its members and/or the local community.
 - There is suitable evidence of safeguarding and equality measures in place for its members or those using the facilities, e.g. for safeguarding children or vulnerable adults and an inclusion policy.
 - Consideration will be given to the income and expenditure accounts for as many financial years as deemed necessary and must be provided on request

or the application will be refused. Surpluses must be reinvested in the organisation and there must be no substantial reserves which would suggest that support is not necessary.

- Consideration will be given to all sources of income.
- If the organisation operates a bar, it will need to prove that its profits are used solely for the benefit of the organisation and its members.
- The organisation must be a local organisation. National charities, or charities that are affiliated to national charities, will not be considered for discretionary relief. Evidence will be required of any affiliations.
- Consideration will be given to the impact of the organisation on other local businesses.
- Consideration will be given to the use of the property and if it appears to be proportionate to the size of the property.

5.5 Evidence should be provided to support each criterion in the application. If the organisation is unable to meet any of the criteria it should clearly explain why.

5.6 The above criteria will be used to establish the level of discretionary relief awarded.

5.7 The following will also be taken into account:

- The existence of a licensed bar will not prevent the award of relief. However, the nature of the organisation and its aims will be taken into account.
- Any reserves held should not exceed 12 months operating costs.
- If reserves of greater amount are held for a planned project, details should be provided along with costing and timescales.
- The organisation must directly benefit Runnymede residents.

Charity shops/offices/premises

5.8 Applications from charities for shop premises or offices and from national or regional or administrative offices of national charities will not normally be considered for discretionary relief.

Leisure and sporting (recreation) clubs

5.9 Section 64 of the Local Government Act 2003 permits non-profit making leisure and sporting (recreation) clubs to apply to HMRC for Community Amateur Sporting Club (CASC) status, which would automatically entitle them to 80% relief. They will not normally be considered for any discretionary rate relief.

5.10 Alternatively, they can 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:

- the promotion of community participation in healthy recreation and by the provision of facilities for the playing of particular sports; and
- the advancement of the physical education of young people not undergoing formal education.

5.11 Where leisure and sporting clubs do not meet the CASC requirement, and are not registered charities, discretionary relief will be considered, on its merits, for up to 50 % provided:

- a) the property is not an excepted one;
- b) the premises are wholly or mainly used for the purposes of recreation and all or part of it is occupied for the purpose of the club;
- c) its activities enhance or supplement the Council's own services; and
- d) it mainly serves the local area.

Other organisations

5.12 Organisations already in receipt of mandatory relief (80%) will not normally be considered for any discretionary relief with the following exceptions:

- a) Official Scout and Guide organisations shall be granted discretionary rate relief provided they can demonstrate that their premises are used solely or mainly by them, or them and any other non-profit making service, for the benefit of the Community. This would be subject to certification at each renewal of the relief or upon request by the Council's authorised officer, whichever shall be the sooner.
- b) Community Associations.
- c) Village Halls.
- d) Day Centres for the elderly and other groups (together with their administrative offices where remote from the operational centre).

5.13 These organisations shall be granted discretionary relief from the remaining 20% rate liability.

5.14 Organisations already in receipt of grant aid from the Council will not generally be eligible for discretionary relief.

6. Section 44A – partly occupied premises rateable value apportionment

6.1 Premises that are partly occupied for a short time only can receive discretionary relief under Section 44A of the Local Government Finance Act 1988. This is a process where, if the local authority approves an application for relief under s.44A, the Valuation Office will be asked to apportion the rateable value of the property so that the occupier may benefit from any exemption for the unoccupied area and pay the full charge only for the occupied apportionment.

6.2 An application will be considered on its own merits and must meet the following criteria:

- The property must be partly occupied. Detailed plans must be provided to indicate the whole property and which part is occupied.
- The intended part occupation period will be for a “short time only”. A “short time only” is not defined in legislation. However, for the purposes of these guidelines, the Council considers this to mean a period of up to 12 months. Therefore, the nature of the business activity will be taken into account along with the estimated planned period of time and future intentions. In all cases an award will cease at the end of the financial year (although the Council can use its discretion to request a further certificate if the circumstances permit). Details should be provided of timescales.
- The part occupation must not be as a result of maintenance, renewal, reorganisation, repairs or seasonal shutdowns/holidays. In the main, s.44A relief should be for the phased occupation or vacating of premises. Details of the reason for part occupation must be provided.

