

National Non Domestic Rates (NNDR)

Discretionary Rate Relief Policy

Rate Relief for Businesses



August 2014

1. Introduction

Local Authorities have the power to grant discretionary rate relief to organisations that meet certain criteria.

This traditionally related to charitable bodies, community amateur sports clubs, not for profit organisations together with relief for rural businesses.

Discretionary relief is normally awarded as a top up to mandatory relief or can be awarded in its own right.

In accordance with the Localism Act 2011, discretionary relief is now also available to any organisation (all businesses), subject to State Aid rules and the assistance providing benefit to the council tax payers in its area.

Business Rates now form part of the core funding of the Council and any relief granted reduces the income of the Council and impacts upon other service provision. The granting of any relief is therefore assessed against how the business contributes to the Council's objectives as detailed in its Corporate Plan.

The Council is committed to encouraging business growth through additional employment opportunities for its residents and attracting new businesses into the Stafford Borough Area and this growth criterion will be the key factor in assessing applications.

2. Legislative Framework

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.

Section 69 amends section 47 of the Local Government Finance Act 1988 to replace the limited circumstances in which local authorities can currently give discretionary relief with a power to grant relief in any circumstances. This is subject to the condition that, except in the limited circumstances specified, 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.

3. Purpose and 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 customers will be treated fairly and equally when the scheme is administered.

4. Award Criteria

The Council's Corporate Plan outlines the corporate priorities and the priority promises for this authority. In determining whether any relief is in the best interests of tax payers, the Council will make specific reference to the priorities and actions contained within the plan.

Particular reference is made to the prosperity priorities and action P1 whereby the Council will:

Work with relevant business support organisations to generate business growth.

Business growth in this context is considered to be:

- The establishment of a new business or company within the Stafford Borough Area, including through inward investment;
- The expansion of an existing business through new capital investment and/or employment;
- The creation of new or additional employment opportunities for the residents of Stafford Borough Council;
- The relocation of an existing business to larger premises within the borough, particularly if it is occupying newly constructed premises that result in business rate uplift.

In considering rate relief, the Council will have due regard to the impact on the local community as well as the impact on all of its tax payers.

The provision of rate relief is one of short term assistance to a company to enable sustainable economic growth to take place and the ratepayer must demonstrate that any business operation is financially viable in the medium and long term.

The relief applies to sustainable business growth and should the business cease trading or move out of the area within five years of the relief being paid the amount of assistance granted will be required to be repaid to Stafford Borough Council.

The Council in considering relief will also have due regard to the impact of the Business on the other priorities of the Council notably:

- Clean, green and safe; and
- Health and well being.

Applicants should ensure that they also meet the Council's requirements in terms of clean, green and safe and health and well being priorities and operate in an ethical, sustainable and environmentally friendly manner at all times.

5. Amount of Relief

The amount of relief will be determined against the criteria as outlined above and the supporting information contained within the application. The Council like all other authorities only has limited resources, with government support in the form of grant funding expected to reduce on a year on year basis for the foreseeable future. The Council will set a budget each year for Rate Relief and in accordance with council rules can only be exceeded with permission from the full Council.

The amount of any award is at the discretion of the Council but is subject to limits 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 into consideration all other reliefs an organisation currently receives or may qualify for.

Assistance will be in the form of a reduction in rates payable based upon occupation of a premises and will be limited to 50% of business rates growth (Business rates growth for this purpose relates to the rates payable for a business moving into the area or the difference in rates payable between the "new" premise and the previous occupation for businesses expanding or moving within the area).

The relief will be based upon the details as contained in the application unless the actual rates liability for the occupied property is lower than the application – in which case the lower liability will apply.

All awards will be made for a set period only, but subject to annual determination/confirmation in accordance with the Councils budget determination.

Relief as stated previously is of a short term/transition nature and will normally be limited to a maximum of 24 months.

Continuation of relief will be subject to reapplication.

6. Applications for Discretionary Rate Relief

Applications forms can be downloaded from the Council's website.

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

Evidence required will include:

- The business case for the proposal and why business rates relief is required;
- Other funding streams explored including any outstanding decisions;
- A copy of the last two years' audited accounts (if the organisation is a new organisation and audited accounts are not available, the organisation should provide a statement on their finances, showing their income and expenditure).

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

Please note an application will not be considered if the ratepayer is in arrears in relation to any of its businesses within the Stafford Borough area.

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.

7. Payment of Relief for Businesses

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 affects 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 rates account.

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

8. 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 the award of discretionary rate relief has been refused, 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.

9. 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 writing 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.

This officer will review all the evidence held and will make a decision within 14 days of referral or as soon as practicable thereafter.

10. 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.

11. Publicity

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

12. Review

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