

City of Stoke on Trent Council

Policy for the granting of Discretionary Non-Domestic Rate Relief

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Purpose of the Policy

The purpose of this policy is to determine the level of discretionary relief and related areas to be granted to certain defined ratepayers within the City of Stoke on Trent Council's area.

The Council is obliged to grant relief to premises, which fall within the mandatory category, the Council also has powers to grant discretionary relief and reductions to ratepayer's subject to certain criteria being met. In the case of new reliefs, guidance has been issued by Central Government outlining actions expected to be taken by local authorities.

This document outlines the following areas:

- Details of the criteria for receiving Discretionary Reliefs for all relevant areas;
- The Council's policy for granting of all types of Discretionary Reliefs;
- Guidance on granting and administering the reliefs and reductions;
- European Union requirements including provisions for State Aid; and subsequent subsidy requirement post Brexit

Discretionary Relief- Legislative Background

The purpose of discretionary relief was to provide aid where the property does not qualify for mandatory relief, or to 'top' up cases where ratepayers already receive mandatory relief. Since 2011, the discretionary relief provisions have been amended to allow authorities the flexibility to aid businesses and organisations.

Unlike mandatory relief, ratepayers are obliged to make an application to the Council. The Council is obliged to consider carefully every application on its merits, considering the contribution that the organisation makes to the amenities of the Council's area.

There is no statutory appeal process against any decision made by the Council although as with any decision of a public authority, decisions can be reviewed by Judicial Review. The decision to grant or not to grant relief is a matter purely for the Council.

Granting of the relief falls broadly into the following categories:

- Discretionary Relief- Premises occupied by organisations not established or conducted for profit whose main objects are charitable or are otherwise philanthropic or religious or concerned with education, social welfare, science, literature or the fine arts or premises occupied by organisations not established or conducted for profit and wholly or mainly used for purposes recreation;
- Discretionary Relief- Granted under the Localism Act 2011 provisions

- Local Newspaper Relief (from 1st April 2017 – 31 March 2025)
- Supporting Small Businesses Relief (from 1st April 2017 for a period of five years or until business pay their full rate charge or their transitional rate charge (calculated in accordance with the Non- Domestic Rating (Chargeable Amounts) (England) Regulations 2016));
- S44a Part Occupied Premises Relief; and
- S49 Hardship Relief.

Effect on Council's Finances

The financial effects of discretionary reliefs covered by this policy are as follows:

RELIEF TYPE	GRANTED AFTER 1 ST APRIL 2013
Non-profit making organisations including sports	50% Borne by the Council
Discretionary relief granted to mandatory relief recipients	50% Borne by the Council
Localism discretionary relief awards	50% Borne by the Council
Discretionary relief granted to local newspapers meeting the criteria (from 1 st April 2017 -31 March 2025	Section 31 Grant
Supporting Small Businesses Relief (from 1 st April 2017 for a period of 5 years)	Section 31 Grant
S44a part occupied relief – Discretionary relief where premises are part occupied and part unoccupied for a short period	50% Borne by the Council
S49 hardship relief – granting relief where the ratepayer is suffering hardship	50% Borne by the Council

State Aid Requirements

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

All Reliefs within this policy will need to be State Aid compliant, where it is provided in accordance with the De Minimis Regulations 3(1407/2013). The De Minimis Regulations allow an undertaking to receive up to €200,000 of De Minimis aid in a three-year period (consisting of the current financial year and the two previous financial years). In response to the coronavirus pandemic, State Aid rules were amended further. Latest guidance around state aid can be found at <https://www.gov.uk/government/publications/esf-action-notes-2014-to-2020-programme/05120-temporary-easement-to-state-aid-de-minimis-level> and www.gov.uk/state-aid

Business should also be aware of UK subsidy changes from 4 March 2021 and make sure that they are not in breach of this. Further information can be found at <https://www.gov.uk/government/publications/complying-with-the-uks-international-obligations-on-subsidy-control-guidance-for-public-authorities>

When making an application, ratepayers will be required to provide the Council with sufficient information to determine whether these provisions are applicable in their case. It will be for the ratepayer to provide confirmation as to whether the State Aid provisions apply to them, and inform the council if they are no longer able to claim any awarded relief due to the breach of State Aid limits, and return funds to the Local Authority.

