

**Harlow Council
Policy for the granting of
Discretionary Non-Domestic Rate
Relief**

Version Control

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Contents

1.0	Purpose of the Policy.....	5
2.0	Mandatory Relief - Legislative Background	6
	Charity Relief.....	6
3.0	Discretionary Relief – Legislative Background	7
	Introduction.....	7
	The Council’s approach to granting Discretionary Relief.....	8
4.0	Effect on the Council’s Finances	9
5.0	Discretionary Relief – EU State Aid requirements.....	11
6.0	Administration of Discretionary Relief.....	12
	Applications and Evidence	12
	Granting of relief.....	12
	Variation of a decision	13
7.0	Scheme of Delegation	14
	Granting, Varying, Reviewing and Revocation of Relief.....	14
	Reviews.....	14
	Appeals.....	14
8.0	Reporting changes in circumstances.....	15
9.0	Fraud	15
	Appendix A	16
	Discretionary Relief – Mandatory Relief recipients.....	16
	General Explanation	17
	Charity registration	17
	Use of Premises – wholly or mainly used.....	18
	Offices, administration and similar premises.....	18
	Charity shops	18
	Charity Relief – Mandatory Relief recipients, the Council’s Policy for granting discretionary relief.	18
	Appendix B	20
	Discretionary Relief – Non-Profit Making Organisations including Recreation.....	20
	General explanation	21
	Definition of Recreation	22
	Access to clubs.....	22
	Provision of facilities.....	23
	Discretionary Relief - Non–Profit Organisations including Recreation – the Council’s Policy	23
	Appendix C	25
	Discretionary Relief – Localism Act 2011	25
	General explanation	26
	Discretionary Relief – Localism – the Council’s Policy	26
	Appendix D	28
	Local Newspaper Relief	28
	Eligibility criteria.....	29
	Local Newspapers.....	29
	Office Space	29
	Amount of Relief.....	29
	Local Newspaper Relief – the Council’s policy for granting discretionary relief.	29
	Appendix E	30
	Supporting Small Businesses Relief	30
	General Explanation	31
	Who is eligible for the relief and how much relief will be available?	31
	Recalculation of relief	32

Other Reliefs.....	32
Supporting Small Businesses Relief – the Council’s policy for granting discretionary relief.	33
Appendix F	33
Public House Relief	33
General Explanation	34
Eligibility criteria.....	34
Other Reliefs.....	35
Public House Relief – the Council’s policy for granting discretionary relief.	35
Appendix G.....	36
Discretionary Business Rate Relief Scheme	36
General Explanation	37
Consultation.....	38
State Aid	38
Decisions by the Council	38
Discretionary Business Rate Relief Scheme– the Council’s policy for granting discretionary relief.	38
Applications for relief under this scheme.....	38
Variation and amendment of relief under the scheme.....	39
Appendix H.....	41
Section 44a – Partly Occupied Hereditaments.....	41
General explanation	42
How will the relief be provided?	42
Section 44a Partly Occupied Hereditaments – the Council’s Policy	42
Appendix I	43
Section 49 – Hardship Relief.....	43
General explanation	44
Section 49 Hardship Relief – the Council’s Policy	44
Appendix J.....	45
Application Forms for Reliefs and Reductions	45

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 Harlow Council 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. 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 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 new reliefs, guidance has been issued by Central Government outlining actions expected to be taken by local authorities.
- 1.4 This document outlines the following areas:
 - Details of the criteria for receiving Discretionary Reliefs for all relevant areas;
 - The Council's policy for granting of all types of Discretionary Reliefs;
 - Guidance on granting and administering the reliefs and reductions;
 - European Union requirements including provisions for State Aid; and
 - The Council's Scheme of Delegation.
- 1.5 This document covers all aspects of discretionary rate relief (subject to changes in legislation). 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 recently been extended under the Local Government Act 2003 (effective from 1st April 2004) to registered Community Amateur Sports Clubs (CASCs).
- 2.2 The Council has discretion to grant relief of up to a further 20% for these cases under the discretionary provisions.

¹ S43 & S45 Local Government Finance Act 1988

² S47 & S48 Local Government Finance Act 1988

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 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.
- 3.5 The Council is obliged to consider carefully every application on its merits, taking into account the contribution that the organisation makes to the amenities of the Council’s area. There is no statutory appeal process against any decision made by the Council although as with any decision of a public authority, decisions can be reviewed by Judicial Review.
- 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 – Granted under the Localism Act 2011 provisions;
 - d. Local Newspaper Relief (from 1st April 2017 for a period of two years);
 - e. Local Public House Relief (from April 2017 for a one year period);
 - f. 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));
 - g. Discretionary Business Rates Relief Scheme (from 1st April 2017 for a period of up to four years);
 - h. S44a Part Occupied Premises Relief; and
 - i. S49 Hardship Relief.
- 3.7 The decision to grant or not to grant relief is a matter purely for the Council.

