

Non Domestic Rating Discretionary Rate Reliefs and Hardship Award Policy

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Rate Reliefs

Non-Domestic Rating has a large number of reliefs divided basically into two types, mandatory and discretionary. In the case of discretionary relief, these are themselves broadly divided into three types as follows:

(a) Discretionary relief which is defined by legislation and borne by the Council and Government under the Business Rates Retention provision (49%/1% Fire/50%);

- (i) Discretionary relief for those ratepayers who receive mandatory Charity Relief (80%) – discretionary relief can be granted up to 20% and is often referred to as ‘top up’. This category can include Community Amateur Sports Clubs (CASCs);
- (ii) Discretionary relief for those ratepayers who are in a Rural Settlement and who do not receive mandatory rural rate relief – discretionary relief can be granted up to 100%;
- (iii) Discretionary relief for those ratepayers who are not charities but who are not established or conducted for profit and whose main objects are charitable or are otherwise philanthropic or religious or concerned with education, social welfare, science, literature, or the fine arts – discretionary relief can be granted up to 100%; and
- (iv) Discretionary relief for those ratepayers who are not charities but whose premises are 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 organisation not established or conducted for profit. These are largely sports clubs (not CASCs) – discretionary relief can be granted up to 100%;

The basic provisions are laid down by legislation (S47) but the decision whether to grant relief is at the discretion of each Council. Councils are required to develop their approach to granting within the legislative framework.

(b) Discretionary relief which is wholly defined by the Council and borne by the Council and Government under the Business Rates Retention provision (49%/1% Fire/50%);

Relief under this provision is wholly determined by each Council. This relief is commonly known as the ‘localism’ provisions and allows authorities to grant up to 100% relief to any ratepayer that meets the Council’s defined policy;

(c) Discretionary relief which is wholly defined by the Government and wholly reimbursed by the Government under a S31 Grant:

- (i) Local Newspaper Relief – Up to £1500
- (ii) Retail, Hospitality and Leisure Relief for 2025/26 at 40% subject to a cash cap of £110,000;
- (iii) Improvement Relief from 1 April 2023 – 100% relief for 12 months from increased bills based on certificated values from the Valuation Office Agency.
- (iv) Supporting Small Business Relief effective from 1 April 2023

For this final category, Government has, for a considerable time, developed schemes which are expected to be adopted by Councils. These are normally in response to economic events such as the financial crisis or the recent pandemic. In these cases, where Councils adopt the suggested approach, the full amount of relief is reimbursed by means of a S31 grant.

The council will adopt all S31 Government funded discretionary reliefs in accordance with any guidance issued.

Discretionary relief which is defined by legislation and borne by the Council and Government under the Business Rates Retention provision (49%/1% Fire/50%);

The agreed reliefs for the Westmorland and Furness Council area are as follows –

Category – Relief Type	Maximum possible relief	Relief to be awarded
Top – up Relief to Mandatory Charity Relief or CASCs*	20%	20% discretionary relief where the RV does not exceed £75,000 10% discretionary relief where the RV exceeds £75,000
Discretionary Relief – Non Profit Making organisations (Business Rates Retention) hereditaments occupied by certain voluntary bodies of a philanthropic nature, for recreation, or by clubs and societies not established or conducted for profit	100%	100% relief where the RV does not exceed £30,000 90% relief where the RV does not exceed £51,000
Rural Rate Relief – Discretionary Only	100%	Relief to be granted up to £16,500 RV

*CASC means Community Amateur Sports Club as defined by HMRC.

It is expected that any entitlement to Small Business Rate Relief (SBRR) will be determined before any application for Discretionary Relief is considered.

As the awarding of relief is discretionary, it is appropriate to consider the cost of the relief falling against the Council's budgetary provisions.

Relief will be granted for a maximum of three years ending when a new Non-Domestic Rating List comes into effect and subject to there being no material change to the operation and/or aims of the organisation during the life of the list. Ratepayers will be notified of an award of relief by way of a revised demand notice for each year during which relief applies.

