



National Non- Domestic Rates

Discretionary Rate Relief Policy

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1. Purpose

- 1.1 To set out the Council's policy for processing requests for Discretionary Rate Relief for Non Domestic Rates.

2. Charitable/ Not for Profit Discretionary Relief.

- 2.1 The legislation for Councils to grant discretionary rate relief to charities, certain not for profit or philanthropic bodies and community amateur sports clubs is set out in Section 47 of the Local Government Finance Act 1988 (LGFA).
- 2.2 To qualify for discretionary relief your organisation must :-
- be a charity and the property used wholly or mainly for a charitable purpose (whether of that charity or of that and other charities)
 - be a property used for recreational purposes which is occupied by a club, society or other organisation, not established or conducted for profit
 - be concerned with education, social welfare, science, literature or fine arts, or have objectives which are charitable or otherwise philanthropic or religious
 - be of primary benefit to the residents of Burnley
- 2.3 Each application for discretionary relief will be considered individually on its own merits.
- 2.4 Discretionary relief will not normally be considered for public sector or public sector type organisations such as government bodies / housing associations and the like.
- 2.5 Burnley Council will first determine entitlement to mandatory charitable relief under section 43(6) of the LGFA1988. This is awarded at a rate of

80% to charities or trustees of a charity in respect of occupied properties where the premises are wholly or mainly used for charitable purposes.

- 2.6 Discretionary relief can vary between 1% and 100% for any organisation that does not qualify for mandatory relief. For a recipient of mandatory relief, discretionary relief may be awarded up to a maximum value of 20%

Table 1: Guidance on rate relief for charities

Guidance on Rate Relief for Charitable and Non –Profit making organisations		
1.	100%	Relief (mandatory and/or discretionary) to be granted to organisations whose work is beneficial to the community at large, or who actively encourage membership from a full cross section of the community, or who provide facilities which directly or indirectly relieve the local authority of the need to do so.
2.	80%	Mandatory relief to be granted to organisations with charitable status but which do not meet the criteria set out in 1 above.
3.	80%	Discretionary relief to be granted to organisations that do not have charitable status but <ul style="list-style-type: none"> a) Actively encourage membership from particular groups in the community, for example young people, women, older age groups, disabled people, ethnic minorities etc. or b) Make facilities available to people or groups other than members, for example use by schools, casual public sessions etc.
4.	70%	Discretionary relief to be granted to qualifying organisations that do not have charitable status but provide training or education for members or conduct schemes for particular groups to develop their skills
5.	70%	Discretionary relief to be granted to qualifying organisations that do not have charitable status but whose main purpose is to provide sporting facilities of a physical nature excluding 'games room' type facilities, but which also have a social aspect with a licensed bar.

- 2.7 No relief will be granted to any organisation with membership rates are set at such a level to exclude the general community.

- 2.8 An application form must be completed for this relief and must be supported with a copy of the organisation's constitution and the most recent audited accounts and report.
- 2.9 The Council will award discretionary relief for a period of twelve months. Review forms will be issued prior to the end of this twelve month period should a further award be requested.
- 2.10 The decision to award discretionary charity and not for profit relief will be made by the Director of Resources.

3. Hardship Relief

- 3.1 Section 49 of the Local Government Finance Act 1988 provides the Council with the power to remit or reduce the payment of rates where it is satisfied that the ratepayer would sustain hardship if it did not do so, and where it is reasonable to do so having regard to the interests of Council Tax payers within the borough.
- 3.2 Each application for hardship relief will be considered individually on its own merits:
- When assessing whether the ratepayer would face hardship the Council will require a written request from the ratepayer to include the latest trading accounts and a projection of those accounts for a further two years. In the case of partnerships and sole traders the Council may also require the personal financial details of relevant individuals to assist with any decision.
 - The ratepayer must be able to demonstrate that he is offering a unique service to his locality, which would not be replaced were his business to close, and which is of specific benefit to Council Tax payers within the locality of the business.
 - Alternatively, the business must offer a specific service to vulnerable groups or provide significant employment throughout the borough as a whole, which is of significant benefit to Council Tax payers in the borough as a whole.
 - The award of relief must be capable of enabling the ratepayer to continue trading to the end of the financial year in which the relief is granted.

