



**Broxtowe  
Borough  
COUNCIL**

## **Policy Guidelines**

### **Discretionary Rate Relief Rural Rate Relief and Hardship Relief**

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## 1. Introduction

- 1.1 Councils have the power to grant discretionary rate relief to organisations that meet certain criteria. This power derives from the Local Government Finance Act (LGFA) 1988 – mainly section 47. Awarding relief on this basis is discretionary and the purpose of this policy is to set out guidelines for the treatment of applications. Exercising discretion means that each application must be decided on its own merits. Hardship relief is also made possible by section 49 of the same Act. This policy details the application process and provides guidelines on the factors that will be taken into account when considering such applications.
- 1.2 Section 47 gives a billing authority the ability to grant discretionary rate relief where:
- the ratepayer is a charity and the property is being used for charitable purposes
  - the ratepayer is a non profit making organisation whose main purposes are charitable or are otherwise philanthropic or religious or concerned with education, social welfare, science, literature or the fine arts
  - the ratepayer is a non profit making recreational club
  - the ratepayer is a certain type of small rural business providing essential services to a small community.
- 1.3 Discretionary rate relief can be a supplement to mandatory relief. There are two such mandatory reliefs that can be awarded. One is available for charities and the other for certain small rural businesses. Mandatory relief for charities is equal to 80% of their rates liability. Mandatory relief for small rural businesses equates to 50% of their rates liability. More detail on the latter is given in section 4 below.
- 1.4 The key aims of these policy guidelines are:
- to ensure a professional, consistent and timely approach to the award of discretionary rate relief
  - to provide a framework that gives clarity to the decision making criteria
  - to treat individuals consistently and fairly regardless of age, religion, sex, gender, disability and sexual orientation
  - to ensure that an individual's rights under the Data Protection Act and Human Rights Act are upheld.
- 1.5 At present decisions on discretionary rate relief are the responsibility of cabinet under the Council's scheme of delegation. Mandatory relief is awarded automatically if the relevant criteria are met
- 1.6 [Links to the Council's Corporate Objectives](#)

This policy has been created in the light of Broxtowe's vision, which is to

**“Provide high quality services to make Broxtowe a place where people want to live and work”.**

In furtherance of this vision this policy specifically supports the Council's corporate objectives in respect of:

Successful and Inclusive Communities – **this policy will create a framework for consistent and transparent process for handling relief applications.**

Providing High Quality Services – **this policy will assist with the provision of a high quality revenues service.**

## **2. Legislative Background**

- 2.1 Under section 47 of the Local Government Finance Act 1988 billing authorities have the discretion to grant rate relief on all or part of the amount of non domestic rates payable. Section 47 (2) of the Act places conditions on what type of organisation may receive the award by virtue of the following extract:

“(2) The first condition is that one or more of the following applies on the chargeable day:

(a) the ratepayer is a charity or trustees for a charity, and the hereditament is wholly or mainly used for charitable purposes (whether of that charity or of that and other charities);

(b) the hereditament is not an excepted hereditament, and all or part of it is occupied for the purposes of one or more institutions or other organisations none of which is established or conducted for profit and each of whose main objects are charitable or are otherwise philanthropic or religious or concerned with education, social welfare, science, literature or the fine arts;

(c) the hereditament is not an excepted hereditament, it is wholly or mainly used for purposes of recreation, and all or part of it is occupied for the purposes of a club, society or other organization not established or conducted for profit.”

- 2.2 Discretionary relief for rural properties may be granted to a business that is already entitled to receive mandatory relief. It may also be granted to a business provided that:

i) it is within the boundaries of a qualifying rural settlement  
ii) it has a rateable value of not more than £16,500 as from 1 April 2010  
iii) it is used for purposes which are of benefit to the local community, and

iv) it is reasonable for the authority to make such a decision having regard to the interests of persons liable to pay council tax set by it.

2.3 Under section 49 of the LGFA councils can also reduce or remit an organisation's rate's liability altogether where the Council is satisfied that:

- (a) the ratepayer would sustain hardship if the authority did not do so, and
- (b) it is reasonable for the authority to do so, having regard to the interests of persons liable to pay council tax set by it.

2.4 The rules governing discretionary relief Decisions and determinations are contained in the Non Domestic Rating (Discretionary Relief) Regulations SI 1989/1059. These regulations state:

2.—(1) The charging authority making a decision or making or varying a determination shall, in accordance with this regulation, give notice in writing to the ratepayer or ratepayers concerned stating—

(a) in the case of the making of a decision, the first day with respect to which the decision operates and (if the decision is expressed to operate by reference to a particular period) the last day with respect to which it operates;

(b) in the case of the making or variation of a determination, the chargeable amount or the rules in accordance with which that amount is to be found (as the case may be) as so made or varied.

