

# **National Non Domestic Rates (NNDR)**

## **Discretionary Rate Relief Policy-**

### **Rate Relief for Businesses**

**September 2016**

## **Introduction**

As part of its role in the administration of National Non Domestic Rates (NNDR), the Council has several areas where it can exercise its discretion to provide reductions to the amounts of business rates that are due to be paid (i.e. Discretionary Rate Relief).

Changes to local government finance now mean that the income from business rates more directly impacts on the Council's financial position. As part of the central government funding process for local authorities and the Councils involvement in the Stoke-on-Trent and Staffordshire business rates pooling arrangements that have been in place since 1 April 2013, the Council retains approximately 28% of any business rates income received that is in excess of the baseline established by Central Government, conversely, the Council's income is reduced by approximately 28% for any reductions in business rates awarded such as discretionary rate relief.

The granting of any relief may therefore impact upon the provision of other services and is accordingly assessed against its affordability to the Council and how the business contributes to the Council's vision and priorities as detailed in its Council Plan.

The Local Government Finance Act 1988 provides for Discretionary relief to be available in five areas. Discretionary Relief can be awarded as a Top Up to Mandatory Relief or in its own right.

The five areas are:

1. Discretionary rate Relief (Charities or Non Profit Organisations)
2. Discretionary Rural Rate Relief
3. Partly Occupied Properties Relief
4. Hardship Relief
5. Relief under the Localism Act 2011

## **Objectives**

The purpose of this Policy is to specify how the Council will operate its discretionary powers under the Local Government Finance Act 1988 and to indicate the factors it will consider when deciding if relief can be awarded.

The policy is intended to provide a simple transparent process that aligns awards of discretionary rate relief with the council's corporate priorities.

Each case will be treated strictly on its merits and all businesses will be treated fairly and equally when the scheme is administered

## **Legislation**

### **1. Discretionary Rate Relief (Charities and Non Profit Organisations)**

Section 47 of the Local Government Finance Act 1988 provides local authorities with a discretionary power to award rates relief to organisations that are liable to pay non domestic rates.

In order that an application may be considered the following conditions must be met:

- a. The ratepayer is a charity or trustees for a charity and the hereditament is used wholly or mainly for charitable purposes; or,
- b. The hereditament is not an excepted hereditament (defined by section 47 of the Local Government Finance Act 1988 as a hereditament where all or part of it is occupied (other than as a trustee) by a billing authority, or a precepting authority (other than the Receiver for the Metropolitan Police or the charter trustees or a functional body within the meaning of the Greater London Authority Act 1999) 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 otherwise philanthropic or religious or concerned with education social welfare, science, literature or the fine arts; or,
- c. The hereditament is not an excepted hereditament and it is used wholly or mainly for the 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.

## **2. Discretionary Rural Rate Relief**

Section 47 of the Local Government Finance Act 1988 allows local authorities discretionary power to award up to 50% discretionary relief in respect of any property which qualifies for Mandatory Rural Settlement Relief.

In order to apply the following criteria must be met:

- a. The property must be located in a qualifying Rural Settlement;
- b. The Rateable Value of the property must not exceed £16,500 at the start of the relevant rating year;
- c. The property is occupied by a business that benefits the local community; and,
- d. It is reasonable for the Council to grant relief having regard to the interests of the Council Tax payers of the Borough

## **3. Partly Occupied Properties Relief**

Section 44a of the Local Government Finance Act 1988 allows local authorities to grant relief on a hereditament that is partly unoccupied or not fully occupied as long as the situation exists for a short time only. Each case will be considered on its merits.

Granting of this relief is entirely under the discretion of the Borough Council and will only be granted if it is reasonable for the Council to grant relief having regard to the interests of the Council Tax payers of the Borough

## **4. Hardship Relief**

Section 49 of the Local Government Finance Act 1988 allows local authorities power to reduce or remit the amount a person is liable to pay where it is satisfied that:

- a. the ratepayer would sustain hardship if the authority did not do so; and,

- b. it is reasonable for the authority to do so having regard to the interests of the Council Tax payers of the borough.

## **5. Relief under the Localism Act**

The Localism Act 2011 allows local authorities to grant local business rates discounts.

### **Amount of Relief**

The amount of relief available will be determined against the respective criteria and the supporting information contained within the application. The Council, like all other authorities, only has limited resources and government support in the form of grant funding is reducing year on year.

The amount of any award is at the discretion of the Council but is subject to limits to remain affordable to the Council and to avoid unfair competition.

