

North Somerset Council

Discretionary Rate Relief Policy

Operational from 1 April 2016

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1. Introduction and Scope

As part of its role in the administration of National Non Domestic Rates (NNDR) (more commonly referred to as business rates), 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.

Local Government Rates Retention means that the income from business rates directly impacts on the Council's financial position. As part of the central government funding process for local authorities, councils currently retain 49% of all business rates income collected. In the Chancellor's 2015 Autumn Statement, proposals were set out which will increase the locally retained share to 100% by 2020 which effectively doubles the cost of any relief to be funded by the council.

This policy document outlines the areas of local discretion and the Council's approach to the various discounts. This approach is mindful of the impact on both the Council's wider financial position, impact on council tax payers, and on the organisations and businesses that may apply for discounts in relation to their role in supporting North Somerset residents. It has been designed to reflect and support the council's "prosperity and opportunity" key outcome which is underpinned by four ambitions; to:

- i. Drive growth in the North Somerset economy and local jobs
- ii. Ensure that all our Town Centres are thriving
- iii. Enable young people to fulfil their potential
- iv. Ensure that all our communities share in prosperity and employment growth.

2. Discretionary Rate Relief Scheme

Ratepayers are entitled to an 80% reduction known as 'mandatory relief' if they are one of these occupiers of non-domestic properties:

- a charity or trustee of a charity whose property is used wholly or mainly for charitable purposes
- an organisation which is not a registered charity but has charitable objectives
- a charity whose property is used wholly or mainly for the sale of goods donated to the charity with the proceeds, after deductions for expenses, applied for the purposes of the charity.

In these cases, the organisation will pay 20% of their total business rates bill.

The Local Government Finance Act 1988 also requires the Council to maintain a Discretionary Rate Relief Scheme to award business rates relief to certain organisations which operate within specified criteria. In considering any application for discretionary relief, criteria need to be set that enables an assessment to be made of the appropriateness and validity of the application.

The Discretionary Rate Relief Policy has been formulated to:

- Support organisations that add value to the area

- Provide support to new organisations providing economic and/or social benefits to the residents of North Somerset
- Demonstrate that any relief is in the best interests of the taxpayers of North Somerset, as the Council must bear a percentage of the cost of any relief granted.

The policy is underpinned by the following criteria:

- All businesses should contribute an element of their rates bill in the same way that council tax payers are required to contribute at least 25%.
- Reliefs are awarded as an incentive to encourage new businesses to grow, or existing businesses to retain a presence in North Somerset.
- Awards will be time limited (for no longer than 3 years) to provide short term support rather than be seen as a permanent source of funding.
- Awards will be dependent on the overall financial position of applicants.
- Annual awards exceeding £5,000 will require a Service Level Agreement (SLA) demonstrating local outcomes.

The policy covers four types of application:

- (i) applications from individual businesses;
- (ii) applications from not-for-profit organisations who do not qualify for mandatory relief;
- (iii) applications on grounds of hardship;
- (iv) applications in respect of properties in rural settlements.

The criteria to be used under these four types of application are set out below:

2.1 Applications from individual businesses

Section 69 of The Localism Act 2011 amends Section 47 of the Local Government Finance Act 1988 and allows the Council to grant locally determined business rate discounts (in addition to the already available discretionary rate reliefs).

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 economic growth priorities. There may be occasions where a package of measures, including discretionary relief, are appropriate in supporting businesses. Such support would need to be in accordance with any limitations in respect of state aid (refer Section 5 of the policy).

When deciding whether to award a local business rates discount, the principle consideration will be that in granting any discount there should be a resultant substantial, positive impact for residents and taxpayers in North Somerset, as the Council must partly bear the cost of any relief granted.

The following criteria will also be taken into account when considering applications:

- Consideration of whether there are other businesses in the area which provide the same or similar services or facilities and whether the award could have an anti-competitive effect on other businesses in North Somerset.

- Consideration of the wider Somerset business Rates Pool for which North Somerset is a member authority.
- Consideration of the City Region Deal Business Rates Pool for those rate payers located within J21 Enterprise Area.
- To develop North Somerset's workforce in each of the key sectors identified in the council's economic strategy or similar document, to promote wealth and sustainability in the local economy.

The evaluation of any discretionary relief to be granted would need to compare the outcomes that the applicant sets out as being delivered, or to be delivered, and the loss of income to the council that would result from the relief. There may be specific circumstances where time-limited support would be appropriate for example to assist a business through temporary financial hardship or planned expansion of operations.

2.2 Applications from not-for-profit organisations who do not qualify for mandatory relief

The Regulations allow the council to award discretionary relief to not-for-profit organisations between 0% and 100%, however following the principle that all ratepayers should contribute to their rates bill, the effective maximum award in North Somerset has been set at **80%** to mirror the mandatory relief limits. In effect, we would expect every organisation to contribute at least **20%** of their rates bill, (regardless of circumstances), in the same way that we expect every resident to contribute something towards their Council Tax.

In awarding discretionary relief, priority will be given to those organisations that provide greatest value to the community as well as considering overall affordability in terms of loss of income to the council.

The Council will consider applications for discretionary rate relief from not-for-profit organisations on their own merits on a case by case basis. Applications will be considered by the Head of Support Services Partnership or his nominated representative and will follow the council's set decision making process.

In determining the application, the criteria as set out in Appendix 1 will be taken in to consideration.