(2) The charging authority revoking a decision shall, in accordance with this regulation, give notice in writing to the ratepayer or ratepayers concerned stating the day on which the revocation has effect.

(3) A decision may only be revoked and a relevant variation of a determination may only be made so that the revocation or variation takes effect at the expiry of a financial year, and so that at least one year's notice of the revocation or variation is given under paragraph (1) or (2) (as the case may be).

(4) Notice under paragraph (1) of the making of a decision or determination, or of the variation of a determination which is not a relevant variation, is to be given as soon as practicable after the decision or determination is made or varied.

(5) A variation of a determination is a relevant variation for the purposes of paragraphs (3) and (4) if it increases the chargeable amount for any day.

### **3. Discretionary Rate Relief**

3.1 This applies to charities and not for profit community groups and is available at a rate of up to 100% of an eligible organisation's rating liability. Provided an application is received within the first six months of a current financial year, a discretionary rate relief application for the preceding financial year may be backdated for that year. Applications for the current financial year only, may be made at any time within the financial year and may be backdated to the commencement of the current financial year.

#### 3.2 Factors to be considered

There are a range of factors that will be taken into account when considering discretionary rate relief applications. The Council must assess the effect of the relief not only on the recipient but any other organisations. In the case of charity shops, for instance, the Council is unlikely to award any discretionary relief because of the advantage they have from already receiving 80% mandatory relief compared to other similar trading organisations

The list below is not an exhaustive list of the things that may be taken into account:

- Who has access to the organisation and how do they access it?
- Is there membership and what are the fees?
- Is it open to all sections of the community, (or fulfilling a special need with the community)?
- Are particular groups (for example people with disabilities, old age groups, under 16s, women, minority groups) within the community actively encouraged to join, benefit from or participate?
- Do membership fees preclude open access?
- Are there discounted rates for particular groups in the community?
- Are facilities made available to people other than members, such as schools or community groups?
- Are members mainly residents of the Broxtowe borough? How many Broxtowe borough residents directly benefit from the services provided or the main objectives of the organisation?
- Is there a measurable contribution to the amenities in the area (loss would affect the area's residents).
- Is education or training provided to members and non-members?
- Is the organisation part of or affiliated to a wider organisation?
- Are facilities provided that supplement or replace the Council's services?
- If there is a licensed bar, is it incidental to the main purpose of the group?
- What is the level of reserves held and is there any intention as to their future use?

### 3.3 The application process

The Council needs to see copies of the following documents in support of any application:

- the last three years audited accounts
- the organisation's constitution or Articles/Memorandum of Association

## **4. Rural Rate Relief**

4.1 This applies to village shops and post offices, pubs and petrol filling stations. Provided an application is received within the first six months of a current financial year, a discretionary rate relief application for the preceding financial year may be backdated for that year. Applications for the current financial year only, may be made at any time within the financial year and may be backdated to the commencement of the current financial year. An organization cannot be eligible for relief unless the shop is situated within a defined settlement in a designated rural area and this settlement must have a population of less than 3,000 people. Also the business should have a rateable value of less than £16,500 and provide an essential service to the local community

### 4.2 Factors to be considered

For Broxtowe, the designated rural settlements are currently:

- Awsworth
- Brinsley
- Cossall
- Greasley
- Strelley
- Trowell

Where there is only one village general store, food shop or post office in a defined settlement with a rateable value of up to £8,500 it will be eligible for 50% mandatory relief. Sole village pubs or petrol filling stations with a rateable value of up to £12,500 also qualify for 50% mandatory relief.

In addition, ratepayers of these premises can also apply for discretionary relief for the remaining 50% of their bill. This is likely to be granted where the business provides an essential service to the local community. It also must be in the interests of taxpayers to grant relief. This relief should not be viewed as a mechanism to prop up ailing business and so it is unlikely to be awarded unless the business is judged to be sustainable.

Any other businesses in the qualifying rural areas, which have a rateable value of up to £16,500, can apply for relief. However, the Council has the sole discretion whether to award the relief or not.

### 4.3 The application process

To assess an application for discretionary rural rate relief an organisation will have to submit the following information:

- the last three years' audited business accounts
- a statement of the organisation's current income and expenditure, together with supporting documentation
- details of any debts outstanding, together with supporting documentation
- details of the number of people the business employs
- any other information the organisation feels is relevant and which would support the claim.

## **5. Hardship Relief**

- 5.1 This applies to any business within the borough that considers itself to be faced with exceptional hardship if they do not receive a reduced rates bill. The maximum relief available is 100% of an organisation's rates liability.

