

NOTTINGHAM CITY COUNCIL

NON DOMESTIC RATES DISCRETIONARY RATE RELIEF POLICY

Background

Local Authorities have the power to grant Discretionary Rate Relief to organisations which meet certain criteria. The amount of relief granted is used to reduce the amount the organisation owes in Non Domestic Rates.

Legislation

The law governing the granting of Discretionary Rate Relief is found in Section 47 of the Local Government Finance Act 1988 and subsequent amending legislation. This legislation provides that Local Authorities have discretionary powers to grant Rate Relief. Within the Localism Act 2011 this has been extended to cover not only charities and non-profit-making organisations, but also any other businesses where the Council consider that this would be in the interests of the council taxpayers.

In practice the authority can grant up to an additional 20% discretionary relief to registered charities already in receipt of the 80% mandatory relief, and up to a maximum of 100% discretionary relief to other businesses. In deciding the level of relief, the Council will take into account whether the business is in receipt of State Aid, with the combination of State Aid and Discretionary Rate Relief not exceeding the de minimis level. This includes existing businesses and new businesses setting up within the Enterprise Zone.

Who Pays For The Relief Granted?

Where a property is occupied by a charity or a registered Community Amateur Sports Club and is used for the (charitable) purposes of the organisation, 80% Mandatory Rate Relief is granted. The full cost of this is met by Central Government.

If additional Discretionary Rate Relief is granted to these bodies, 25% of the cost of the Discretionary Rate Relief is paid for by Central Government and 75% is borne locally by Nottingham's Council Taxpayers.

If Discretionary Rate Relief is granted to a Not For Profit organisation, 75% of the cost is paid for by Central Government and 25% is borne locally by the Nottingham's Council Taxpayers.

In the case of other businesses not falling within the above groups, the full cost of any relief granted is met by Nottingham's Council Taxpayers.

Rate relief granted to businesses within Enterprise Zones is fully funded by central government.

The Council's Policy

Purpose

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

We will deal with each application for Relief on its merits and treat all organisations that apply for Discretionary Rate Relief equally and fairly.

However, in deciding on whether or not to grant discretionary rate relief we will have regard to the six priorities of Nottingham City Council contained in the Nottingham Plan to 2020. These are:

1. Develop Nottingham's international standing for science and innovation, sports and culture
2. Transform Nottingham's neighbourhoods
3. Ensure that all children and young people thrive and achieve
4. Tackle poverty and deprivation by getting more local people into good jobs
5. Reduce crime, the fear of crime and anti-social behaviour
6. Improve health and wellbeing

Decisions will also be made having regard to affordability to the Council and in accordance with the Council's constitution. Decisions will be made in accordance with the process as defined by the Chief Finance Officer.

Claiming Discretionary Rate Relief

A claim must be made on an application form issued by the Council. This form can either be posted or emailed to the applicant, or can be downloaded from the Council's website. There will be separate forms for charities, non-profit-making organisations, and other businesses.

We will issue application forms on request or in circumstances where we consider an organisation may be entitled to relief.

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

A person authorised to sign on behalf of the ratepayer is:-

- a partnership – a partner of the partnership;
 - a trust – a trustee of that trust;
 - a body corporate – a director of that body, and in any other case a person duly authorised to sign on behalf of the ratepayer.
-
- Any charity or non-profit-making organisation applying will be required to provide the following details:-
 - The rules of the organisation or its Memorandum and Articles of Association.
 - 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 the income and expenditure.

We may request any reasonable evidence in support of the application. The organisation will be required to provide such evidence within one month of the request.

If the organisation applying does not or will not provide the required evidence, we will still consider the application but only on the basis of the information and evidence in our possession.

We may, in some cases, verify the information given by the organisation applying by contacting third parties and other organisations.

Period of Award

The Council will decide the period for which Discretionary Rate Relief will be awarded, dependent on the circumstances of the application.

The start date of the relief will normally be from the date of application.

The minimum period of relief that can be awarded is one day.

All awards will be reviewed every two years. If it is decided to end an award, at least one full financial year's notice will be given of the decision.

How we will decide whether to award Discretionary Rate Relief?