Relief is limited in accordance with European Union competition rules and in particular State Aid. European Union competition rules generally prohibit Government subsidies to businesses subject to a de-minimis level. This presently amounts to 200,000 Euros or £158,000 over a three year period. Rate relief shall not be awarded in any circumstances where it appears that an award will result in the ratepayer receiving state aid that is above the current de-minimis level.

Discretionary Rate Relief will be awarded after taking in to consideration all other reliefs an organisation currently receives or may qualify for.

The relief will be based upon the details as contained in the application.

All awards will be made for a set period only, but subject to annual determination/confirmation in accordance with the Council's budget determination. Continuation of relief will be subject to reapplication.

### **Applications**

Applications forms for Discretionary relief are available from the Business Rates team or can be downloaded from the Council's website. All other applications should be made in writing to the Council.

Your application must illustrate a complete picture of the nature of your business and in particular, the benefit it has on the local community.

Evidence required will include:

- a. The Business Case for the proposal and why Business Rates relief is required.
- b. Details of other funding streams explored including any outstanding decisions.
- c. A statement of finances, showing income and expenditure or annual accounts, if easier.

The form must be completed by the ratepayer or a person authorised to sign on behalf of the ratepayer.

The Council will have the right to request any reasonable evidence in support of the application, and to verify the information by contacting third parties and any reference as included in the application.

All information supplied will be dealt with in the strictest confidence.

### **Award Criteria**

The Criteria to be used on deciding whether or not to grant relief are based on assessing how the organisations work helps to achieve the Council's priorities.

Considerations will include:

- Access and Equal Opportunity – Is membership available to all sections of the community? (some restrictions for ability in sport may be considered if appropriate).
- Beneficiaries of services or facilities – Does the organisation provide training or education to its members? Are there schemes for particular groups of residents (eg young people, the disabled, retired people) to develop skills?
- Affiliation to local or national organisations – The organisation should be actively involved in the development of their local interests.
- Contribution to the area and benefits to Newcastle-under-Lyme Residents – Applicants must show that the benefits, services or facilities that they provide mainly benefit residents of the Newcastle-under-Lyme area.
- Finance – Copies of the organisations accounts for the last 2 years should be provided to assist the Council to assess the ability of the organisation to meet the costs of the rates in the absence of additional rate relief. Any funding received by the organisation from the Borough Council or other external bodies should be clearly stated in the application.
- Competition – Could the award of a discount have an anti-competitive effect on other businesses in the borough? This could happen if there are other businesses in the area which provide the same or similar services or facilities.

### **Payment of Relief**

Relief granted is in the form of a reduction to Non Domestic Rate liability. The relief will be credited direct to the organisation's Non Domestic Rate account and applied in accordance with the payment.

The applicant must inform the Council of any change in circumstances that affect the award of relief in particular of any further assistance given that impacts upon the financial standing of the company or eligibility for financial assistance including State aid.

The Council will recover all overpayments of Discretionary Rate Relief through the organisation's Non Domestic Rate account.

Any business or company that ceases trading or moves outside the area will become liable for the full rates payable from the date of vacation.

### **Notifications**

The Council will inform the organisation applying in writing of the outcome of their application for Discretionary Rate Relief.

Where the application is not successful, the notification will provide full reasons why we have decided not to award Discretionary Rate Relief and details of the applicant's right to ask us to look at the decision again.

Where the application is successful, the notification will include the following information:-

- The period of the award
- The percentage of the rate liability awarded for that period.
- The amount of Rate Relief to be awarded for the period.
- An amended Non Domestic Rate Demand.
- The right to ask us to look again at the decision.

### **Right of Appeal**

The amount of any award is at the discretion of the Council and the local authority may only grant relief if it would be reasonable to do so having regard to the interests of council tax payers in its area

No formal right of appeal therefore exists however an applicant may put in a request for the decision to be reviewed.

Any request for such a review must be in writing, detailing the reasons why the decision should be reviewed, and must be received within one calendar month of the above notification.

The Executive Director (Resources and Support Services) alongside the Portfolio holder for Finance, ICT and Customer will review all the evidence held and will make a decision within 21 days of referral or as soon as practicable thereafter.

### **Fraud**

The Council is committed to the fight against fraud in all its forms. An organisation who tries to fraudulently apply for Discretionary Rate Relief by falsely declaring their circumstances or providing a false statement or evidence in support of their application, may have committed an offence under the Theft Act 1968. Where the Council suspects that such a fraud may have occurred, the matter will be investigated as appropriate and this may lead to criminal proceedings being instigated.

### **Publicity**

The Council will include information about all forms of Discretionary Rate Relief within its Non Domestic Rate Demands and on the Council's website. A copy of this policy will be made available for inspection.

### **Review**

This policy will be reviewed periodically, taking into account Council policies and priorities and any changes in legislation.