



Scarborough Borough Council

**Business Rates
Policy document - areas of local
discretion**

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1. Introduction and Scope

As part of its role in the administration of National Non Domestic Rates (NNDR), sometimes referred to as business rates, the Council has several areas where it can exercise its discretion to provide reductions to the amounts of business rates that are due to be paid.

Changes to local government finance now mean that the income from business rates more directly impacts on the Council's financial position. As part of the central government funding process for local authorities, councils now retain 50% of all business rates income collected. Under the previous scheme, business rates income was paid into the government's central pool and redistributed back out to local authorities based on a formula grant.

This policy document outlines the areas of local discretion and the Council's approach to the various discounts. This approach is cognisant of the impact on both the Council's wider financial position and council tax payers, and on the organisations and businesses that may apply for discounts and their role in supporting Scarborough Borough Council residents and developing the borough.

2. Discretionary Rate Relief Scheme

The Local Government Finance Act 1988 requires the Council to maintain a Discretionary Rate Relief Scheme to award business rates relief of up to 100% to certain organisations which operate within specified criteria.

This includes:

- Charitable bodies (receive mandatory 80% relief) – the Council has further discretion to 'top up' this relief to 100% of the rates due.
- Registered community amateur sports clubs (CASCs) (receive mandatory 80% relief) – the Council has further discretion to 'top up' this relief to 100% of the rates due.
- Non profit making organisations – the Council has discretion to grant 'standard' discretionary rate relief of between 0-100% of the business rates due.

We will invite applications from charities, CASCs and non profit making organisations under the discretionary scheme

In determining applications the Council may

- Grant relief up to a maximum of 100% of the rates due;
- Grant relief for a sum less than 100% of the rates due; or
- Refuse any application for additional relief.

2.1 Charitable bodies (charities)

A mandatory rate relief of 80% is granted to charities in the following circumstances:

- The ratepayer of a property is a charity or the trustees of a charity, and
- The property is wholly or mainly used for charitable purposes (including charity

shops, where the goods sold are mainly donated and the proceeds are used for the purpose of the charity).

Registration under the Charities Act 1993 is conclusive evidence of charitable status. Bodies which, under the 1993 Act, are accepted from registration or are exempt charities are also eligible for mandatory relief. Providing the above criteria are met, 80% mandatory rate relief is granted.

In cases where a charity is in receipt of mandatory rate relief of 80%, the Council has discretion to grant up to 20% additional rate relief. This is called discretionary rate relief top up.

The Council will consider applications for a discretionary rate relief top up from charities based on their own merits, on a case by case basis. Applications will be considered by the Council's Section 151 Officer or their nominated representative.

The principle consideration is that any relief is in the best interests of the taxpayers of Scarborough Borough Council, as the Council must bear a percentage of the cost of any relief granted and the criteria in **Appendix A** will be used as a guide for any officer recommendations.

2.2 Registered Community Amateur Sports Clubs

A mandatory rate relief of 80% is granted to registered community amateur sports clubs (CASC). To qualify as a CASC, a sports club must fulfil all of the following criteria:

- Open to the whole community;
- Run as an amateur club;
- Be a non-profit making organisation; and
- Aim to provide facilities for, and encourage people to take part in, eligible sport.

In cases where a CASC is in receipt of mandatory rate relief of 80%, the Council has discretion to grant up to 20% additional rate relief as a discretionary top up.

The Council will consider applications for a discretionary rate relief top up from CASCs based on their own merits on a case by case basis. Applications will be considered by the Council's Section 151 Officer or their nominated representative.

The principle consideration is that any relief is in the best interests of the taxpayers of Scarborough Borough Council, as the Council must bear a percentage of the cost of any relief granted.

2.3 Non profit making organisations

The Council has the power to grant discretionary rate relief of up to 100% of the rates due to other non-profit making organisations. The relief could be given to properties used by non-profit making organisations for recreational, charitable, philanthropic or religious purposes or in connection with education, social welfare, science, literature or the fine arts.