The Council will take the following factors into account when deciding whether to award Discretionary Rate Relief:-

1. Charities & Non-profit-making Bodies.

Access to Facilities

- Whether the organisation is open to **all** sections of the community.
- Whether the organisation actively encourages membership for particular groups in the community e.g. young people, women, persons with a disability, ethnic minorities, etc.
- Whether the facilities are available to non-members.
- Whether the organisation provides services that enhance community spirit.
- Whether the organisation organises community events.
- Whether information on the organisation is available electronically.

Provision of Facilities

- Whether the organisation provides training or education to its members.
- Whether the facilities will be provided by self-help or grant aid.
- Whether the organisation runs a bar.
- Whether the organisation provides facilities that indirectly relieve the Authority of the need to do so.

- Whether the organisation promotes healthy living and fitness.

Employment

- Whether the organisation employs staff or relies heavily on unpaid volunteers.
- Whether the people employed by the organisation are Nottingham residents.
- Whether the organisation offers work placements such as Tridents or apprenticeships to the young people of Nottingham.

Other Considerations

- Whether the organisation is affiliated to any local or national bodies.
- Whether the membership is drawn from people mainly resident in the Nottingham area.

Finances of the Organisation

- Whether the organisation requires financial assistance.
- If a surplus is made year-on-year, the Relief should not be considered unless there are other factors present.

How much will we award?

Where an award of Discretionary Rate Relief is made, the Council will decide how much to pay based on the individual circumstances of the application.

An award of Discretionary Rate Relief at any time does not guarantee that a further award will be made at a later date even if the circumstances of the organisation have not changed.

Discretionary Rate Relief will be awarded after taking into consideration all other reliefs for which an organisation may qualify.

Organisations that meet the qualifying criteria for Small Business Rates Relief will not be considered for Discretionary Rate Relief until they have applied for Small Business Rates Relief. These organisations will receive support and guidance to apply for Small Business Rates Relief from the council.

Discretionary Rate Relief granted pursuant to this policy may constitute 'State Aid'. State Aid is covered by the European Union Treaty and is 'aid granted by a member state or through state resources in any form whatsoever' and amounts to selective financial assistance to a particular firm or sector over another. Aid that benefits all firms in a specified region, such as an Enterprise Zone, or industry may not amount to State Aid but this must be assessed on a case by case basis. This assessment will include whether or not the award has or could have the effect of distorting competition.

Applications pursuant to this policy which may constitute State Aid will be considered by the Executive Board of Nottingham City Council. Where an award is considered to constitute State Aid, legal clearance will be required from the European Commission.

There are de minimis exemptions to the State Aid regime. Aid received from all sources, including any award made pursuant to this policy, up to EUR200,000 over a three year period is exempt. This threshold does not apply to all sectors in industry.

It will be a condition of an award made pursuant to this policy that you provide details of other State Aid received.

How Payments will be made

All relief awarded will be paid to help with the Non Domestic Rate liability. We will credit the relief direct to the organisation's Non Domestic Rate account.

Notifications

The Council will inform the organisation applying in writing of the outcome of their application for Discretionary Rate Relief within seven days of making a decision.

Where the application is not successful, the notification will provide full reasons why we have decided not to award Discretionary Rate Relief and 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.
- Details of when an amended Non Domestic Rate Demand will be issued.
- The right to ask us to look again at the decision.

Overpayments

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

Right of Appeal

If you disagree with a decision made under this policy, you must write and tell us why you think the decision is wrong, i.e. whether the published criteria have been properly adhered to. Your appeal must be made within 14 days of receiving the decision from the Council.

We will check your Discretionary Rate Relief application thoroughly and take account of any information given in your letter. We will decide whether or not the criteria have been properly applied. This is called 'reconsidering the decision'. We could then: -

- Decide not to change the decision;
- Change the decision and pay you more Discretionary Rate Relief; or
- Change the decision and pay you less Discretionary Rate Relief.

We will write to tell you what has happened, normally within 7 days of considering your appeal.

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 we suspect that such a fraud may have occurred, the matter will be investigated in line with the Council's Anti-Fraud Strategy. This may lead to criminal proceedings being instigated.

Publicity

The Council will include information about Discretionary Rate Relief with Non Domestic Rate Demands, relevant leaflets and within the Non Domestic Rate Section of the Council's website.

Review

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

2. Businesses within an Enterprise Zone.

The Business Rates incentive is available to inward investors (businesses currently outside of the Enterprise Zone) and new starts (businesses which have been trading for less than 1 year). Businesses will be required to complete an application form and relief will be granted providing they meet the above criteria.

