



Ashfield

DISTRICT COUNCIL

Granting Discretionary

**Rate Relief for Non Domestic
Rates**

Policy and Guidance

November 2019

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Granting Discretionary Rate Relief for Non Domestic Rates

Policy and Guidance

This policy was formally approved and adopted by resolution of the Cabinet meeting held on the 14th March 2013 reference CA.102.

1. Scope

- 1.1. This policy and guidance applies to all Non Domestic ratepayers within the administrative area of Ashfield District Council that are requesting the authority

2 Principles

- 2.1. The council has a duty to consider any requests for relief or remission of Non Domestic Rates depending on the circumstances of the organisation or individual rate payers concerned.
- 2.2. The main provision conferring the discretionary power on billing authorities to grant relief is contained in the Local Government Finance Act 1988. This allows billing authorities to have discretion to grant relief to certain ratepayers from all or part of the amount of rates payable.
- 2.3. The Non Domestic Rating (Discretionary Relief) Regulations 1989 allow the billing authority to restrict discretionary relief to a fixed period and deal with the notice which must be given if that relief is varied or revoked.
- 2.4. The relief granted in some cases may constitute state aid and may need to be notified to the European Commission. e.g. any manufacturing operation however small scale is normally deemed to be capable of affecting intra-Community trade so any relief would be state aid, likewise relief for butchers and farmers producing cheese, sausages and other foodstuffs would also be state aid. Where the relief constitutes state aid there would need to be legal clearance from the European Commission before it can be granted. There is a de-minimis aid ceiling of €200,000 over a period of 3 years; however this is not in respect of each award this is cumulative aid given by all public bodies to the business/ratepayer in question.
- 2.5. There is no statutory requirement for organisations or individuals to submit a written application for relief and the lack of a formal application should not preclude the authority from granting the relief if it so wishes. However in order to determine if relief is appropriate for individual cases then the council will only consider applications made on the appropriate forms provided and once the minimum supporting documentation and evidence has been provided as requested.

3 Objectives

- 3.1. The policy aims to enable equitable and consistent determinations of requests for relief to Non Domestic Rate liabilities for individuals and organisations.
- 3.2. This is not intended to be a “blanket policy” and prescribe the circumstances or organisations that should receive the relief as each case will be considered on its own merit. The aim is to provide some practical guidance in order to assist officers to determine individual requests for relief so that the relief is granted in appropriate circumstances.

4 Charities and Not for Profit Organisations

4.1 National organisations and country wide charities already receiving 80% mandatory relief will not normally be granted discretionary relief unless it can be demonstrated that:

- The value of the service to residents of the council and local communities can be shown to exceed the amount of the discretionary relief requested.
- The work undertaken from the property named in the application for relief directly caters for the needs of residents of the council and benefits local communities and;
- It provides a valuable service to the community which is complimentary to those services provided by the council or;
- The service it provides relieves the council of the need to provide that service.

4.2 The organisation should have no more than 12 months expenditure in unrestricted reserves unless a business case exists detailing how the reserves are to be used to the benefit of the local community and/or residents of Ashfield District Council. Consideration will also be given to the income generated for the organisation by way of investments.

4.3 No discretionary relief will be given to charity shops as these are in direct competition with conventional shops and relief over and above the 80% mandatory relief could lead to commercially run shops suffering loss of trade.

4.4 No discretionary relief will be granted voluntary schools or colleges that are charitable trusts as these are already, to a substantial degree, publically funded.

4.5 For sports and recreational clubs at least 75% of the club membership must comprise of residents from the Ashfield District Council area. Providing that this criteria is met they will benefit from a 75% reduction

4.6 Membership of any organisation making application for relief must be open to all sections of the community and the organisation must demonstrate that the way in which it operates does not discriminate against any section of the community.

4.7 The organisation should not operate a system whereby membership is determined by votes of existing members.

4.8 Any membership fees or subscriptions must not be set at a level that excludes the general community; consideration will also be given to the following:

- Reductions in fees offered for certain groups e.g. elderly, disabled
- Where membership is encouraged from particular groups such as young people, persons with disabilities, ethnic minorities or older age groups.
- Facilities are available for people other than members e.g. schools, public sessions.
- Any membership selection criterion that requires applicants to have reached a certain standard before membership will be granted.

4.9 If the organisation/club has a licensed bar this will not prohibit an application for relief but the following must be evidenced:

- That the bar income aids the overall operation and development of the main aims of the organisation.
- That the operation of the bar and any associated facilities is a minor function of the organisation
- That the main activity remains the paramount objective of the organisation.

4.10 For all organisations consideration will be given to the extent that granting relief will help to preserve facilities that would otherwise be lost to the community.

5 Rural Rate Relief

5.1 Businesses meeting the criteria for mandatory rural rate relief (50%) will, since 01.04.17, also receive 50% centrally funded discretionary relief.

