

Barnsley Council's Discretionary Rate Relief Policy

April 2017

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1. Introduction

The Council recognises the importance of supporting local businesses and organisations to promote the provision of local facilities, economic growth, employment and investment to improve prosperity across Barnsley and in particular support the most disadvantaged communities.

Councils have the power to grant discretionary rate relief to organisations that meet certain criteria. Public funds are however limited, with a proportion of the costs of relief granted being borne by tax payers. In making decisions the Council must be confident that money invested in this way will be repaid in economic and or community benefit.

Provisions contained in the Local Government Finance Act 1988 and associated regulations require the Council to consider granting discretionary and other non-mandatory reliefs to various ratepayers responsible for the payment of rates on business (or non domestic) premises.

This policy outlines the areas of local discretion and the Councils approach to the various discounts.

Exceptions to this Policy

The Service Director of Finance may determine relief applications which fall outside the scope of this approved policy at their discretion.

2. General Principles

All decisions in respect of applications for discretionary rate relief must be taken in accordance with statutory requirements.

All applications must be made using the Councils Online forms available at www.barnsley.gov.uk. It is the responsibility of the organisation or person applying for relief to provide sufficient information and documentary evidence to support their applications.

Decisions will be notified within 28 days of receipt of all relevant information.

The Council will, as required, give one year's notice of any decision to terminate or alter the amount of relief granted, which will take effect at the end of the financial year.

The council will, where necessary, verify information by contacting third parties and appropriate organisations and visit premises to determine any decision about relief.

Any reliefs awarded will be applied directly to the business rate account. Any overpaid relief will be recovered.

Relief will cease where the

- Applicant ceases to be liable for business rates;
- The property for which the relief is granted becomes empty;
- The use of the property changes;
- The aims or objectives of the organisation change.

3. Decision Making Process

Decisions in relation to the granting or refusal of reliefs will be made at the following Officer level

Level of Award	Relevant Officer
Any award under £1,000	Benefits, Taxation & Income Manager
Any award between £1,001 and £5,000	Head of Service
Any award in excess of £5,001	Service Director
Requests for Reconsideration	Discretionary Panel

4. Reconsiderations/Appeals

There is no formal appeal process but the Council will reconsider its decision if a request is made using the Council's online dispute form and should contain a full explanation of why the ratepayer does not agree with the decision. A discretionary panel comprised of Senior Officers, will look at the request and either confirm or revise the decision.

The ratepayer will be notified of the outcome within 8 weeks of receipt of the reconsideration request.

5. State Aid

The Council will in deciding relief consider the competition rules governing the restriction of state aid to businesses. These rules restrict the award of government subsidies, known as state aid, to businesses and this could in certain circumstances include business rates discretionary relief.

Relief granted to charities and non-profit making bodies normally does not constitute state aid, because they are not in market competition with other businesses. However if they are engaged in commercial activities or displacing an economic operator or if they have a commercial partner then discretionary rate relief, hardship relief and rural rate relief could constitute state aid.

There are general exceptions from the state aid rules where the aid is below a 'de minimis' level which is currently €200,000 received by any one business over a three year period. The 'de minimis' level applies to all 'de minimis' aid received, including other government subsidies or grants and rate relief.

Discretionary relief will not be awarded in any circumstances where it appears to the council that an award of discretionary relief will result in the applicant receiving state aid above the permitted limit.

The Council will if necessary seek advice from the Department of Trade & Industry's State Aid Policy Unit and the Department of Communities and & Local Government, who may seek clearance from the European Commission to grant relief.

