

Newark and Sherwood District Council

Guidelines for the award of Discretionary Rate Relief

1. Background

Section 69 of the Localism Act 2011 amends Section 47 of the Local Government Finance Act 1988. The changes came into effect from the 1st April 2012 and extend the existing provision relating to the granting of discretionary rate relief. The decision to grant or not grant relief is purely a matter for the authority.

Awards of discretionary rate relief can be made to various categories of ratepayer. These include:

- Charitable organisations;
- organisations which are not established or conducted for profit whose main objectives are charitable and is either:
 - (i) established for philanthropic or religious purposes; or
 - (ii) concerned with education, social welfare, science, literature or the fine arts; or
 - (iii) occupies the property as a club or society.
- small businesses in the Rural Settlement Area.

Section 69 of the Localism Act 2011 amends the 1988 Act to allow local authorities the discretion to award rate relief to all types of businesses where they see fit.

2. Purpose

The purpose of these guidelines is to specify how this Council will operate the discretionary rate relief scheme and to indicate the factors that will be considered when deciding whether to make an award. We aim to treat all ratepayers equally when administering the scheme.

3 **Priorities**

The Council will make awards of discretionary rate relief to ratepayers who meet the qualifying criteria as specified in these guidelines. The Council will treat all applications on their individual merits, but will seek through the operation of the guidelines to meet its stated priorities

These priorities are:

1. *To encourage Economic Prosperity for all.*
2. *To provide Leisure and Health opportunities for all.*
3. *To protect and improve the Environment.*
4. *To ensure affordable homes built to modern standards are available for all.*
5. *To maintain safer communities.*

4. Claiming Discretionary Rate Relief

In order to claim discretionary rate relief, the ratepayer must provide the Council with the necessary information to consider the ratepayer's claim. The Council has devised an application form(s) that captures this information, and will issue this application form to prospective applicants free of charge. The application form(s) are enclosed in Appendix 2 to these guidelines.

- The Council reserves the right to consider applications, that provide all the necessary information, regardless of whether the application form has been submitted.
- Applications may only be made by the ratepayer personally, or where the ratepayer appoints a person authorised to act on behalf of the ratepayer.
- The Council may request any reasonable evidence in support of an application for discretionary rate relief. The Council will make such requests in writing. The ratepayer should provide the evidence within one month of the request being made.
- If the ratepayer does not provide the required evidence, the Council reserves the right to either treat the application as withdrawn or to consider the application in the absence of the missing evidence. However, the Council may disregard any unsubstantiated statements or draw its own conclusions from other evidence available.
- The Council may in any circumstances verify any information or evidence provided by the ratepayer by contacting third parties, other organisations and the ratepayer.

In all cases the ratepayer will be required to submit their last year's trading accounts to the Council for inspection. In all cases the accounts must have been independently verified and we reserve the right to make our own checks on the accounts.

5. Period of award

The Council will usually award discretionary rate relief from the date on which the original application has been made. However, within its legal obligations, the Council reserves the right to:

- backdate the award to the start of the current financial year;
- backdate the award to some other specified date (such as the start of rate liability);

- commence the award from some specified future date.

Awards for discretionary rate relief will usually be open ended. However, the Council reserves the right to fix a date at which any award will end.

The Council will review awards for discretionary rate relief every three years to ensure that each application continues to be awarded in line with this policy.

6. Administering applications and granting awards of discretionary rate relief

The Business Manager – Revenues and Benefits and/or the Principal Revenues Officer will undertake the administration of applications for discretionary rate relief. The Chief Financial Officer will decide whether to award discretionary rate relief and what amount should be granted. The Council's Policy and Finance Committee will adjudicate on appeals of a decision not to award discretionary rate relief and / or the amount of relief granted.

Appendix 1 lists the types of organisations that may qualify for discretionary rate relief, criteria to be taken into account (as well as the general matters to be considered below) and recommended percentage awards of relief.