5.2 In addition up to 100% discretionary rural rate relief can be granted in specified circumstances.

5.3 The guidelines for awarding discretionary rural relief are as follows:

- The business should demonstrate how it benefits the local community and the impact on the community should the business no longer be operating and;
- The accounts should show no more than 12 months expenditure in unrestricted reserves unless a business plan exists detailing how the reserves are to be used to benefit the local community,
- The business should be established and run as a small local business and not as part of or a subsidiary of a larger national organisation.
- The level of relief will in line with Appendix A to this policy and guidance documents where any amounts specified by legislation are updated accordingly.

6. Relief for Partly Occupied Properties

6.1. Section 44a of the Local Government Finance Act 1988 grants Local Authorities a discretion to grant relief where it appears to the Authority that part of a property is unoccupied and will remain so for a 'short period of time only'.

6.2. The definition of what may constitute a 'short time only' is not prescribed and will be decided by the authority dependent upon the individual circumstances of each case.

6.3. Section 44a relief is not intended to be used where part of a property is temporarily not used; it is aimed at situations where there are practical difficulties in occupying or vacating part or parts of the property.

6.4. However where a building or buildings on a manufacturing site become temporarily redundant it might be reasonable to take the unoccupied part of the hereditament into account rather than levy full rates on the whole hereditament. Authorities should also bear in mind that such an approach may alleviate hardship in some circumstances.

6.5. The relief commences on the day the premises became partly occupied and ends on the first day of the following:

- Where all or part of the unoccupied area becomes occupied.
- At the end of a financial year (31st March) a new application will be required if the unoccupied period crosses over two financial years.
- The person liable for Business Rates changes.

6.6. From 1st April 2008 following reforms to empty property relief, the empty part of the property will receive a complete exemption from rates for a maximum period of 3 months (or if it is an industrial property, for a maximum period of 6 months). Once the appropriate exemption period has expired, the occupied charge for the whole property will be applied unless the property falls to be exempt for any other reason.

6.7. All applications for this relief must enclose a floor plan of the assessment in question, clearly identifying the occupied and unoccupied areas and showing measurements for each area.

6.8. Applications will not be considered for retrospective periods after which full occupation has taken place. The relief will not be awarded under any circumstance where it has not been possible to verify the situation as shown in the application by undertaking a visit to the property during the vacant period.

6.9. Applications will not be considered where a property is partly occupied due to refurbishment.

6.10. Situations that would normally result in an award of the relief include (although not necessarily limited to) the following:

- Where there is partial occupation of a warehouse, factory or commercial property to facilitate relocation of the company
- Where fire, flood or other natural disaster prevents full use of the premises

6.11. Situations that would not normally result in an award of the relief include (although not necessarily limited to) the following:

- Where the owner sublets parts of the premises on a commercial basis
- Where the part occupation is likely to continue year on year
- Where there appears to be no effort to let, sell or occupy the empty part
- Where part occupation is seasonal

6.12. A visit to the premises in question will be undertaken by an officer of Ashfield District Council before any recommendation is made regarding an application.

7. Relief on the grounds of Hardship

7.1. Under section 49 of the LGFA 1988 the billing authority is given discretionary powers to reduce or remit the amount a ratepayer is required to pay in respect of either an occupied or unoccupied hereditament where the authority is satisfied that:

- the ratepayer, who will have been trading at the current premises for a minimum period of 6 months (except in exceptional circumstances), would sustain hardship and;
- It is reasonable for the authority to do so having regard to the interests of the persons subject to council tax in its area.

7.2. Unfortunately there is no statutory definition of hardship and therefore each authority must arrive at its own decision in relation to any application. Guidance was provided by the Government in December 2002 as to the considerations that authorities might apply when exercising their discretion in determining applications for hardship relief. These are as follows:

- Although rules may be adopted for considering hardship cases a blanket policy whether or not to grant relief should not be adopted.
- Each case will be determined on its own merits and the application process as simple as possible so that decisions can be made quickly.
- Reduction or remission of rates on the grounds of hardship should be the exception rather than the rule.
- All relevant factors affecting the ability of the business/ratepayer to meet their liability for business rates should be taken into account
- 50% of any reduction or remission must be met locally the remaining 50% can be offset against the authorities payment into the NDR pool.
- The “interests” of council tax payers in any area can go wider than direct financial interests. E.g. employment prospects, or availability of amenities in and area or the business is the only provider of a service in the area.
- Where the granting of relief may have an adverse financial effect on the financial interests of the council tax payers the case for a reduction or remission may still on balance outweigh the cost to taxpayers.
- In some cases the hardship will be self-evident, e.g. loss of trade through natural disasters such as severe flooding. However the authority may wish to consider how the business can demonstrate loss of business or trade. For example do accounts, order books, till receipts, VAT returns etc. show a marked decline in trade compared to corresponding periods in previous years.