6. Financial Criteria

For the top up element of charitable relief, rural rate relief and hardship relief the following criteria will be applied **in the first instance** before any further consideration of the application:-

- The business must have been trading for 12 months;
- A profit and loss account and balance sheet must be supplied in support of the relief application;
- The rules of the organisation or its Memorandum and Articles of Association must be supplied;
- If the reserves, retained surplus or cash in the bank are an amount equivalent to or more than the discretionary amount being applied for then no amount of relief will be granted. The 'top up' amounts are as follows
 - 20% of the rates bill for registered charities
 - 50% of the rates bill in respect of rural relief
 - 100% of the rates bill in respect of hardship relief
- If the accounts show a net profit/surplus that is equal to or exceeds the maximum amount of top up being applied for no relief will be awarded

Where the net profit is less than the maximum 'top up' above any relief will be awarded on a pro-rata basis as follows

Net profit as a % of relief being applied for	Relief awarded as a % of total discretionary relief allowed
>75% <=99%	24% - 0%
>50% <=75%	49% - 25%
>25% <= 50%	74% - 50%
> 0% <= 25%	100% - 75%

7. Period of Relief for Charitable Relief and Rural Relief

Where an application is made before the 30 September, relief will commence at the start of the financial year before the year of the application, or the date the organisation became liable for rates, if later.

Where an application is made after the 30 September, relief will commence at the start of the financial year in which the application is made, or the date the organisation became liable for rates, if later.

All applications will be reviewed on a 12 monthly basis

8. Charitable Relief – Registered Charities and Non Profit Making Organisations

The Local Government Finance Act 1988 requires the Council to consider applications for discretionary rate relief from applicants who are:

- (a) Registered Charities, Organisations exempt from charitable registration and other non-profit

- making Organisations;
- (b) Community Amateur Sports Clubs (CASC's);
- (c) Sports Clubs and other Organisations;
- (d) Any other business in exceptional circumstances.

In the case of (a) and (b) they will be eligible for 80% mandatory rate relief, if they meet the specified criteria.

Where an organisation is a charity registered under the Charities Act 1993, or a body exempt from registration under that act, charitable relief will be granted to the organisation before the consideration of discretionary relief.

The council cannot grant relief from rates on any property, all or part of which is occupied, other than as a trustee, by the council or any precepting authority.

(i) Registered Charities, Organisations exempt from registration and other Non Profit Making Organisations

Charitable and non-profit making organisations whose main objects are:

- Charitable or otherwise philanthropic, or religious in nature; or concerned with
- Education, social welfare, science, literature or the fine arts; or
- Used wholly or mainly for recreation by a not-for-profit club or society;

could be considered for up to 100% discretionary relief, depending on their circumstances and eligibility to other rate reliefs, such as mandatory relief.

Registered charities and similar organisations exempt from registration within the meaning of the Friendly Societies Act 1974 and the Industrial and Provident Societies Act 1965, and who receive 80% mandatory relief, can apply for 'top up' discretionary relief up to 20%.

Non - profit making ratepayers not registered as a charity, whose aims are charitable or otherwise philanthropic, or religious or concerned with education, social welfare, science, literature or the fine arts can be considered for up to 100% discretionary rates relief on their premises.

Registration as a friendly society or an industrial and provident society will not automatically entitle an organisation to mandatory or discretionary relief, as they can and often do make a profit which they distribute to their members. The council will decide whether any such organisation is charitable, and non-profit making, before considering entitlement to relief.

Credit unions and housing associations, registered as a friendly or industrial and provident society, will not normally be considered as charitable and will not therefore be entitled to discretionary relief. Co-operatives, established for the benefit of their members rather than for the public, similarly will not be granted discretionary relief.

Organisations that have had an application for registration as a charity refused by the Charity Commission may still be considered for discretionary relief.

'Top up' discretionary relief will not automatically apply to schools or academies.

(ii) Community Amateur Sports Clubs (CASC's)

Community Amateur Sports Clubs (CASC's), registered by HM Revenues & Customs (HMRC), are entitled to receive 80% mandatory rate relief and can be considered for 'top up' discretionary relief up to 20%.

(iii) Sports Clubs and other Recreational Organisations

Where premises are wholly or mainly used for:

- The purpose 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;

The council can consider granting discretionary relief up to 100%.

This could apply to organisations such as sports clubs (not registered as a CASC), village halls and community centres. Recognition will be given to the charitable objectives of the organisation and particularly how community participation, healthy recreation and physical education are promoted. A sports club must be one capable of improving health and fitness.