7. Matters to be considered in making awards

When deciding whether to make awards the Council will consider:

In all cases:

- whether the application satisfies the legal requirements;

the Council cannot award relief to any organisation that does not meet the legal requirements of section 47 of the Local Government Finance Act 1988.
- which corporate priorities would be met by the award of relief;

relief is more likely to be awarded to organisations that can show they are helping the Council to achieve our corporate priorities;
- whether the ratepayer is in direct competition with other ratepayers in the immediate vicinity, within or without the District;

the Council would not want to give any organisation a competitive advantage by the award of rate relief.
- the specific benefit the ratepayer brings to the residents of the Newark and Sherwood District;

the Council wants to ensure that the award of discretionary rate relief is to the benefit of the wider population of Newark and Sherwood. It will therefore consider what benefits the ratepayer brings to the residents of Newark and Sherwood. Any ratepayer whose customer base comes from largely outside the District's boundaries is unlikely to qualify for relief, unless they can show a specific and unequivocal benefit to the residents of the District.
- the cost to the council taxpayer;

- whether the ratepayer is a local organisation, or a local branch of a national organisation;

the Council will consider the overall benefit to the community of the organisation and what effect the award of rate relief will have upon the organisation. If the benefit of the rate relief is kept locally, the relief is more likely to be awarded than if it goes to the national organisation based elsewhere.

- the impact on the organisation if the relief was to be refused;

the Council is more likely to award relief if the ratepayer can show that the failure to award the relief will have an impact on its service provision and consequently the Council's ability to achieve its own ambitions.

- the proportion of the ratepayer's annual turnover that would be required to meet the rate demand if the relief were refused;
- the value of the ratepayer's assets and reserves;

a ratepayer with considerable liquid assets is unlikely to succeed in their application for discretionary rate relief unless they have been specifically earmarked for furthering the aims of the club, such as providing additional facilities to meet disadvantaged groups.

Applications from Sports Clubs

Following an application for discretionary rate relief from a Sports Club, in addition to the factors indicated above we will also consider:

- any restrictions on membership that may exist;

the Council is more likely to award relief where no restrictions exist. However it recognises that there may be legitimate restrictions based upon ability or safety factors (for instance a diving club is unlikely to accept someone as a member who cannot swim).

- the cost of membership;

the cost of membership should not be used as a means to restrict membership.

- whether the organisation actively promotes representation from disadvantaged or under represented groups in the community;
- whether the facilities are available to users other than members (such as schools or casual use by the public);

the Council is more likely to award relief if there are no restrictions, but accepts that there may be valid safety reasons why restrictions should apply.

- what training facilities the club makes available to its members;

- whether the organisation runs a bar;

the existence of a bar will not preclude a club from discretionary rate relief. However the existence of any bar will require the Council to further consider;

- (i) what proportion of the club's members are active sporting members as opposed to 'social' members;
 - (ii) whether the bar is subsidising the club and if so to what extent;
 - (iii) the proportion of the club's expenses that are attributable to the bar;
 - (iv) whether the club's bar is operating in direct competition with other commercial licensed premises in the area;
 - (v) whether the bar is ancillary to the main purpose of the organisation
- whether the club is affiliated to any appropriate national or local sporting organisations or bodies;

An organisation actively involved in local/national development of their interests may be deserving of support.

- whether the membership of the club is drawn from mainly the area of Newark and Sherwood District Council, or whether it attracts members from outside the District;

The cost of the discretionary relief is met in part by the council taxpayers of the District. If the membership was drawn mainly from residents of neighbouring Local Authorities, it may be inappropriate for the Council to award discretionary rate relief.

Applications for discretionary rural rate relief

Applications for discretionary rate relief may be received from small businesses situated in the Rural Settlement List. These ratepayers are more likely to be private individuals and commercial organisations (as opposed to charitable or not for profit organisations).

In deciding upon these applications the council will consider all the general items stated above and;

- in the case of ratepayers who are private individuals, the effect that payment of the rates would have on them personally

to do this the Council will need to have full details of the ratepayer's financial circumstances (including details of the income of anyone else who lives with the ratepayer). It is unlikely that the Council will award discretionary rate relief to anyone resident in the District, who has not claimed or qualified for Council Tax Support

- the effect that any award would have on other ratepayers in the vicinity
- the continuation of the business would help to protect the economy of the settlement or a wider rural area
- the continuing survival of a village post office, general store, petrol filling station, public house or food shop