- Authorities should be clear in granting relief that it will be granted only for the period in which there is clear evidence of hardship for the ratepayer concerned.
 - To guard against fraudulent claims, authorities should satisfy themselves that the claim is from a ratepayer suffering genuine hardship.
- 7.3. The guidelines for granting relief on the grounds of hardship are as follows:
- All relevant factors affecting the business/ratepayer to meet their liability for business rates will be taken into account.
 - The business must provide evidence that clearly demonstrates loss of business or trade over the relevant period.
 - The business must demonstrate how granting the relief will benefit the local community and detail the impact on the community should the application for relief be refused.
 - Any relief awarded will be restricted to the period for which there is clear evidence demonstrating the ratepayer concerned suffered hardship.
 - If the business is the subsidiary of a larger company the financial standing and assets of the main company will also be considered.
 - The extent and amount of any public funding or grants the business already receives will also be a consideration in determining any application for relief.
- 7.4. The guidance also recommends that hardship relief should only be granted for short periods and be reviewed regularly when the relief can be renewed, rather than granted for extended periods.

8. Local Discounts

- 8.1. Under section 69 of the 2011 Localism Act authorities have discretion to grant up to 100% relief to any other business or organisation. However where a discretionary rate relief decision would have effect where the occupier is neither a charity or non-profit making organisation, the billing authority may make the decision only if it is satisfied that it would be reasonable for it to do so, having regard to the other interests of persons liable to pay Council Tax set by that Authority. Where discretionary relief is awarded under section 69 of the Localism Act 2011, the entire cost of the award is borne locally.
- 8.2. The guidance for considering the award of Local Discounts is as follows:

- Each case should be determined on its own merits and the application process as simple as possible so that decisions can be made quickly.
- The value of the service to residents of the council and local communities can be shown to exceed the amount of the discretionary relief requested.
- The work undertaken from the property named in the application for relief directly caters for the needs of residents of the council and benefits local communities.
- It provides a valuable service to the community which is complimentary to those services provided by the council or;
- The service it provides relieves the council of the need to provide that service.
- All relevant factors affecting the ability of the business/ratepayer to meet their liability for business rates should be taken into account.
- The “interests” of council tax payers in any area can go wider than direct financial interests. E.g. employment prospects, or availability of amenities in and area or the business is the only provider of a service in the area.
- Where the granting of relief may have an adverse financial effect on the financial interests of the council tax payers the case for Local Discount may still on balance outweigh the cost to taxpayers.

9. Applications for Relief

- 9.1. Although the regulations do not specifically require the organisation to complete an application in order for the council to be able to properly consider awarding the relief any relief then the organisation should complete the appropriate application form and submit any relevant documentation in support of the application.
- 9.2. If the appropriate information is not provided then Ashfield District Council will be able to consider awarding any relief for the organisation concerned.

10. Renewals for Relief

- 10.1. Ashfield District Council will review all those awards of charitable discretionary rate relief on a fixed three year programme. This may mean that some cases are reviewed sooner.

- 10.2. At the specified review period all organisations will be provided with the appropriate application form and be invited to submit the required information in order for their application to be considered.
- 10.3. Any organisation that fails to provide the appropriate information will not be granted the discretionary relief.

Appendix A

GUIDANCE APPROVED FOR THE PURPOSE OF ASSISTING THE DETERMINATION OF APPLICATIONS FOR DISCRETIONARY RELIEF FROM NATIONAL NON-DOMESTIC RATES FOR BUSINESSES WITHIN QUALIFYING RURAL SETTLEMENTS (LAST AMENDED BY MINUTE CA 6.10 24.01.02)

Category of Business	Degree of provision within settlement	Mandatory Relief Level	Discretionary Relief Level
Post Offices and/or General Stores with RV of £8,500 or less	1	50%	50%
	2	Nil	50%
	3	Nil	30%
	3+	Nil	Nil
Post Offices and/or General Stores with RV £8,501 to £16,500			
and			
Businesses with RV less than £16,000 mainly providing :-			
Sale of cooked & uncooked meats;	1	Nil	50%
Sale of baked goods;	2	Nil	25%
Sale of newspapers, magazines & confectionery;	3	Nil	15%
Pharmacy services	3+	Nil	Nil
Hot and/or cold prepared food to eat in or takeaway (not licensed to sell alcohol);			
Hairdressing services;			
Sale of clothing;			
Home improvement products and services;			
Sale of cut and dried flowers; or			
Club meeting facilities			
New categories wef 05.04.01:			
Public Houses & fuel filling stations with RV less than	1	50%	50%
£12,500	1+	Nil	Nil
New category wef 15.08.01:			
Shops selling mainly food (with the exception of confectionery & catering) with RV of less than £8,500	Any number	50%	Nil
NB Businesses attracting this relief will not be eligible for discretionary relief under any preceding provision.			