Administration of Discretionary Relief

All reliefs must be applied for by the ratepayer. Organisations are required to provide a completed application form plus any such evidence, documents, accounts, financial statements etc. necessary to allow the Council to make a decision. Where insufficient information is provided, then no relief will be granted. Applications should initially be made to the Business Rates Section.

Where an application is successful, then the following will be notified to them in writing:

- The amount of relief granted and the date from which it has been granted
- If relief has been granted for a specified period, the date on which it will end
- A requirement that the applicant should notify the Council of any change in circumstances that may affect entitlement to relief

Where relief is not granted then an explanation of the decision will be sent outlining the reasons why. A decision to award discretionary relief and how much relief is given is only applicable to the financial year for which the application is made. Discretionary relief is to be granted from the beginning of the financial year in which the decision is made. Since

1997 decisions can be made up to 6 months after the end of the financial year for which the application was made.

A fresh application for discretionary relief will, if required by the Council, be necessary for each financial year.

Variations in any decision will be notified to ratepayers as soon as practicable and will take effect as follows:

- Where the amount is to be increased by the Council, from the date to be decided by the Council;
- Where the amount is to be reduced due to a reduction in the rate charge from the date of the decrease in rate charge; and
- Where the amount is to be reduced for any other reason takes effect at the expiry of a financial year, and so that at least one year's notice is given

A decision may be revoked at any time and the change will take effect at the expiry of a financial year.

Whilst there is no right to appeal a council decision in relation to the awarding of discretionary relief, applications that are refused will, on request, be reconsidered if additional supporting information is provided or the refusal is subsequently considered to be based on a misinterpretation of the application.

Where any award is granted to a ratepayer, the Council will require any changes in circumstances which may affect the relief to be reported within 21 days. Where a change of circumstances is reported, the relief will, if appropriate be revised or cancelled. Where any award is to be reduced, the Council will look to recover the amount from the date the change of circumstances occurred.

Where a ratepayer falsely applies for any relief or where the ratepayer provides false information, makes false representation, or deliberately withholds information in order to gain relief, prosecutions will be considered under the Fraud Act 2006.

Discretionary Relief- Non-Profit Making Organisations including Recreation

The Council will consider applications for discretionary rate relief from non-profit making organisations on their own merits on a case-by-case basis. In determining the application, the following matters will be taken in to consideration.

- How the organisation supports and links into the Council's corporate vision and priorities;
- Whether the facilities provided include education and/or training for members as a whole or for special groups;
- The extent to which the facilities provided reduce the demand for Council services or produce savings;
- Any membership and fee structure and whether the facilities are accessible to all residents, including whether there are concessions for certain groups;
- If covered by a membership scheme, membership numbers and the number and percentage of these members that are residents;
- If the organisation has due regard to equality issues and if its facilities are used by all members of the community;
- Profits and surpluses must be used to further the sporting objectives of the club/organisation and not distributed as a share or dividend amongst some or all members; and
- A legal constitution must be in existence and applicants must demonstrate that they are operating in accordance with its requirements

The application form can be accessed through request to the Business Rates department or online at www.stoke.gov.uk/businessrates

Non-Profit

The legislation allows the Council to grant discretionary relief where the property is all or part occupied for the purposes of one or more institutions or organisations of which none are 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.

Relief cannot be granted to any premises occupied by the Council, or any town, parish council. The Council may make enquiries as to the overall purpose of the organisation with regards to 'not established or conducted for profit' although if surpluses and such amounts are directed towards the furtherance or achievement of the objects of the organisation would be treated as such.

Recreation Clubs

Where sports clubs do not meet the Community Amateur Sports Club (CASC) requirement, and are not registered charities, discretionary relief can be granted (0-100%) where the property is not an excepted one, it is wholly or mainly used for purposes of recreation and all or part of it is occupied for the purpose of a club, society or other organization not established or conducted for profit.

Membership should be open to all sections of the community. There may be legitimate restrictions placed on membership which relate for example to ability in sport or to the achievement of a standard in the field covered by the organisation or where the capacity of the facility is limited, but in general membership should not be exclusive or restrictive.