- the continuing survival of a business that is of a unique rural nature eg Blacksmith, Farrier, Agricultural Engineer, or other traditional rural/craft industry which would otherwise decline
- the business is an attraction to people from outside of the settlement which provides training opportunities to other businesses within the settlement
- there is a community service, facility or focus provided which would otherwise be unavailable

All other types of Business

Section 69 of the Localism Act 2011 amends the 1988 Act to allow local authorities the discretion to award rate relief to all types of businesses. The Plain English Guide to the Act addresses this as follows:

“The Localism Act gives councils more freedom to offer business rate discounts - to help attract firms, investment and jobs. Whilst councils would need to meet the cost of any discount from local resources, they may decide that the immediate cost of the discount is outweighed by the long-term benefit of attracting growth and jobs to their area.”

General Requirement - Applications for rate relief under this section will normally only be considered favourably where the Council is satisfied that an award will result in tangible benefits to local residents and in particular where the award will directly result in attracting businesses, investment or jobs to the local area.

Maximum Amount of Award under this section - The Council has the scope to award up to 100% rate relief in any one year for qualifying businesses under this section.

Hardship relief

Section 49 of the Local Government Finance Act 1988 allows a local authority to reduce or remit the whole or part of the rates payable in the following circumstances:

- a) where it is satisfied that the ratepayer would sustain hardship if relief is not given;
- b) it is in the interests of council taxpayers for relief to be given.

Up to 100% hardship relief may be given but central government guidance indicates that the following factors should be taken into account when considering applications:

Although authorities may adopt rules for consideration of hardship cases, a blanket policy either to give or not to give relief should not be adopted; each case should be considered on its own merits;

- Reduction or remission of rates on grounds of hardship should be the exception rather than the rule;

- Where the granting of relief would have an adverse effect on the financial interests of local taxpayers, the case for a reduction or remission of rates payable may still on balance outweigh the cost to the local taxpayers;
- Hardship Relief will not be awarded to empty properties;
- All hardship payments will be awarded for a set period and do not constitute continual payment.

8. Change of Circumstances

If a ratepayer who is in receipt of an award, becomes liable for rates on another property, they shall be required to make a new application for relief on the new property.

9. Notification

The Council will inform ratepayers of the outcome of the application within 14 days of making a decision about their application for discretionary rate relief.

The Council will notify:

those whose application is unsuccessful

- the reasons why we have decided not to grant an award

those whose application is successful

- the amount of rate relief awarded and their revised liability;
- any requirement to notify us of changes in circumstances that could affect the award.

10. Appeals

Any ratepayer who is aggrieved by a decision about their application for discretionary rate relief may appeal against it to the Council's Policy and Finance Committee.

Any such appeal must be:

- in writing; and
- specify the reasons why the ratepayer feels the decision is wrong; and
- be made within four weeks of the ratepayer being notified of the Council's decision.

The Council reserves the right to refuse to hear appeals that do not meet these criteria.

11. State Aid

European Union competition rules generally prohibit Government subsidies to businesses. Relief from taxes, including non-domestic rates can constitute state aid. The Council must bear this in mind when granting discretionary rate relief.

Rate relief for charities and non-profit making organisations is not generally considered to be state aid because the recipients are not in market competition with other businesses. However, if the charities or non-profit making organisations are engaged in

commercial activities or if they are displacing an economic operator or if they have a commercial partner, rate relief could constitute state aid.

Where the relief to any one business is greater than the equivalent of 200,000 euros over three years, then permission will be needed from the European Commission. In such cases the matter will be referred to the Department for Communities and Local Government for advice and then referred to the Council for consideration.

12. General

The Council reserves the right to change the criteria we assess applications against.