6.3 The properties will be inspected by the Council.

6.4 Consideration will be given to other evidence that the business may provide to support its application.

6.5 Applications must be made in a timely manner. They will not be accepted for retrospective periods as the premises cannot be inspected to verify the validity of the application.

6.6 This is a discretionary provision and full rates will remain payable on a partly occupied property if the Council chooses not to exercise its power in this respect.

7. Discretionary Relief – Hardship

- 7.1 Where a ratepayer is suffering hardship or severe difficulties in paying their rates liability then relief can be granted under the provisions as laid down by Section 49 of the Local Government Finance Act 1988 if it is reasonable to do so having regard to the interests of the local Council Tax payers.
- 7.2 The business must be of importance and value to the local community and be suffering genuine hardship. The business should provide a statement of the business type, the impact on the local community if it were to close and evidence of local trade and support.
- 7.3 The business must provide local employment mainly to people who live in Runnymede. It should provide evidence of the number of employees, how many reside in Runnymede and the number of people affected and possible effect of relief being refused.
- 7.4 The nature of the hardship should be stated:
- The cause.
 - The expected duration.
 - Measures taken to alleviate/remedy the situation.
 - That the cause is not due to poor management, business planning or illegal activities.
 - Details of help sought from other sources.
 - Amount of additional alternative help already provided or reasons why refused.
- 7.5 The business must provide all documents and evidence, including copies of the most recent audited accounts and older, as required, and demonstrate genuine hardship.
- 7.6 Any award will be up to 100% and may be limited in duration.
- 7.7 Any award will be the exception rather than the rule.
- 7.8 Each case will be considered on its own merits.
- 7.9 A formal application from the ratepayer will be required in each case and any relief will be granted in line with State Aid requirements.

8. Discretionary Relief – Localism Act 2011

8.1 Section 69 of the Localism Act 2011 allows a local authority to grant discretionary relief in any circumstances where it feels fit having regard to the effect on the Council Tax payers of its area.

8.2 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.

8.3 Any ratepayer applying for discretionary rate relief under these provisions and who does not meet the criteria for existing relief (charities, not for profit making organisations or rural premises) must meet all of the following criteria and the amount of relief granted will be dependent on the following key factors:

- The ratepayer must not be entitled to mandatory rate relief (Charity or Rural Rate Relief);
- The ratepayer must not be an organisation that could receive relief as a non-profit making organisation or as a sports club or similar;
- The ratepayer must occupy the premises (no discretionary rate relief will be granted for unoccupied premises);
- The premises and organisation must be of *significant* benefit to residents of the borough;
- The premises and organisation must relieve the Council of providing similar facilities.

8.4 The ratepayer must also;

- Provide facilities to certain priority groups such as elderly, disabled, minority groups, disadvantaged groups; or
- Provide *significant* employment or employment opportunities to residents of the borough; or
- Provide the residents of the borough with such services, opportunities or facilities that cannot be obtained locally or are not provided locally by another organisation;
- 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
- The ratepayer must show that the activities of the organisation are consistent with the Council's priorities.

8.5 Where a ratepayer can demonstrate that all of the above criteria are met, the period of relief granted will be solely at the discretion of the Council and will generally only be for up to one year.

8.6 A formal application from the ratepayer will be required in each case and any relief will be granted in line with State Aid requirements.