### 5.2 Factors to be considered

It should be born in mind that rates form only part of a business's expenditure. It is not reasonable to award this relief if the business has other significant debts it cannot meet. As it is tax payers and council tax payers money that funds this support it would be very hard to justify awarding this relief if the organisation is not financially viable and sustainable. Section 49 relief should not be viewed as a support fund for ailing business. It has to be in the interests of local council tax payers to provide the support. It is likely that the organisation is viewed as having an important role in the borough. It is likely that hardship relief would be not relevant other than for short term help to fundamentally viable businesses.

### 5.3 The application process

To apply for assistance applicants will be required to provide the following information:

- the date hardship is being claimed from
- the last three years' audited business accounts
- a statement of the organisation's current income and expenditure, together with supporting documentation
- details of any debts outstanding, together with supporting documentation
- details of the number of people the business employs
- any other information which the organisation feels is relevant and which would support the claim.



## 6. Who pays for the relief?

<u>Type of Relief</u>	<u>NNDR Pool funded</u>	<u>BBC funded</u>
Mandatory relief	100%	0%
Top up to mandatory relief	25%	75%
Discretionary relief for other eligible organisations of up to 100%	75%	25%
Hardship relief of up to 100%	75%	25%

## 7. Appeals

### 7.1 How to Appeal

If you disagree with a decision you should write to the Council stating the reason for your appeal. Your appeal should be sent to the address below. This will allow the Council to review your application and reconsider the decision without the need for more formal action in the first instance.

### 7.2 Where to send appeals

Emails: [billing@broxtowe.gov.uk](mailto:billing@broxtowe.gov.uk)

Letters: Deputy Chief Executive  
Broxtowe Borough Council  
Council Offices  
Beeston  
Nottingham  
NG9 1AB

## **8. Review Mechanism**

- 8.1 Any organization in receipt of discretionary rate relief and rural discretionary relief will have the award reviewed at least every 5 years. Organizations will have to effectively re-apply for relief at that point and there is no guarantee that such relief would continue in the same manner as previously. Any Hardship Relief will normally be granted as a percentage of the rates payable for a specific period, usually the rating year in which the application is made. Should further hardship relief be sought a further application will be required for any subsequent rating years.
- 8.2 Failure to supply information as part of any review process will lead to the award of discretionary rate relief being withdrawn. The council in such circumstances will have to give notice in writing to the ratepayer or ratepayers concerned stating the day on which the revocation has effect. The rules governing this are such that a revocation or variation should take effect at the expiry of a financial year. Also at least one year's notice of the revocation or variation is to be given to the ratepayer.

## **Appendix to Discretionary Rate Relief Guidelines**

### **Enterprise Zones**

The creation by the coalition government of the new enterprise zones is an attempt to promote economic growth. The government has amended section 47 of the Local Government Finance Act 1988 to allow billing authorities greater freedom in awarding discretionary rate relief. It has also made a commitment to fully fund any rate relief granted to hereditaments contained within the boundaries of the new enterprise zones.

The financial effects of awarding discretionary rate relief to businesses in Enterprise Zones is therefore cost neutral to local authorities. That being the case then, why should the Council not merely grant to every business on the site? That can be answered on two levels: the lawfulness of such an approach and the aim of the overall policy. In terms of lawfulness, because it is a discretionary power the Council cannot take a blanket approach but must assess each case on its own merits. In terms of the aim of policy, it makes sense to be more discriminating and look to generally support those organisations that are more likely to help promote economic growth.

The additional considerations that will be factors in discretionary rate relief decisions for the Enterprise Zone include:

Are the premises occupied? It is unlikely that the Council would wish to provide support to enable a property owner to maintain empty premises and thus inhibit growth.

The Council wishes to support economic growth in the Enterprise Zone. It is unlikely that relief will be granted where the ratepayer provides no evidence of plans for growth in the application for relief.

Inward investors (businesses currently outside of the D2N2 area) and completely new start businesses are likely to attract the relief. Established businesses (i.e. those already within the D2N2 area) should demonstrate a genuine business reason for moving into the Enterprise Zone (e.g. they had outgrown their existing premises and the only way they could grow is to move into the Enterprise Zone).

The incentive would also be available to existing businesses already on one of the Enterprise Zone sites provided that they demonstrate that the relief would be reinvested in their business to generate growth.

As the government is fully funding this relief, less emphasis should be placed on the financial standing of the ratepayer. It is to be hoped that the financial benefit is channelled into further economic activity.

Is the ratepayer a commercial entity? Private sector economic growth is what is sought from this policy and as such public or third sector organisations are unlikely to be supported.

The Council will take into account other rates reductions such as small business rates relief that apply when deciding whether to award discretionary rate relief.

There is a limit to the amount of state aid a business can receive and any application will require the ratepayer to state the amount of aid the company (at group level) receives.

The level of the award for a successful applicant is likely to be 100% of the rates liability, subject to the state aid limits.