Village halls and community centres are entitled to apply for charitable status and no request for discretionary relief from such an organisation will be granted unless it has made an attempt to register as a charity, and has been refused, or there are other circumstances preventing registration.

(iv) Charity Shops

Charity shops entitled to mandatory rate relief can be considered for 'top up' discretionary rate relief up to 20%.

Premises must be wholly or mainly used for the sale of goods donated to the charity and the proceeds of sale (after any deduction of expenses) must be applied for the purposes of the charity. 'Mainly' has been held to mean 'more than half' of the goods donated.

The council will normally only consider granting 'top up' discretionary relief to charity shops in exceptional circumstances, where the charity wholly or mainly benefits local residents. In such circumstances consideration would be given to:

- The percentage of floor space occupied by donated goods;
- The percentage of turnover and profit from the sale of donated goods;

(v) Other businesses

Provisions within the Localism Act 2011 can allow applications for discretionary relief to be considered for any other businesses.

The council can grant relief as it considers appropriate within the legislation and European state aid rule constraints. This can be used to encourage new business and investment, as well as supporting local shops or community services.

Additional Criteria for Considering Relief

The financial criteria detailed in section 6 of this policy will form the gateway to claiming discretionary relief before any further consideration is given to the additional criteria detailed below.

The council will consider accessibility to an organisation, the facilities provided and supporting evidence of the organisation's make up. Applicants will be required to demonstrate there is a need for relief and that relief would enable the organisation to survive or to develop in new or innovative ways. Applications will, in accordance with government guidance, be dealt with by using a scoring system, giving weight to the role the applicant plays in the borough.

Accessibility

- Is membership generally open to all sections of the community (so does not exclude or restrict sections of the community)?
-If not, what is the basis and justification for any restrictions, for example any legitimate restrictions on membership which relate to ability in sport or to the achievement of a standard in the field covered by the organisation?
- Are membership fees set at a level so as not to exclude sections of the community – is there evidence to show fees are payable at different rates that distinguish different classes of membership such as juniors, adults, students, pensioners, players, non-players, employed and unemployed?
- Does it actively encourage community membership regardless of ability, for example young people, older people, persons with disabilities or ethnic minorities?
- To what extent is wider usage actively encouraged from youth groups, schools, non-members/casual public sessions etc.
- Is membership generally made up from residents of the borough?
- Is information on the organisation available electronically?

Facilities Provided

- Does the organisation promote its facilities and services for the benefit of the community, for example enhancing local community strategy, or borough wide objectives, and if so to what extent?
- Are facilities provided which support, supplement or replace the council's own facilities?
- Does it encourage education, training, self-help, healthy living and fitness for its members or particular sections of the community?

Affiliation

- Is the Organisation affiliated to local or national body e.g. local sports councils, county or national representative bodies which are actively involved in the local development of its interests?
- Organisations that are shown to provide a greater or significant local impact will normally be rewarded with a greater percentage of relief.

9 Rural Rate Relief

Rural Rate Relief is for qualifying businesses situated in rural areas. The Council will publish annually a Rural Settlement list identifying settlements with a population of 3000 or less where rural rate relief can be applied. Relief is only available on occupied properties.

Relief is awarded at 50% mandatory and 50% discretionary where :-

- It is the only village shop or post office with a rateable value of up to £8,500; or
- It is the only public house or petrol station, with a rateable value of up to £12,500.

Other businesses in the qualifying rural settlement area, who do not qualify for mandatory relief, and whose rateable value is £16,500 or less, can apply for up to 100% discretionary relief. The financial criteria detailed in section 6 of this policy will form the gateway to the claim before looking at the role the business plays in the rural community and if there is a proven need for support.

10 Hardship Relief

The Council has discretion, under Section 49 of the Local Government Finance Act 1988 to give up to 100% relief in exceptional circumstances, where hardship is being experienced. However, awarding relief can only be considered on condition that it would be reasonable to do so having regards to the interests of council tax payers

Government guidelines advise that the granting of hardship relief should only be in exceptional circumstances. The Council will, wherever possible, signpost ratepayers to any of the range of other options that are available to support businesses.