The Council's approach to granting Discretionary Relief

- 3.8 In deciding which organisations should receive discretionary Rate relief, the Council has taken into account the following factors and priorities:
- a. The policy should support business, charities, organisations and groups that help to retain services in the Harlow Council's area and not compete directly with existing businesses in an unfair manner;
 - b. Help and encourage business, charities, organisations, groups and communities to become self-reliant;
 - c. Awarding discretionary relief should not distort competition or significantly change the provision of services within Harlow;
 - d. Every business/ organisation should contribute something towards the provision of local services;
 - e. The Council will consider whether the applicant organisation is receiving any form of financial assistance from the Council, other organisations, private companies or commercial suppliers. Annual turnover, value of assets or unallocated reserves. Where an organisation has unallocated reserves greater in value than 12 months running costs, the organisation will be required to demonstrate the reasons for holding those reserves
 - f. Local organisations will be given priority over national organisations. The organisation will need to supply the Council with clear evidence of the amounts of monies raised and used / invested locally within Harlow. This will be particularly important where the organisation is national in nature.
 - g. To support appropriate organisations that deliver outcomes to the community which relate to the priorities of the Council. In particular, how the work of the organisation furthers the work of the Council to provide tangible benefits to the community;
 - h. The Council will not normally provide relief where it already provides core funding or receives services under a contract arrangement; 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 and in respect of the cost to local taxpayers.
- 3.9 Discretionary relief shall not be granted to any organisation that has a political affiliation.
- 3.10 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.

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 share namely 50% borne by Central Government, 40% by the Council and 10% by Essex County Council. This also applies where mandatory relief is granted.
- 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
	Localism	
C	Discretionary Relief granted to ratepayers generally and not covered by any other section	40% borne by the Council
	Local Newspaper Relief	
D	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	
E	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	
F	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	
G	Discretionary Business Rates Relief Scheme (from 1 st April 2017 for a period of up to four years)	Section 31 Grant up to a maximum level set by Central Government. Once the maximum has been reached any additional

Appendix	Relief Type	Granted after 1 st April 2013
		amount is borne 40% by the Council
	S44a Part Occupied Relief	
H	Discretionary relief where premises are part occupied and part unoccupied for a short term	40% borne by the Council
	S49 Hardship Relief	
I	Granting relief where the ratepayer is suffering hardship	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)³. 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 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.

³ <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 legislation⁴

Applications and Evidence

- 6.2 All reliefs must be applied for in writing by the ratepayer. Application forms are produced within the Council and issued to all ratepayers requesting the relief. The relevant application forms for all reliefs and reductions are shown within an Appendix to this policy.
- 6.3 Organisations are required to provide a completed application form plus any such evidence, documents, accounts, financial statements etc. necessary to allow the Council to make a decision. Where insufficient information is provided, then no relief will be granted. Normally 2 years audited accounts will usually be required to support any application.
- 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.

Granting of relief

- 6.5 In all cases, the Council will notify the ratepayer of decisions made within 28 days (or as soon as practicable) of any application being received provided all information requested has been supplied.
- 6.6 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.
- 6.7 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).
- 6.8 Discretionary 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.

⁴ The Non-Domestic Rating (Discretionary Relief) Regulations 1989

- 6.9 A decision to award discretionary relief and how much relief is given, is only applicable to the financial year for which the application is made.
- 6.10 A fresh application for discretionary relief will, if required by the Council, be necessary for each financial year.

Variation of a decision

- 6.11 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 by the Council, from the date to be decided by the Council;
 - Where the amount is to be reduced due to a reduction in the rate charge from the date of the decrease in rate charge; and
 - Where the amount is to be reduced for any other reason takes effect at the expiry of a financial year, and so that at least one year's notice is given
- 6.12 A decision may be revoked at any time 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 Council's scheme of delegation allows for the Revenues and Benefits Manager to award, revise or revoke any discretionary relief applications. However, any application which is considered to be of a significant nature, will be subject to consultation with the S151 Officer of the Council prior to final determination.
- 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 annually or 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.