Should the council's agreed levels of relief change during the life of an award, ratepayers would be provided with as much notice of this change as possible and would be encouraged to reapply should they still meet the council's criteria for an award.

Ratepayers are required to apply for relief before the expiration of six months after the end of the applicable financial year for which relief is requested.

Charities

Awards will be made to charities providing the organisation's objectives and actions support the delivery of the Council Plan and its priorities including the provision of facilities or services that support the Council's aims and objectives.

Copies of the last two years' audited accounts should be provided to determine the financial position of the organisation. The level of reserves should be examined and if there are unreasonably large reserves which are not earmarked for future projects, this will be taken into consideration.

There would be some exclusions to the policy. No discretionary relief shall be given to Charity Shops (except local charities i.e. hospice shop, air ambulance), Housing Associations, hospitals and other Educational Establishments (including Academies, Schools including Private Schools and Colleges) that are charitable trusts or are funded by government.

No discretionary relief will be awarded to charities that are occupying hereditaments in return for a payment/donation from the landlord/owner/agent of the hereditament and occupying premises for a nominal rent, or where the occupation of the hereditament is not line with the objectives of the charity.

Explanatory notes:

- a. Charity Shops are in direct competition with conventional shops and relief over and above mandatory relief could lead to commercially run shops suffering loss of trade.
- b. Housing Associations, Hospitals and Educational Establishments (as outlined above) are already publicly funded to a substantial degree and any discretionary relief would essentially be moving money from one public body to another.
- c. Private Schools are no longer entitled to mandatory charity relief from 1 April 2025 so it cannot be government's intention that relief could be granted instead via discretionary means.
- d. There have been a number of charities who have been set up to exploit the rules governing charitable occupation. This is being used as means of avoiding payment of empty property rates by a number of landlords nationally.

Although this practice is legal it is not in the interest of our Council Tax Payers to fund such rates avoidance schemes. These schemes often involve the broadcasting of free Bluetooth messages and/or the provision of free wireless internet, or art exhibitions.

Sports Clubs

Consideration will be given to the following when determining an award –

- Membership fees are not excessive
- Membership should be open to everybody
- 75% of members must be Westmorland and Furness residents
- Steps taken by the organisation to encourage membership from groups that the council considers would benefit from support such as young people, pensioners, disabled persons, and those who are unemployed.
 - The facilities should be made available to people other than members for example, schools and youth groups
 - Reduced fee structures for such groups
 - Schemes of education or training for such groups
 - Accessibility to the building for disabled people will enhance the application
- The provision of training or education for members.
- Have the facilities been provided by self-help or grant aid?
- Does the organisation run a bar? If so, is it incidental to the main aims of the organisation and are the profits used to further those aims?
- Does the organisation provide facilities which indirectly relieve the authority of the need to do so, or enhance and supplement those which it does provide?

- Affiliation to local or national organisations
- The provision of facilities or services that support the Council's aims and objectives.

Copies of the last two years' audited accounts should be provided to determine the financial position of the organisation. Where an organisation is struggling financially, consideration will be given to the level of membership fees and other charges and whether they are realistic compared to those charged by similar organisations.

The level of reserves should be examined and if there are unreasonably large reserves which are not earmarked for future projects, this will be taken into consideration.

Partly Occupied Hereditament Relief

All applications for relief under S44A (Partly Occupied Hereditament Relief) shall be determined in accordance with the rules governing empty property charges and decisions would be made by the Revenues and Benefits Service.

All applications for relief under any of this policy will be administered and awarded subject to State Aid de-minimis limits. It is the responsibility of the applicant to ensure they do not make an application which results in rules governing State Aid are not broken. Further information can be obtained at www.gov.uk/guidance/state-aid

Hardship (S49 Local Government Finance Act 1988)

The Council has the power to remit or reduce rates under S49 of the Local Government Finance Act 1988. The policy to be followed is shown at Appendix A. Applications for hardship relief after the 1 April 2023 will be considered on a case by case basis.

Any amount of reduction awarded is met under the business rates retention scheme **(49%/1% Fire/50%);**.