The test of hardship is not however necessarily confined to financial hardship. All relevant factors affecting the ability of a business to meet its liabilities for rates will be taken into account.

The financial criteria detailed in section 6 of this policy will form the gateway to claiming the discretionary relief before looking at the additional criteria detailed below.

It should be determined to what degree and if the business will suffer hardship

- As a direct result of unusual factors outside the control of the business;
- Granting relief would help a business through a particularly difficult short term period;
- By not granting relief would impact on employment in the Borough;
- That the loss of the business would result in the removal of a particularly important service or amenity within the Borough;
- What effect this would have on the long term sustainability of the business; and
- If by granting it relief would give the business an unfair trading advantage.

The Council will also seek to ensure that hardship is not being claimed as a result of:

- Solely being due to general economic or market forces;
- Poor financial management;
- The proprietors or directors taking remuneration from the business;
- The business holding reserves that could support it or having them elsewhere within its wider organisation; and
- Excessive outgoings or drawings.

Hardship could in some cases constitute state aid and consideration will be given to the implications this could have in the decision.

Relief will normally be granted for specific determined period, depending on the circumstances of the application, but this will not exceed 12 months.

11 Partly Occupied Relief (Section 44A)

The Council has discretion under Section 44A of the Local Government Finance Act 1988 to award rate relief where part of a property is temporarily unoccupied and incapable of being split by the Valuation Office Agency (VOA).

This can include occurrences where there are practical difficulties in using the property to its full extent or where the occupation or vacation of a property has to be carried out in phases.

Plans showing the occupied and unoccupied parts of the property must be submitted to support the application. The Council will visit all premises prior to referring to the VOA, to determine the amount to be apportioned. The Council will also consider if:

- The property is empty for a good reason which is phased occupation, vacation, redevelopment or reconfiguration; and
- It is short term, which is generally interpreted as being less than one year

The VOA must certify the apportioned values of both the occupied and unoccupied parts of the property.

An application must be made whilst the property is in a state of part-occupation. Retrospective applications will not be considered.

Relief on the certified unoccupied part of the premises can only be awarded for a maximum of 3 months or 6 months in the case of industrial properties. Ratepayers can reapply for relief in a following financial year although evidence must be provided to support why any short term period should be extended.

12 Enterprise Zone Relief

The Council will consider applications for Enterprise Zone Relief where an applicant's business is located in the Sheffield City Region Enterprise Zone. Businesses are eligible for a discount of up to 100% of the business rates payable, up to the value of £55,000 per year and a maximum of £275,000 in any 5 year period as long as:

- The business is located within the defined boundary of the Enterprise Zone;
- The business is registered to pay non domestic rates before March 2018; and
- The business is not currently occupying business premises within the Enterprise Zone Boundary.

The business must also fall within one of the following target sectors

- Modern Manufacturing
- Creative and Digital Industries
- Healthcare and Technologies
- Low Carbon and Environmental Goods and Services

The start date of the relief will be from the date the application is made. However the Council may consider backdating the relief for a maximum of three months where the applicant can demonstrate good cause for not applying earlier.

13 Section 47/ Temporary Reliefs

Section 47 of the Local Government Finance Act 1988 has been amended by the Localism Act 2011 to give Council's the power to give a discretionary discount on business rates. The discount may be awarded to any property or business as the Council chooses. The discount can apply to an individual account or a group of accounts for a similar business type or facing a similar issue.

There is a financial implication to awarding discounts under Section 47 as the Council has to fund the entire award without Government support, thereby having a direct impact on taxpayers of the Borough.

The Government has also determined that local authorities can use their discretionary powers under Section 47 to provide reliefs to support national initiatives to promote economic growth and provide support for town centres. Reliefs granted under these national initiatives following will be reimbursed in full by Government by way of specific grants to Local Authorities.