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 Revenues and Benefits Manager. Where a decision is revised then the ratepayer shall be informed. If the original decision is upheld the case will be considered by the Head of Finance in consultation with the Cabinet Member for Resources. A written response to the appeal will be sent to the Ratepayer within 28 days of the decision, or as soon as practicable.

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 and in any event, not more than 21 days from the happening of the event. 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. 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 registered⁵ 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 institution⁶ 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 litigation⁷, 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 would consider charitable organisations, registered or not, for mandatory relief.

⁵ Registered with HMRC as a CASC

⁶ S67(10) Local Government Finance Act 1988

⁷ 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. It will be an essential part of the process of the application 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 could be equally considered for discretionary rate relief.

Offices, administration and similar premises

- A.10 Premises used for administration of the Charity including:
- Offices
 - Meeting Rooms
 - 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.

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

- A.13 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.14 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;
3. Where the organisation has a bar - the mere existence of a bar or retail outlet will not in itself be a reason for not granting relief, but the main purpose of the organisation will be examined and its ability to trade will be a consideration in determining and award granted; and
 4. 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.15 The Council is keen to support businesses that have a critical role to play in the local economy and the achievement of the Council's Regeneration Strategy.
- A.16 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 any major precepting authority, although the latter could be a minority tenant of such premises;
 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 Harlow 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. We will also require additional financial information including; 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.
- A.17 The Council wishes to support and enable appropriate businesses to start, develop and continue with their operations that deliver outcomes directly related to the Council's Regeneration Strategy. In the main this will be done through other means rather than granting discretionary relief. There may be occasions where applications are made for such relief or where a package of measures, including discretionary relief, are appropriate in supporting businesses. This would need to be in accordance with any limitations in respect of state aid.

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 legislation⁸ 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 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.⁹

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% mandatory 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:
- 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.
- 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.

⁸ S47 Local Government Finance Act 1988

Definition of Recreation

B.7 Recreation is clearly defined by the Sports Council as any of the following¹⁰

Aikido	Croquet	Kabaddi	Real Tennis	Tang Soo
American Football	Crossbow	Karate	Roller Hockey	Do
Angling	Curling	Kendo	Roller Skating	Tenpin
Archery	Cycling	Korfball	Rounders	Bowling
Arm Wrestling Association	Disability Sport	Lacrosse	Rowing	Trampolinin g
Football	Dragon Boat	Lawn Tennis	Rugby League	Triathlon
Athletics	Racing	Life Saving	Rugby Union	Tug of War
Australian Rules Football	Equestrian	Luge	Sailing	Unihoc
Badminton	Fencing	Modern Pentathlon	Sand/Land Yachting	Volleyball
Ballooning	Fives	Motor Cycling	Shinty	Water Skiing
Baseball	Flying Gaelic Football	Motor Sports	Shooting	Weightlifting
Basketball	Gliding	Mountaineering	Skateboarding	Wrestling
Baton Twirling	Golf	Movement, Dance, Exercise & Fitness	Skiing	Yoga
Biathlon	Gymnastics	Netball	Skipping	
Bicycle Polo	Handball	Orienteering	Snowboarding	
Billiards and Snooker	Hang/Para	Parachuting	Softball	
Bobsleigh	Gliding	Petanque	Sombo	
Boccia	Highland Games	Polo	Wrestling	
Bowls	Hockey	Pony Trekking	Squash	
Boxing	Horse Racing	Pool	Skater/Street Hockey	
Camogie	Hovering	Quoits	Sub-Aqua	
Canoeing	Hurling	Racketball	Surf Life	
Caving	Ice Hockey	Rackets	Saving	
Chinese Martial Arts	Ice Skating	Raquetball	Surfing	
Cricket	Jet Skiing	Rambling	Swimming & Diving	
	Ju Jitsu		Table Tennis	
	Judo		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,

¹⁰ Definition last reviewed by Sport England in 2002

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;
 - If covered by a membership scheme, membership numbers and the number and percentage of these members that are residents;
 - If the organisation has due regard to equality issues and if its facilities are used by all members of the community;
 - Profits and surpluses must be used to further the sporting objectives of the club/organisation and not distributed as a share or dividend amongst some or all members; and
 - A legal constitution must be in existence and applicants must demonstrate that they are operating in accordance with its requirements

- B.16 The Council will also require additional financial information including:
- Where the organisation has a bar - the mere existence of a bar or retail outlet will not in itself be a reason for not granting relief, but the main purpose of the organisation will be examined and its ability to trade will be a consideration in determining and award granted;
 - Details of any other business owned by the ratepayer will be considered. This will indicate if the owner could rely on the income of another branch of business. It will also indicate if the profits of one business could be invested in the applicant business to aid survival; 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 – Localism Act 2011