9. Discretionary Relief – New Build Empty Property Relief

- 9.1 Central Government announced in December 2012 that it would exempt all newly built unoccupied commercial property completed between 1 October 2013 and 30 September 2016 from empty property rates for the first 18 months, up to the State Aid limit.
- 9.2 It will be for the Council to decide to grant relief under section 47 but Central Government will fully reimburse local authorities for the local share of the discretionary relief (using a grant under s31 of the Local Government Act 2003) based on outturn of relief granted in the circumstances specified. Through this mechanism, central government will guarantee to reimburse local within the rates retention system.
- 9.3 In order to receive the relief, the premises will be all unoccupied non-domestic properties that are wholly or mainly comprised of qualifying new structures.
- ‘Structures’ means:
- foundations; and/or
 - permanent walls; and/or
 - permanent roofs.
- The definition of ‘new’ means;
- completed less than 18 months previously; and
 - completed after 1st October 2013 and before 30th September 2016.
- 9.4 New structures are to be considered completed when the building or part of the building of which they form part is ready for occupation for the purpose it was constructed unless a completion notice has been served in respect of such a building or part of a building – in which case it would be the date specified in that notice.
- 9.5 The relief runs with the property rather than the owner so subsequent owners may also qualify.
- 9.6 In all cases the relief will be subject to State Aid requirements as mentioned later in this document.
- 9.7 In all cases, an inspection of the premises shall be made by an officer of the authority, prior to granting any relief.
- 9.8 The relief is designed to provide an incentive to owners, developers etc. to build new non-domestic premises without the fear of facing unoccupied property rate charges. Central Government is also prepared to finance the relief through the Business Rates Retention scheme. In view of this the Council will grant the relief in accordance with Central Government guidance for all qualifying new structures.

- 9.9 An application from the ratepayer will be required in each case and any relief will be granted in line with State Aid requirements.
- 9.10 This exemption is available for unoccupied new structures that were completed between 1st October 2013 and 30th September 2016 and will be granted for a period of 18 months to include existing empty property exempt periods.

EXAMPLE

A simple example is a new build office that is unoccupied for 18 months from the date it is completed. In such a circumstance the ratepayer would not be required to pay rates for the first 3 months under the 2008 Regulations and then would benefit from 15 months new build empty property relief provided through section 47 of the Local Government Finance Act 1988.

10. Discretionary Relief – Retail Relief

10.1 The Government announced in the December 2013 Autumn Statement in December 2013 that it would allow for a relief of up to £1,000 to all occupied retail properties with a rateable value of £50,000 or less in each of the years 2014/15 and 2015/16. In the December 2014 Autumn Statement the relief for 2015/16 was increased to £1,500.

10.2 Central government will fully reimburse local authorities for the local share of the discretionary relief (using a grant under section 31 of the Local Government Act 2003).

10.3 The Government expects local government to grant relief to qualifying ratepayers.

10.4 Properties that will benefit from the relief will be occupied properties with a rateable value of £50,000 or less that are wholly or mainly being used as:

- Shops;
- Restaurants;
- Cafes; and
- Drinking establishments

10.5 This policy will follow Government guidance that considers shops, restaurants, cafes and drinking establishments to mean:

i. Properties that are being used for the sale of goods to visiting members of the public:

- Shops (such as: florist, bakers, butchers, grocers, greengrocers, jewellers, stationers, off licence, chemists, newsagents, hardware stores, supermarkets, etc.)
- Charity shops
- Opticians
- Post offices
- Furnishing shops/ display rooms (such as: carpet shops, double glazing, garage doors)
- Car/caravan show rooms
- Second hand car lots
- Markets
- Petrol stations
- Garden centres
- Art galleries (where art is for sale/hire)

ii. Properties that are being used for the provision of the following services to visiting members of the public:

- Hair and beauty services (such as: hairdressers, nail bars, beauty salons, tanning shops, etc.)
- Shoe repairs/ key cutting
- Travel agents
- Ticket offices e.g. for theatre
- Dry cleaners
- Launderettes
- PC/TV/domestic appliance repair
- Funeral directors
- Photo processing
- DVD/video rentals
- Tool hire
- Car hire

iii. Properties that are being used for the sale of food and/or drink to visiting members of the public:

- Restaurants
- Takeaways
- Sandwich shops
- Coffee shops
- Pubs
- Bars

10.6 To qualify for the relief the property should be wholly or mainly being used as a shop, restaurant, cafe or drinking establishment. In a similar way to other reliefs (such as charity relief), this is a test on use rather than occupation. Therefore, properties which are occupied but not wholly or mainly used for the qualifying purpose will not qualify for the relief.