Discretionary relief which is wholly defined by the Council and borne by the Council and Government under the Business Rates Retention provision – Localism

Each case will be considered on an individual basis with effect from 1 April 2023, in line with the overarching policy shown within Appendix B.

Appendix A - Non Domestic Rating – S49 Hardship Policy

General Explanation

1. The Council is able to exercise its discretion under Section 49 of the Local Government Finance Act 1988 to provide either partial or full relief for non-domestic rate payments in cases of hardship where it would be reasonable to do so having due regard to the interests of council taxpayers in general.

See [Local Government Finance Act 1988 \(legislation.gov.uk\)](https://legislation.gov.uk/ukpga/1988/42)

Discretionary Relief – Hardship – the Council’s policy

2. The Council will accept applications for hardship relief from individuals and organisations based on their own merits on a case-by-case basis. The Revenues and Benefits Service will consider applications.
3. A successful applicant will need to demonstrate that each of the following three conditions has been met:
 - (a) that the business is suffering hardship;
 - (b) that the business is viable and that the granting of relief will help to ensure the future of the business; and
 - (c) that the business benefits the local community and its failure will be of significant impact to the local economy.
5. Prior to any reduction in rate liability being applied, the business is expected to have taken appropriate action to mitigate or alleviate their hardship by:
 - taking independent professional business advice;
 - reviewing their pricing structure or its approach to income generation;
 - where allowed by law, to re-negotiating with creditors, including any financial institutions; service providers and the landlord regarding rent (the Council is mindful of insolvency statute that may limit this);
 - having a business plan in place to address the hardship

Applications and Decision Making

6. Hardship relief is intended to provide short term assistance to a ratepayer suffering unexpected hardship, financial, or otherwise, arising because of exceptional circumstances or short-term crisis beyond the business' control and outside of the normal risks associated with running a business of that type, to the extent that the viability of the business would be threatened if an award were not made or where such a failure may significantly affect the local economy or employment.
7. As the definition covers unforeseen events, it is not possible to offer precise definitions. However, a 'crisis' would have to result in a serious loss of trade, employment or have a major effect on the services that can be provided.
8. 'Exceptional circumstances' will usually be circumstances that came from outside the business or organisation and are beyond the normal risks faced by businesses and cannot be foreseen or avoided. The effect of strikes within a business or organisation, increased day to day running costs and increased competition would not be considered as 'exceptional circumstances' as they are normal business risks.
9. Applications to reduce or remit the non-domestic rate charge will only be considered where the Council is satisfied that the ratepayer would otherwise sustain hardship if no award was made and that it is reasonable to grant relief having regard to the interest of Council Taxpayers who are affected by decisions under this section.
10. Applications for hardship will be examined on a case-by-case basis by the Revenues and Benefits Service. Each application will be assessed on its individual merits. Other issues or requirements will also be considered in relation to the application as they arise including:
 - All applications should be made in writing from the ratepayer, their advocate/appointee or a recognised third party acting on their behalf, and should contain the necessary information to substantiate the request;
 - All applications are only intended as short-term assistance and will not extend beyond the current financial year, and should not be considered as a way of reducing rate liability indefinitely;
 - The financial interests of the Council Taxpayers will not be the sole overriding factor e.g. the impact on employment and amenities provision will also be considered;
 - The test of 'hardship' is not confined strictly to financial hardship - all relevant factors affecting the ability of a business to meet its liability for rates are considered where readily available. Where the granting of relief will have an adverse effect on the financial interests

of the council taxpayers, relief may still be granted if the case for relief on balance outweighs the costs to taxpayers;

- The test of hardship will include an assessment of the ratepayer's individual accounts to verify that the payment of rates would cause hardship; and how the reduction in rate liability may be affected by the Subsidy Control rules.

11. Upon receipt of a written application, all supporting information must be included for consideration.
12. Once a decision has been approved the ratepayer will be advised in writing of the decision.