Discretionary Relief – Localism Act 2011

General explanation

- C.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.
- C.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

- C.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.
- C.4 Details of any other business owned by the ratepayer will be considered. This will indicate if the owner could rely on the income of another branch of business. It will also indicate if the profits of one business could be invested in the applicant business to aid survival.
- C.5 Any ratepayer applying for discretionary rate relief under these provisions and who does not meet the criteria for existing relief (charities or non-profit making organisations) 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 Relief);
 - b. The ratepayer **must not** be an organisation that could receive relief as a non-profit making organisation or as a sports club or similar;
 - c. The ratepayer **must** occupy the premises (no discretionary rate relief will be granted for unoccupied premises);
 - d. The premises and organisation **must** be of *significant* benefit to residents of Harlow;
 - e. The premises and organisation **must not** be in receipt of a Central Government fully funded discretionary relief scheme;
 - f. 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 Harlow; **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;
 - g. 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**

- h. The ratepayer **must** show that the activities of the organisation are consistent with the Council's core values and priorities.

- C.6 Where a ratepayer can demonstrate that **all** the above criteria are met, relief will be considered for initially a short period.

- C.7 A formal application from the ratepayer will be required in each case and any relief will be granted in line with State Aid requirements.

Appendix D

Local Newspaper Relief

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- D.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.
- D.2 The Council will be compensated by Central Government through a grant under section 31 of the Local Government Act 2003.

Eligibility criteria

- D.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

- D.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

- D.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

- D.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.

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

Appendix E

Supporting Small Businesses Relief

General Explanation

- E.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. Unfortunately, despite these changes, some small businesses may lose their entitlement to the relief due to increases in Rateable Value through the revaluation on 1st April 2017.
- E.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 rate relief may face large percentage increases in bills from 1 April 2017.
- E.3 In view of this, Central Government announced that a new scheme of relief would be made available to those ratepayers facing large increases as a result of the loss of small business 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.
- E.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?

- E.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 rate relief and, as a result, are facing large increases in their bills.
- E.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% 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**
 - b. a cash value of £600 per year (£50 per month).
- E.7 This cash minimum increase ensures that those ratepayers paying nothing or very small amounts in 2016/17 after small business rate relief are brought into paying something.
- E.8 In the first year of the scheme, this means all ratepayers losing some or all of their small business 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.

- E.9 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.
- E.10 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).
- E.11 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.
- E.12 The rules for state aid (as detailed in section 6 of this policy) shall apply when considering Supporting Small Businesses Relief.

Recalculation of relief

- E.13 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.
- E.14 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

- E.15 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 further under the Supporting Small Business scheme.
- E.16 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.

- E.17 The Council has decided to grant relief strictly in accordance with Central Government guidelines.

Appendix F

Public House Relief

General Explanation

- F.1 This is a temporary relief for 2017-18 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
- F.2 Central Government guidelines have been received and it has been established that any amount granted will be reimbursed by a section 31 grant.

Eligibility criteria

- F.3 The Council's policy will provide a relief of £1,000 relief for one year only (1st April 2017 to 31st March 2018) for all eligible public houses who have a rateable value of less than £100,000 on 1st April 2017.
- F.4 There is no definitive description of a traditional pub or public house in law which could be readily used by the Council to determine eligibility. The objective has been to adopt an approach that makes the design and eligibility of the scheme easy to implement in a clear and consistent way, is widely accepted by the industry and which is consistent with the Government's policy intention as set out in this section.
- F.5 The Government's policy intention is that eligible pubs should:
- be open to the general public
 - allow free entry other than when occasional entertainment is provided
 - allow drinking without requiring food to be consumed
 - permit drinks to be purchased at a bar.
- F.6 For these purposes, it should exclude:
- restaurants
 - cafes
 - nightclubs
 - hotels
 - snack bars
 - guesthouses
 - boarding houses
 - sporting venues
 - music venues
 - festival sites
 - theatres
 - museums
 - exhibition halls
 - concert halls
 - casinos

- F.7 The proposed exclusions in the list above is not intended to be exhaustive and it will be for the Council to determine those cases where eligibility is unclear..
- F.8 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

- F.9 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.

- F.10 The Council has decided to grant relief strictly in accordance with Central Government guidelines.