Membership rates should not be set at such a high level as to exclude the general community. However, membership fees may be payable at different rates that distinguish the different classes of membership, such as juniors, adults, students, pensioners, players, non-players, employed and unemployed. In general, the club or organisation must be prepared to show that the criteria by which it considers applications for membership are consistent with the principle of open access.

The Council will also establish the level of access through application by asking 'Does the organisation actively encourage membership from particular groups in the community e.g. young people, women, older age groups, persons with disability, ethnic minorities' etc.?'

Organisations which provide training or education are encouraged as are those who provide schemes for particular groups to develop their skills e.g. young people, the disabled, retired people.

The mere existence of a bar will not in itself be a reason for not granting relief. However, the Council focuses on the main purpose of the organisation. The Council is encouraged to examine the balance between playing and non-playing members. Within this area the Council also considers whether the facilities provided relieve the Council of the need to do so, or enhance and supplement those that it does provide.

Discretionary Relief- Localism Act 2011

The Localism Act 2011 allow all Councils to grant discretionary relief in any circumstances where it feels fit having regards to the effect on the Council Tax payers of its area. 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 Tax payers.

Any ratepayer applying for discretionary rate relief under these provisions and who does not meet the criteria for existing relief (charities or nonprofit making organisations) must meet all of the following criteria:

- The ratepayer must not be entitled to mandatory rate relief (Charity Relief);
- The ratepayer must not be an organisation that could receive relief as a nonprofit making organisation or as a sports club or similar;
- The ratepayer must occupy the premises (no discretionary rate relief will be granted for unoccupied premises);
- The premises and organisation must be of significant benefit to residents of Stoke on Trent;
- The premises and organisation must not be in receipt of a Central Government fully funded discretionary relief scheme;
- The premises and organisation must relieve the Council of providing similar facilities;
- The ratepayer must;
 - 1) Provide facilities to certain priority groups such as elderly, disabled, minority groups, disadvantaged groups;
 - 2) Provide significant employment or employment opportunities to residents of the City; or
 - 3) 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;

Details of any other business owned by the ratepayer will be considered. This will indicate if the owner could rely on the income of another branch of business. It will also indicate if the profits of one business could be invested in the applicant business to aid survival.

The ratepayer must demonstrate that assistance (provided by the discretionary rate relief) will be for a short time only and that any business in operation is financially viable in the medium and long term, and the ratepayer must show that the activities of the organisation are consistent with the Council's core values and priorities.

A formal application from the ratepayer will be required in each case and any relief will be granted in line with State Aid requirement. Further details can be obtained from the business rates department or by visiting www.stoke.gov.uk/businessrates

Discretionary Relief- Local Newspaper Relief

You could get local newspaper relief if your property is used as office premises for journalists and reporters on a local newspaper.

The relief is a £1,500 reduction in business rates for eligible properties per year from 1 April 2017 to 31 March 2025. The amount of relief is limited to a maximum of one discount per newspaper title (e.g. per newspaper name) AND per hereditament. As with all discretionary rate relief, any grant will be subject to State Aid limits.

The relief is specifically for what the Local Authority considers to be a “traditional local newspaper.” The relief will not be available to magazines.

The Council has decided to grant relief strictly in accordance with Central Government guidelines.

Discretionary Relief- Supporting Small Businesses Relief

Central Government announced that a new scheme of relief would be made available to those ratepayers facing large increases as a result of the loss of small business rate relief due to the 2017 revaluation. All authorities are encouraged to grant the relief in accordance with the guidelines laid down by Central Government and if granted strictly in accordance with guidance, the Council will be compensated by Central Government through a grant under section 31 of the Local Government Act 2003. The relief is to be known as the 'Supporting Small Businesses Scheme'. The scheme will last for a period of five years from 2017 to 2018 until 2021 to 2022.

To support these ratepayers, the Supporting Small Businesses relief will ensure that the increase per year in the bills of these ratepayers is limited to the greater of:

1. a percentage increase per annum. of 5%, 7.5%, 10%, 15% and 15% 2017/18 to 2021/22 all plus inflation. (Unlike the transitional relief scheme under the Chargeable Amount regulations), for the first year of the scheme the percentage increase is taken against the bill for 31 March 2017 after small business rate relief;

or

2. a cash value of £600 per year.