Review of Decision

13. Under S49 of the Local Government Finance Act 1988, there is no general right of appeal against the Council's use of discretionary powers. However, on individual applications, the Council will accept a request from a ratepayer for a review of its decision. The Council will consider whether the ratepayer has provided any additional information that will justify a change to its original decision.
14. The Council will notify the ratepayer of its decision within 21 days of receiving a request for a redetermination. This decision shall be final.
15. Should the ratepayer feel aggrieved by the way the Council has considered any application, the matter will be dealt with in accordance with the Council's complaints procedure.

Award of Relief and Period of the award

16. Relief will normally only be awarded retrospectively. However, where the ratepayer can show that the circumstances will remain the same for a period up to the end of the current financial year, relief may be award for the remainder of the year.
17. Hardship Relief will **not** be granted in respect of an unoccupied premises or where there is little or no expectation of economic survival.
18. In all cases, it is expected that businesses should have taken prompt action to mitigate any factors giving rise to hardship. Examples of mitigating actions may include seeking business advice; discounts and promotions; reviewing pricing; extending the range of stock or services;

and negotiating with creditors etc. Applications may be declined in circumstances where the business is unable to demonstrate that it is taking reasonable steps to alleviate the hardship.

19. In all cases relief will end in the following circumstances:
 - At the end of a financial year;
 - A change of ratepayer;
 - The property becomes unoccupied, partly unoccupied or is used for a different purpose;
 - The ratepayer enters any form of insolvency; or
 - The ratepayer's financial circumstances significantly change.
20. The ratepayer must inform the Council if their circumstances change within a period of 21 days from the date of change.
21. The Council will review cases periodically where awards are made to confirm hardship persists.
22. The Council will not accept deliberate manipulation of this policy or fraud. Any person caught falsifying information to gain a discretion award will face prosecution and any amount awarded will be removed from the non-domestic rate.

Appendix B - Non Domestic Rating – Localism Discretionary Relief Policy

Discretionary Relief – Localism Act 2011

General Explanation

1. Section 69 of the Localism Act 2011 amended Section 47 of the Local Government Finance Act 1988. These provisions allow all Councils to grant discretionary relief in **any** circumstances where it feels fit having regards to the effect on the Council Taxpayers of its area.
2. The provisions are designed to give authorities flexibility in granting relief where it is felt that to do so would be of benefit generally to the area and be reasonable given the financial effect to Council Taxpayers.

Discretionary Relief – Localism – the Council's policy

3. Applications will be considered from any ratepayer who wishes to apply. However, where a ratepayer is suffering hardship or severe difficulties in paying their rates liability then relief can be granted under the existing provisions as laid down by Section 49 of the Local Government Finance Act 1988. There will be no requirement to grant relief in such cases under the Council's discretionary relief policy.
4. The Council will consider any application for discretionary rate relief under these provisions against the following criteria and the amount of relief granted will be dependent on the overall level of compliance;

Factor	Explanation	Compliant	
1	The ratepayer must not be entitled to mandatory rate relief (Charity or Rural Rate Relief)	Yes	No
2.	The ratepayer must not be entitled to Central Government funded discretionary reliefs (S31 funded)		
3.	The ratepayer must not be an organisation that could receive relief as a non-profit making organisation or as a sports club or similar		

Factor	Explanation	Compliant	
4.	The ratepayer must occupy the premises (no discretionary rate relief will be granted for unoccupied premises)		
5.	The premises and organisation must be of <i>significant</i> benefit to residents of the Council's area		
6.	The premises and organisation must relieve the Council of providing similar facilities		
7.	The ratepayer must ; (i) Provide facilities to certain priority groups determined by the Council such as elderly, disabled, minority groups, disadvantaged groups; or (ii) Provide <i>significant</i> employment or employment opportunities to residents of the Council; or (iii) Provide the residents of the area with such services, opportunities or facilities that cannot be obtained locally or are not provided locally by another organisation		
8.	The ratepayer must demonstrate that assistance (provided by the discretionary rate relief) will be for a <i>short time only</i> and that any business / operation is financially viable in the medium and long term		
9.	The ratepayer must show that the activities of the organisation are consistent with the Council's core values and priorities		

5. Any relief granted will initially be considered for a short period and will end when the circumstances are anticipated to improve and will not extend beyond the financial year in which an award is made.