- 3.3 The decision to award hardship relief will be made by the Director of Resources.
- 3.4 Relief may be granted at an appropriate amount up to 100% of the full charge.
- 3.5 An application form must be completed for this relief.
- 3.6 The start date of the relief shall not be earlier than the start of the financial year in which the application was made. Relief shall be awarded to the end of the financial year in which the application was made, with a new application being required from the ratepayer in respect of any hardship relief requested for subsequent financial years.

4. Part Occupied Relief

- 4.1 Section 44a of the LGFA allows the Council to request that the Valuation Officer apportions the rateable value of a property between the parts that are occupied and those unoccupied if it appears to the authority that this situation will remain for a short period of time only.
- 4.2 The use of section 44a is a discretionary power conferred on the Council and does not alter the general rule that occupation of part of a property constitutes occupation of the whole of the property.
- 4.3 The application of section 44a is intended to apply to those properties where there are practical difficulties in either occupying the premises or vacating the premises. It is not intended that all properties which temporarily become partly unoccupied should have their liability reduced.
- 4.4 An application form must be completed for this relief.
- 4.5 An application must be made whilst the property is in a state of part-occupation, so that the Council can inspect it and observe the current situation. The Council will not normally consider retrospective applications.
- 4.6 The decision to award part occupied relief will be made by the Director of Resources.

5. Discretionary Localism Relief

- 5.1 The Council can give discretionary relief under section 47(5a) of the LGFA to any ratepayer it wishes provided that the ratepayer meets the test of it being right to award relief having regard to the interest of the authority's Council Tax payers.
- 5.2 An application form must be completed for this relief.
- 5.3 The decision to grant discretionary localism relief will be made by the Council's Director of Resources.
- 5.4 Any decision will consider the interest of the authority's Council Tax payers in relation to the cost and benefit to the Council and how such a decision will support the strategic objectives of the Council.

6. Additional and Temporary Reliefs granted under s47

- 6.1 S47 / Temporary Reliefs Section 47 of the Local Government Finance Act 1988 has been amended by the Localism Act 2011 to give Councils the power to give a discretionary discount on business rates.
- 6.2 The discount may be awarded to any property or business as determined by the Council. The discount can apply to an individual account or a group of accounts for a similar business type or facing a similar issue.
- 6.3 There is a financial implication to awarding discounts under Section 47 as such awards are locally funded, thereby having a direct impact on taxpayers of the Borough.
- 6.4 The Government has also determined that local authorities can use their discretionary powers under Section 47 to provide reliefs to support national initiatives to promote economic growth and provide additional support for businesses.
- 6.5 Reliefs granted under these national initiatives following will be reimbursed in full by Government by way of specific grants to Local Authorities.

- 6.6 Burnley Council will seek to support these initiatives where possible and will advise ratepayers of the qualifying criteria and how to apply
- 6.7 If criteria need to be set locally these will be agreed by Members and the details made available to ratepayers.

7. Appeals Process

- 7.1 As the reliefs outlined are discretionary awards there is no statutory right of appeal against any decisions that are made. An organisation can, however, appeal in writing to the Council within one month of the original decision to request a review.
- 7.2 Depending on the type of relief requested, the Council will deal with appeals by referral to a nominated reviewer as outlined in Table 2 below.
- 7.3 The reviewer will determine the appeal within 15 working days, and the outcome will be notified to the applicant in writing.
- 7.4 If an appeal is unsuccessful then judicial review is the only way in which a billing authority, under its power to award discretionary relief, may be challenged.

Table 2 - Decision making process – Discretionary Reliefs

Type of Discretionary Relief	Decision Maker	Reviewer in case of appeal
Charity/Not for profit discretionary relief	Director of Resources	Portfolio Holder for Resources
Hardship relief	Director of Resources	Portfolio Holder for Resources
Discretionary Localism relief	Director of Resources	Portfolio Holder for Resources
Part Occupied relief	Director of Resources	Portfolio Holder for Resources
Additional / Temporary reliefs	Revenues Manager	Head of Revenues and Benefits