2.3. Applications for properties in Rural Settlements

This relates to food shops, general stores, public houses, petrol filling stations and similar properties where there is a direct benefit to the community and where without the relief there would be a loss of a sole facility to the detriment of the local area. The criteria used will be the same as set out in **Appendix 1**.

The definition of rural settlement is one that is:

- Wholly or partly within the authority's area

- Appears to the authority to have had a population of not more than 3,000 on the last 31 December before the beginning of the chargeable year in question, and
- In that financial year is wholly or partly within an area designated by the Secretary of State by order as a rural area for these purposes.

3. Local Business Rates Discount- wholly funded by Central Government

In addition to the local business rates discount or relief funded locally, there are areas of relief that, if awarded, are fully funded by central government.

Since they are fully funded by government they will not be subject to the same assessment criteria, but have been included in **Appendix 2** for completeness.

4. Award periods

All areas of discretionary relief will normally be granted for a single financial year and in any event not for longer than three years subject to an annual review process. The Council reserves the right to review the award should the circumstances of the organisation change during the period of the award.

5. State Aid

State Aid refers to forms of assistance given from a public body, or publicly-funded body, which has the potential to distort competition and affect trade between member states of the European Union.

European Union state aid rules generally prohibit government subsidies to businesses. Relief from taxes, including non-domestic rates, can in some cases constitute state aid.

However, there is a general exception from the state aid rules, where the aid is below a “de minimis” level (see Comm Reg 69/2001). This is currently €200,000 to any one business over any three year period.

The Council will be mindful of these rules and will ensure compliance with the legal requirements and any permitted exemptions. Each case will be considered based on the organisation’s individual circumstances in full consideration of the state aid rules.

6. Policy Review

The Head of Support Services will submit a report on a six monthly basis to the Head of Finance & Property summarising the position on applications received, granted and not granted.

This policy will be reviewed on an annual basis or sooner if there is a change in legislation that would affect its operation.

Appendix 1. Criteria and process for considering applications

In evaluating whether discretionary relief should be given a two-stage process will be followed.

The following criteria will be used to assess whether the application meets the conditions to be a valid application for discretionary relief:

- i. If the organisation is a national organisation discretionary relief will not be given unless local outcomes are to be demonstrated through the activities of the charity or organisation within North Somerset.
- ii. In the case of clubs etc. membership must be non-discriminatory and based on the opportunity for all members of the public to contribute to or benefit from the activities of the club. Limits to membership should not generally be based on nomination or some form of pre-qualification.
- iii. The ratepayer must occupy the premises.
- iv. Relief cannot be granted in respect of premises that are occupied by the Council or any Town and Parish Council, although the latter could be a minority tenant of such premises.
- v. The overall financial position of the organisation justifies its financial need for relief taking into account its overall financial position, the percentage level of activity and funding for the organisation available by commercial means e.g. bar profits, sales of merchandise, trading arms, charity shops. Funding from other organisations and ability to claim other reliefs will also be taken into account.

For those applications that are regarded as valid then discretionary business rate relief will be granted on the basis that the organisation can demonstrate that it delivers:-

- vi. Quantifiable outcomes for the local community that outweigh the cost of the discretionary relief applied for.
- vii. In the case of rural rate relief – significant benefit to that rural community.

And at least one of the following applies:-

viii. The organisation contributes directly to the ambitions underpinning the council's three outcomes as set out in the Corporate Plan (a public document approved by full Council in February 2016);

- Prosperity & Opportunity
- Health & Wellbeing
- Quality Places

- ix. The use of the premises relieves the Council of providing similar facilities.
- x. The organisation delivers outcomes that reduce inequalities for groups with protected characteristics.

Appendix 2. Local Business Rates Discount- wholly funded by Central Government

A number of measures were introduced in the Autumn Statements from 2013 and 2014 in which the government has stated that it will fully fund any relief granted within the agreed protocols. The Council will continue to award these reliefs for as long as the government continues to fund them and for context purposes these are listed below:

New Build Empty Property Relief

The council can use its discretionary powers to exempt all newly built commercial property completed between 1 October 2013 and 30 September 2016 from empty property rates for the first 18 months, up to state aid limits. Determination and award of any exemption will be in accordance with the Department for Communities and Local Government, Business Rates New Build Empty Property Guidance (<https://www.gov.uk/government/publications/business-rates-new-build-empty-property>)

Retail Relief

This relief of up to £1,000 in 2014/15 and up to £1,500 in 2015/16 may be provided to occupied retail properties with a rateable value of £50,000 or less subject to local discretion.

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

Business Rates Reoccupation Relief

A temporary 50% occupied rate relief will be granted for new occupants of retail premises that have been empty for a year or more at the point of occupation. The duration of the relief is 18 months. The relief is available to businesses that move into empty property on or after 1 April 2014 and on or before 31 March 2016. The definition of retail for the purposes of considering this relief will be taken from the DCLG Retail Relief guidance as above.

There are a number of other reliefs available to businesses that are not affected by the consultation.

Small Business Rate Relief

100% relief granted until 31 March 2016 for properties with a rateable value of £6,000 or less. The rate of relief gradually decreases from 100% to 0% for properties with a rateable value between £6,001 and £12,000

Hardship Relief

The Council has a discretionary power under Section 49 of the Local Government Finance Act 1988, in exceptional circumstances to reduce all or part of a business rates bill. The legislation stipulates that a local authority in considering hardship must be satisfied that the ratepayer will suffer hardship if relief is not granted, there is a direct benefit to the ratepayer, or the community, and there is no adverse impact to other ratepayers or the community as a result of awarding relief.