10.7 The list set out above is not intended to be exhaustive as it would be impossible to list the many and varied retail uses that exist. There will also be mixed uses. However, it will be used as a guide as to the types of uses that government considers for this purpose to be retail. Properties not listed above which are broadly similar in nature to those above will be considered for the relief. Conversely, properties that are not broadly similar in nature to those listed above would not be eligible for the relief.

10.8 The list below sets out the types of uses that government does not consider to be retail use for the purpose of this relief. Again, it is for local authorities to determine for themselves whether particular properties are broadly similar in nature to those below and, if so, to consider them not eligible for the relief under their local scheme.

i) Properties that are being used for the provision of the following services to visiting members of the public:

- Financial services (e.g. banks, building societies, cash points, bureau de change, payday lenders, betting shops, pawn brokers)
- Other services (e.g. estate agents, letting agents, employment agencies)
- Medical services (e.g. vets, dentists, doctors, osteopaths, chiropractors)
- Professional services (e.g. solicitors, accountants, insurance agents/financial advisers, tutors)
- Post office sorting office

ii. Properties that are not reasonably accessible to visiting members of the public

10.9 Central Government guidance gives a range of premises that may benefit from the relief and the Council will use this when deciding entitlement. It is acknowledged that this is guidance and each application will be looked at on its own merits.

10.10 The total amount of relief available for each eligible property for each of the years under this scheme is up to £1,000. The amounts will not vary with rateable value and there is no taper. There is no relief available under this scheme for properties with a rateable value of more than £50,000. The eligibility for the relief and the relief itself will be assessed and calculated on a daily basis for each day of occupation. It will be granted after the application of any other relief, which may be applicable and also be granted for all properties meeting the criteria.

10.11 Any amounts granted will be subject to State Aid requirements.

10.12 The relief is designed primarily to assist businesses during the recession. Central Government is prepared to finance the relief through the Business Rates Retention scheme. In view of this the Council will grant the relief in accordance with Central Government guidance for all qualifying premises.

10.13 An application from the ratepayer will be required in each case.

10.14 This relief will only be available during the financial years 2014/15 and 2015/16

10.15 As the grant of the relief is discretionary, authorities may choose not to grant it if it is considered inappropriate, for example, where granting the relief would be against the authority's wider objectives for the local area. On 6th March 2014, the Council's Corporate Management Committee agreed that a charity shop receiving 80% mandatory relief should not receive Retail Relief.

Discretionary Relief – Cash Dispensing Machine (ATM) Relief

10.16 The Government urged local authorities to consider using their Business Rates local discounts powers to aid access to free to use ATMs because of the difficulties of obtaining cash in certain localities. Authorities have been asked to consider using their powers to provide relief to these machines where there is a clear community benefit, such as where the providers commit to introduce extra machines or reduce charges on existing machines.

10.17 It is not believed that there is a problem in the borough of Runnymede. There is adequate supply of free to use ATMs in the urban areas of Runnymede. However, this may not be the case in some of the more rural parts of the borough and each case will be considered on its merits as it arises. Providers seeking relief will be asked to complete an application form and to provide as much information as the Council deems necessary to arrive at a decision. A check will be made on the Rating List for other ATMs in the surrounding area and a Council Officer may visit the premises to verify the information provided.

10.18 Relief will only be granted where the Council is convinced there is a compelling case for the award.

11. Discretionary Relief – Reoccupation Relief

11.1 Central Government has introduced a 50% discount from Non-Domestic Rates for new occupations of previously empty retail premises. The discount will last for 18 months and be available from 1st April 2014 until 31st March 2016.

11.2 The relief which is available from 1st April 2014 can be granted for all occupations of premises which meet the following criteria:

- the premises, when last in use were wholly or mainly used for retail purposes;
- the premises have been unoccupied for a period of 12 months or more immediately before their reoccupation;
- the premises become reoccupied between 1 April 2014 and 31 March 2016; and
- the premises are being used for any purpose (although it should be noted that the Government will only reimburse the Council for any relief granted so long as it is for any type of occupation except for those wholly or mainly being used as betting shops, payday loan shops, and pawn brokers).

11.3 There is no rateable value limit for the hereditament in respect of either the previous or reoccupied use and the amount of the relief is limited to 50% of the rate charge after taking into account all other mandatory and discretionary reliefs that may be available to the ratepayer.