Appendix G

Discretionary Business Rate Relief Scheme

General Explanation

- G.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.
- G.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.
- G.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.
- G.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%
- G.5 Councils will be compensated for any relief granted under section 31 of the Local Government Act 2003. The Government has stated that any underspend can be 'vired' from one year to the next.
- G.6 A key criteria of reimbursement will be that all Billing Authorities will consult with major precepting authorities when formulating their schemes.
- G.7 The financial effects to the Council of the Discretionary Business Rates Relief Scheme are shown in the following table

Amount of discretionary fund awarded (£000s) – Harlow Council			
2017-18	2018-19	2019-20	2020-21
137	66	27	4

Consultation

- G.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.
- G.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.
- G.10 In the case of Harlow Council the major precepting authorities that have been consulted are:
- Essex County Council;
 - Essex Police and Crime Commissioner; and
 - Essex Fire and Rescue Service.

State Aid

- G.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 to ensure that relief can be given to the most deserving ratepayers.

Decisions by the Council

- G.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.
- G.13 It should be noted that whilst the funding from Central Government for Discretionary Business Rate Relief Scheme is limited, the decision of the Council whether to award any relief under this scheme **will not take account** of the level of any funding.

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

Applications for relief under this scheme

- G.14 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.

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

- G.15 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. The Council’s qualifying conditions are:
 - i. To qualify for relief the business premises must have a rateable value of more than £20,000 and less than £150,000.
 - ii. Relief will only be granted where the ratepayer is in occupation of the premises on the 31 March 2017 and 1 April 2017.
 - iii. The calculated rates payable at the 31 March 2017 will be compared with the calculated rates payable at 1 April 2017 and where this calculation results in an increase of more than 5%, relief will be awarded.
 - iv. Additional relief will not be awarded where the rateable value increases after the 1 April 2017.
 - v. The scheme will cover a period of four years, and relief will be awarded on the following basis
 - year 1- 5% relief
 - year 2 – 2.5% relief
 - year 3 – 1% relief
 - year 4 – application basis only.
 - vi. Relief is being targeted to local businesses, and national and large chain businesses will be excluded*.

**A group of outlets owned by one company and spread across various locations nationwide or worldwide, with similar appearance and providing similar services or goods across the outlets.*

The revaluation relief funding will be applied after all other reliefs have been allocated.

- d. Relief will only be given to premises which are liable for occupied rates. No relief within this scheme will be granted for unoccupied premises;
- e. 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.
- f. 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;
- g. Relief will be targeted to local businesses and not those business that are national or multi-national in nature. Local businesses are, for the purposes of this scheme, those which have premises mainly in the Councils area;
- h. Relief may be awarded for more than one premises as long as **all** other criteria are met;
- i. 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;
- j. Relief will **not** be awarded for hereditaments who are excepted hereditaments or educational establishments

Applications for relief under this scheme

G.16 The Council is keen to identify those ratepayers who may qualify for relief, and will simplify the application process, but will expect ratepayers to provide such information as required by the Council to support their application.

Amount of Relief

- G.17 The scheme will cover a period of four years, and relief will be awarded on the following basis
- Year 1- 5% relief
 - Year 2 – 2.5% relief
 - Year 3 – 1% relief
 - Year 4 – application basis only.

Variation and amendment of relief under the scheme

- G.18 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. In effect relief is calculated on a daily basis in line with the ratepayer's liability on that day. This will include, for example, a backdated change to the rateable value of the hereditament. This change of circumstances could arise during the year in question or during a later year.
- G.19 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.
- G.20 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 H

Section 44a – Partly Occupied Hereditaments

Section 44a – Partly Occupied Hereditaments

General explanation

- H.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?

- H.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; and
 - e. Full contact details of the ratepayer and any agent they have representing them

Section 44a Partly Occupied Hereditaments – the Council's Policy

- H.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 Revenues Manager will consider applications.
- H.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;
- H.5 The Council will grant any relief based on the Valuation Office Agency's certificate (as required by the legislation). The Revenues and Benefits Manager will determine the period of any relief and it will be for a short term only. **It should be noted that Applications will not be considered for retrospective periods after which full occupation has taken place.**

Appendix I

Section 49 – Hardship Relief

Section 49 – Hardship Relief

General explanation

- I.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

- I.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 Revenues and Benefits Manager will consider applications.
- I.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;
 - 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;
 - The business provides employment to local residents in an area where employment opportunities are limited;
 - Independent advice given by banks or financial advisors should be sought to demonstrate the future viability of the business;
 - 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.

Appendix J

Application Forms for Reliefs and Reductions

J.1 These can be found at <http://infonet.harlow.gov.uk/business-rates>