This means that ratepayers who were paying nothing under small business rate relief and are losing all of their entitlement to relief would under this scheme be paying an additional £600 each year taking this to a final increase of £3,000 (plus inflation) by year 5.

Ratepayers will remain in the Supporting Small Businesses relief scheme for either 5 years or until they reach the bill they would have paid without the scheme (this would be the charge payable as their true rates payable or the charge calculated under the Non-Domestic Rating (Chargeable Amounts) (England) Regulations 2016).

A change of ratepayer will not affect eligibility for the Supporting Small Businesses relief scheme but eligibility will be lost if the property falls vacant or becomes occupied by a charity or Community Amateur Sports Club. The rules for state aid shall apply when considering Supporting Small Businesses Relief.

Section 44a – Partly Occupied Hereditaments

A ratepayer is liable for the full non-domestic rate whether a property is wholly occupied or only partly occupied. Where a property is partly occupied for a short term, the local authority has discretion in certain cases to award relief in respect of the unoccupied part.

The Council will consider written (including email) applications. The ratepayer will need to provide the following:

- A detailed plan of the premises clearly identifying the occupied and unoccupied areas;
- Access to the premises so that they can be inspected fully by the Council's representative;
- Details of how long the premises are likely to be temporarily unoccupied;
- Details of any future plans to occupy the premises; and
- Full contact details of the ratepayer and any agent they have representing them

The Council will also consider applications for S44a from all ratepayers, whose premises meet the criteria. Each case will be considered on its own merits on a case-by-case basis.

There will be no retrospective granting of relief, including where a request is made after the premises become fully operational or fully vacated.

The effective start date of Section 44A relief will normally be the date of the initial request or where this is unclear the date of the visit by the inspector.

Payment cannot be withheld pending the receipt of the Section 44A Certificate from the Valuation Officer.

An inspector may visit the premises occasionally without notice to check that the certified unoccupied area is not in use.

The period of relief will end with the first day on which one or more of the following events occur:

- A change in the extent of partial occupation
- The ending of the rate period to which the apportionment relates
- The beginning of a new period of relief under a new certificate
- The hereditament becoming completely unoccupied/occupied.

The ratepayer is responsible for notifying the Business Rates Office immediately if the unoccupied area comes into use.

Section 44A is only a temporary relief and should not be used in cases where the partial occupation will be for a prolonged period. In these cases, the ratepayer should seek to get the property split in the rating list by the Valuation Office Agency (VOA).

Section 49 – Partly Occupied Hereditaments

The Council is able to exercise its discretion under Section 49 of the Local Government Finance Act 1998 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 tax payers in general.

The Council will consider applications for hardship relief from individuals and organisations based on their own merits on a case-by-case basis. In making decisions on whether to award the relief the Council considers the following criteria (not listed in any priority):

- Any reduction or remission of rates on the grounds of hardship should be the exception rather than the rule;
- Any reduction of the rates must be shown to be significant to the future viability of the business;
- The business must continue to trade;
- Cash flow forecast for a minimum of the next twelve months must be provided together with a comprehensive
- Business Plan incorporating a brief history of the business;
- The test of "hardship" is not strictly confined to financial hardship and that this, in itself, is not a deciding factor;
- The loss of the business would reduce amenities of an area if it is the sole provider of a service in the area;
- Details of any state aid, grants or subsidies either from central or local government over the previous three years.
- The loss of the business would worsen the employment prospects in the area;
- The interests of the Council Tax payers of the area would be best served by awarding the relief;
- The business must demonstrate how it is beneficial to the local community and why it is currently suffering financial
- hardship;
- The business provides employment to local residents in an area where employment opportunities are limited;
- Independent advice given by banks or financial advisors should be sought to demonstrate the future viability of the business;
- Applications will only be considered where signed by the ratepayer, or, where an organisation is the ratepayer, an appropriately authorised representative of the organisation; and
- The ratepayer will provide additional information as deemed necessary by the Council to be essential in order for a fair evaluation of the application