11.4 The relief will run with the property rather than the ratepayer. So if premises are in receipt of the relief and a new ratepayer becomes liable for the property they will benefit from the remaining term of the relief.

11.5 The definition of retail premises is identical to that given within the retail relief provisions at paragraph 10.5 of this policy, with the exception of financial services and other services, as described in 10.8 above, which are included.

11.6 Central Government will fully reimburse local authorities for the local share of the discretionary relief (using a grant under section 31 of the Local Government Act 2003).

11.7 The Government expects local government to grant relief to qualifying ratepayers and any amounts granted will be subject to State Aid requirements.

11.8 The relief is designed primarily to assist businesses during the recession and particularly in this case, to encourage the re-occupation of vacant retail premises. Central Government is prepared to finance the relief through the Business Rates Retention scheme. In view of this the Council will grant the relief in accordance with Central Government guidance for all qualifying premises.

11.9 As the relief is discretionary. The Council may choose not to grant the relief if they consider it appropriate, for example, where granting the relief would go against the wider objectives for the local area or where it would not help a shopping area to survive.

11.10 An application from the ratepayer will be required in each case, including a signed De Minimis declaration. This relief is available for a maximum of 18 months as long as it is claimed prior to 31st March 2016.

12. Discretionary Transitional Relief

- 12.1 In the December 2014 Autumn Statement the Government announced that the existing transitional relief scheme will be extended for two years from 1st April 2015 for properties that have a rateable value up to and including £50,000. As a result of this measure, small properties (with a rateable value less than £18,000) that would otherwise face bill increases above 15% and medium sized properties (with a rateable value of £50,000 or less) that would otherwise face bill increases above 25% could benefit.
- 12.2 This measure will not affect those ratepayers currently being surcharged and whose scheme will end on 31st March 2015.
- 12.3 Local authorities may grant a relief under section 47 of the Local Government Finance Act 1988. It will be for individual local billing authorities to adopt a scheme and decide when to give this relief. The scheme will be delivered using Localism Act discounts.
- 12.4 There are currently 21 affected accounts in Runnymede, of which 10 are transmission masts and one is an RBC property. Granting additional relief for transmission masts owned by large companies is deemed unnecessary and the RBC property is an excepted property. The remaining properties all have rateable values of less than £12,000, will largely have increases under 15% and will qualify for additional Small Business Rates Relief from 1st April 2015 when the mandatory transitional relief scheme ends. Some of these properties are also receiving additional relief such as Retail Relief, which will continue. Therefore, no discretionary transitional relief scheme has been adopted by this Council.

13. Discretionary Relief – EU State Aid requirements

- 13.1 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.
- 13.2 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.
- 13.3 Relief will be State Aid compliant where it is provided in accordance with the De Minimis Regulations (1407/2013).^{*} 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).
- 13.4 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 DCLG for advice and then referred back to the Council for consideration.
- 13.5 In all cases, 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.

^{*} <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2013:352:0001:0008:EN:PDF>

14. Administration of Discretionary Relief

14.1 The following section outlines the procedures followed by officers in granting, amending or cancelling discretionary relief. This is essentially laid down by The Non-Domestic Rating (Discretionary Relief) Regulations 1989.

14.2 Discretionary rate relief must be applied for in writing by the ratepayer. Application forms (where applicable) are produced by the Council and issued to all ratepayers requesting the relief.

14.3 Organisations are required to provide a completed application form (as applicable) plus any such evidence, documents, accounts, financial statements etc. necessary to allow the Council to make a decision. Where insufficient information is provided, despite reminders, then no relief will be granted.

14.4 In all cases, the Council will notify the ratepayer of decisions made.

14.5 Where an application is successful, the following will be notified to them in writing:

- the amount of relief granted and the date from which it has been granted;
- the date on which any relief granted will end;
- 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 authority of any change in circumstances that may affect entitlement to relief.

14.6 Where relief is not granted then the following information will be provided, again in writing:

- an explanation of the decision within the context of the authority's statutory duty; and
- an explanation of the appeal rights (see below).