In order to minimise displacement, established businesses (i.e. those already within the Enterprise Zone) would be eligible for the rate relief if they relocate within the Enterprise Zone providing they can demonstrate a re-investment in growth and a genuine business reason for move (e.g. they had outgrown their existing premises and the only way they could grow is to move onto the Enterprise Zone).

The incentive would also be available to existing businesses already on one of the Enterprise Zone sites on the proviso that they demonstrate that the rate discount would be reinvested in their business to generate growth, in the same way of established businesses as above. Businesses will be required to give detail on how rate relief will be used to generate growth, for example new jobs, increase in turnover etc

Each business rate discount recipient will have that arrangement reviewed after two years.

How much will we award?

Where an award of Discretionary Rate Relief is made, the Council will decide how much to pay based on the individual circumstances of the application.

An award of Discretionary Rate Relief at any time does not guarantee that a further award will be made at a later date even if the circumstances of the organisation have not changed.

Discretionary Rate Relief will be awarded after taking into consideration all other reliefs for which an organisation may qualify.

Organisations that meet the qualifying criteria for Small Business Rates Relief will not be considered for Discretionary Rate Relief until they have applied for Small Business Rates Relief. These organisations will receive support and guidance to apply for Small Business Rates Relief from the council.

Discretionary Rate Relief granted pursuant to this policy may constitute 'State Aid'. State Aid is covered by the European Union Treaty and is 'aid granted by a member state or through state resources in any form whatsoever' and amounts to selective financial assistance to a particular firm or sector over another. Aid that benefits all firms in a specified region, such as an Enterprise Zone, or industry may not amount to State Aid but this must be assessed on a case by case basis. This assessment will include whether or not the award has or could have the effect of distorting competition.

Applications pursuant to this policy which may constitute State Aid will be considered by the Executive Board of Nottingham City Council. Where an award is considered to constitute State Aid, legal clearance will be required from the European Commission.

There are de minimis exemptions to the State Aid regime. Aid received from all sources, including any award made pursuant to this policy, up to EUR200,000 over a three year period is exempt. This threshold does not apply to all sectors in industry.

It will be a condition of an award made pursuant to this policy that you provide details of other State Aid received.

How Payments will be made

All relief awarded will be paid to help with the Non Domestic Rate liability. We will credit the relief direct to the organisation's Non Domestic Rate account.

Notifications

The Council will inform the organisation applying in writing of the outcome of their application for Discretionary Rate Relief within seven days of making a decision.

Where the application is not successful, the notification will provide full reasons why we have decided not to award Discretionary Rate Relief and 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.

- Details of when an amended Non Domestic Rate Demand will be issued.
- The right to ask us to look again at the decision.

Overpayments

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

Right of Appeal

If you disagree with a decision made under this policy, you must write and tell us why you think the decision is wrong, i.e. whether the published criteria have been properly adhered to. Your appeal must be made within 14 days of receiving the decision from the Council.

We will check your Discretionary Rate Relief application thoroughly and take account of any information given in your letter. We will decide whether or not the criteria have been properly applied. This is called 'reconsidering the decision'. We could then: -

- Decide not to change the decision;
- Change the decision and pay you more Discretionary Rate Relief; or
- Change the decision and pay you less Discretionary Rate Relief.

We will write to tell you what has happened, normally within 7 days of considering your appeal.

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 we suspect that such a fraud may have occurred, the matter will be investigated in line with the Council's Anti-Fraud Strategy. This may lead to criminal proceedings being instigated.

Publicity

The Council will include information about Discretionary Rate Relief with Non Domestic Rate Demands, relevant leaflets and within the Non Domestic Rate Section of the Council's website.

Review

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

3. Other Businesses – Locally Defined Discounts.

The discretion to grant discounts in these circumstances was introduced by The Localism Act 2011 and the Council will regularly review its position on this in line with the Nottingham Growth Plan and the Medium Term Financial Strategy of the Council. At present the Council does not offer discretionary relief, however the City Council does offer support to local businesses through the Economic Development team and applications will be considered on a case by case basis and subject to a robust business case. Business are advised to contact the Economic Development Team at Nottingham City Council to discuss this further or for advice on other support available via enquiries@investinnottingham.co.uk or 0115 8764469.