Appendix 1

Type of organisation	Mandatory Relief	Criteria	Recommended Discretionary Relief
Registered Charities	80%	Local organisations that benefit the citizens of Newark and Sherwood (wholly or mainly) or those living within the vicinity, or exist for the relief of suffering for local citizens.	Up to 20%
Registered Charities	80%	National organisations with local offices who partly benefit the District but also benefit other parts of the country.	Up to 20%
Charity Shops	80%	Higher relief given to shops with a low rateable value in areas of low concentration of such shops.	Up to 20%
Youth and Scout Groups	80%	Assessment of financial situation	Up to 20%
Community Organizations	No	Local organisations that recognise diversity and benefit the citizens of Newark and Sherwood (wholly or mainly) or those living within the vicinity.	Up to 100%
Social and Working Mens' Clubs	No	Local or national affiliation, access and membership requirements, and social (bar) facilities and financial status are relevant issues.	Up to 100%
Sports Clubs	80%	Refer to "Applications from Sports Clubs."	Up to 100%
Miscellaneous Organisations	No	Purpose, funding, access and membership requirements, social (bar facilities) and financial status are relevant issues.	Up to 100%
Organisations within Rural Settlement(s)			
Sole general store, Post Office, Food Shop	50%	Rateable Value < £8,500	Up to 50%
Sole Public House, Petrol Filling Station	50%	Rateable Value < £12,500	Up to 50%
Miscellaneous Organisations	No	Rateable Value < £16,000	Up to 100%

Application for Non Domestic Rate Relief for Charitable and Non Profit Making Organisations

Please complete all sections and return to:

**Business Rates Section
Kelham Hall
Kelham
Newark
NG23 5 QX**

**Tel (01636) 655351
Fax (01636) 655380**

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Account number	
Date of Issue	

1. Name of the organisation	
2. Address of the property concerned	
3. Is the organisation established or conducted for profit?	Yes / No
4. Is the organisation a charity?	Yes / No
5. If yes, please state the registration number	
6. If the charity is exempt from registration, please state why	
7. What percentage of the membership live in the District?	
8. What membership concessions are offered?	
9. What, if any, are the restrictions on membership?	
10. Do you provide any training courses?	Yes / No
11. If yes, are they available to members only, affiliated members or to anyone?	

12. What benefits do the organisations objectives offer to the citizens of the District?	
13. Are there any bar facilities on the premises?	Yes / No
14. For what purpose is the property used?	
15. If the property is a charity shop, what percentage of the goods for sale have been donated to the organisation?	
16. If the property is used for any other purposes other than those of the organisation, please give details.	

Signed _____ Telephone Number _____

Capacity in which signed _____ Date _____

Important

If mandatory relief is applicable your bill will be reduced by 80%.

If discretionary relief is awarded, it can be up to 100% dependant upon certain criteria being met.

All applications for discretionary relief must be accompanied by the following documents,

- 1 A copy of the latest audited accounts.**
- 2 A copy of the organisations memorandum and articles of association or its constitution and rules.

Application for Non Domestic Rural Rate Relief

Please complete all sections and return to:

Business Rates Section
 Kelham Hall
 Kelham
 Newark
 NG23 5 QX

Tel (01636) 655351
 Fax (01636) 655380

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Account number	
Date of Issue	

Please read the notes overleaf before completing this form.

1. Name of the ratepayer	
2. Address of the property concerned	
3. Is the property the only Post Office in the village?	Yes / No
4. Is the property the only general store in the village? (Selling both food for human consumption, excluding confectionery, and general household goods)	Yes / No
5. Is the property the only public house in the village?	Yes / No
6. Is the property the only petrol filling station in the village?	Yes / No
7. Is the property a village food store?	Yes / No
8. Has the property been converted from agricultural use?	Yes / No
9. If the property has been converted from agricultural use please state what the previous agricultural use was.	

**If you are only applying for mandatory relief please turn over and sign and date where indicated.
 If you wish to apply for discretionary relief questions 10 – 12 must be completed.**

10. Please give a description of the type of trade carried out at the premises.	
11. Please give details of: <ul style="list-style-type: none"> a. The number of people employed at the premises. b. The number of those employees who live in the village. c. The number of employees who live in the district of Newark and Sherwood. 	
12. If you believe that the business provides a community service, facility or focus, please outline how/why you believe it does this.	

All applications for discretionary relief must be accompanied by a copy of your latest audited accounts.

Signed _____ Date _____

Please print name _____ Tel No _____

Notes

Mandatory relief can be awarded to the sole Post Office and / or general store in a village provided that the rateable value is £8,500 or less and the village appears in the Council's Rural Settlement list.

Relief can also be awarded to the sole public house and / or petrol filling station providing the rateable value is £12,500 or less.

If mandatory relief is applicable your bill will be reduced by 50%. You can also apply for discretionary relief up to 50%.