14.7 Relief is to be granted from the beginning of the financial year in which the decision is made. Since 1997 decisions can be made up to 6 months after the end of the financial year for which the application was made. Where the relief is only available for a limited period as defined by Central Government then it will only be granted for that period.

14.8 Discretionary relief shall be granted for the period until the end of the current rating list or until there is a material change in the organisation's circumstances or the use of the premises, whichever is the soonest.

14.9 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 – from the date of the increase in rate charge;
- where the amount is to increase for any other reason (other than a general termination of relief under Central Government guidelines)– takes 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 –
- from the date of the decrease in rate charge;
- where the amount is to be reduced for any other reason (other than a general termination of relief under Central Government guidelines) – takes effect at the expiry of a financial year, and so that at least one year’s notice is given

14.10 A decision may be revoked and the change will take effect at the expiry of a financial year (other than a general termination of relief under Central Government guidelines).

Appeal rights

14.11 Whilst there is no formal right of appeal except by judicial review, in the interests of natural justice applicants may seek a review of the decision from the Council (see Scheme of Delegation below).

15. Scheme of Delegation

- 15.1 Powers given to the authority for the granting, varying, reviewing and revocation of discretionary relief under the Local Government Finance Act 1988, the Local Government and Rating Act 1997, the Local Government Act 2003 and the Localism Act 2011 shall be delegated to the Revenues Manager or Business Rates Manager within Revenues Services.
- 15.2 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 Revenues Manager or Business Rates Manager.
- 15.3 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 brought before the relevant committee of the Council.
- 15.4 The amount of funding to be provided by the Council in respect of discretionary relief granted shall be determined by the Corporate Head of Resources and approved by Council in the normal budgeting process.
- 15.5 The Revenues Manager or Business Rates Manager may, at their discretion, make a determination to revoke the relief in accordance with s.47 (6) of the Local Government Finance Act 1988 if, during a period for which an organisation is in receipt of relief:
- i. there is a material change in an organisation's circumstance; or
 - ii. there is a material change in the use of the premises; or
 - iii. the organisation fails to provide relevant information regarding its current status.
- 15.6 Where the authority receives a request from the ratepayer for a review of the decision regarding the granting or refusal of discretionary relief or an amount of any discretionary relief or to revoke relief, the case will be reviewed by the Head of Revenue Services. Where the original decision is not revised, the ratepayer may then appeal to the Corporate Head of Resources whose decision will be final. In exceptional circumstances, the Corporate Head of Resources may refer the case to the Corporate Management Committee if it is believed that the case merits further consideration. The ratepayer shall be informed of the final outcome.

16. Cost of Mandatory and Discretionary Reliefs

16.1 With effect from 1st April 2013 funding for both mandatory and discretionary rate relief changed. The Business Rates pool operated by the Government largely paid for 80% of the cost prior to that date. Since then, 50% of the cost of relief under these provisions is now borne entirely by local Council Taxpayers and Business Rates payers.

- 50% is paid by central government,
- 40% is paid by Runnymede Borough Council, and
- 10% is paid by Surrey County Council

16.2 The exceptions to the above are New Property Relief, Retail Relief and Reoccupation Relief. As these are temporary measures only, the government is not changing the legislation around the reliefs available to properties. Instead the government will, in line with the eligibility criteria set out in these guidelines, reimburse local authorities that use their discretionary relief powers, introduced by the Localism Act (under section 47 of the Local Government Finance Act 1988), to grant relief. Central government will fully reimburse local authorities for the local share of the discretionary relief (using a grant under section 31 of the Local Government Act 2003).

17. Limitations for the award of relief

- 17.1 Except for mandatory relief, relief is not a matter of right. The Council is entitled through its policy to determine different levels of discretionary relief according to the nature and circumstances of individual organisations.
- 17.2 The Council will consider each case in accordance with the eligibility criteria set out in these guidelines. These guidelines are not restrictive and nothing in them shall be taken as restricting the Council's ability to depart from its general policy as to the granting of relief if it sees fit to do so and/or as circumstances dictate.
- 17.3 It should be noted that the Council's ability to grant rate relief may be limited by other factors, notably the budget available.