The Council will consider applications for discretionary rate relief from non-profit making organisations on their own merits on a case by case basis. Applications will be considered by the Council's Section 151 Officer or their nominated representative.

The principle consideration is that any relief is in the best interests of the taxpayers of Scarborough Borough Council, as the Council must bear a percentage of the cost of any relief granted and the criteria in **Appendix A** will be used as a guide for any officer recommendations.

3. Hardship relief

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. Applications will be considered by the Council's Section 151 Officer or their nominated representative.

The principle consideration will be that it is reasonable for the authority to grant relief having regard to the interests of persons liable to pay the council tax set by it. The Council must bear a proportion of the cost of any relief granted and the criteria in **Appendix B** will be used as a guide for any officer recommendations.

4. Local Discretionary Business Rate Discount – funded locally

Section 69 of The Localism Act 2011 amends Section 47 of the Local Government Finance Act 1988 and allows the Council to grant locally determined business rate discounts (in addition to the already available discretionary rate reliefs).

The new power recognises that the current business rates scheme is broadly prescribed by central government and its aim is to provide increased flexibility to local authorities to support organisations, recognising the variations in economic conditions across and within local authority boundaries.

On this basis, the Council will invite and consider exceptional applications for a local business rates discount (general relief) from organisations, based on their own merits and on a case by case basis. Applications will be considered by the Council's Section 151 Officer or their nominated representative.

The principle consideration will be a satisfaction that the award will result in tangible benefits to local residents and, in particular, the attraction of businesses, investment, jobs or amenities to the local area and any relief is in best interests of the taxpayers of Scarborough Borough Council, as the Council must bear the cost of any relief granted.

Additionally applications will be invited for the Business Development Zone Relief available to eligible businesses established within a prescribed geographical area. Applications will be considered by the by Regeneration Services and approved by the Council's Section

151 Officer. The criteria in **Appendix C** will be used as a guide for any officer recommendations.

Unless specifically advised by central government the cost of localism reliefs are shared 50% central government, 49% local authority and 1% precepting authorities unless the Council has reached the national non domestic rates safety net or levy where adjustments are made to ensure billing authorities are acting prudently in setting up localism reliefs.

5. Rural Rate Relief

From 1st April 1998 Government legislation provides for the only Post Office or the only General Store in a Rural Settlement with a population not exceeding 3,000 to be awarded 50% Mandatory Relief and the Council can consider Discretionary Relief in respect of the remaining 50%. In addition, the Council can grant up to 100% Discretionary Relief to any small rural business which is situated in a qualifying Rural Settlement and which is important to the local community. From 5th April 2001 50% Mandatory Relief was extended to include the only Public House and the only Petrol Filling Station in a qualifying Rural Settlement. From 15th August 2001 50% Mandatory Relief was extended to include village food shops in a qualifying Rural Settlement.

The Council will consider applications for discretionary rural rate relief on their own merits on a case by case basis. Applications will be considered by the Council's Section 151 Officer or their nominated representative.

The principle consideration is that any relief is in the best interests of the taxpayers of Scarborough Borough Council, as the Council must bear a percentage of the cost of any relief granted and the criteria in **Appendix D** will be used as a guide for any officer recommendations.

6. Local Business Rates Discounts - wholly funded by Central Government

There are some areas of relief that if awarded are fully funded by central government.

6.1 New Build Empty Property Relief

Government has determined that the Council can use its discretionary powers to exempt all newly built commercial property completed between 1 October 2013 and 30 September 2016 only from empty property rates for the first 18 months, up to state aid limits. The government has stated that it will be fully funding any relief granted within the agreed protocols. The Council has agreed to use these powers and invites applications from organisations that meet the criteria. Applications will be considered by the Local Taxation Manager.

Determination and award of any exemption will be in accordance with the Department for Communities and Local Government, Business Rates New Build Empty Property Guidance (September 2013).

6.2 Business Rates Reoccupation Relief

The Business Rates Reoccupation Relief provides a 50% business rates discount for

eighteen months for businesses moving into previously empty retail premises between 1 April 2014 and 31 March 2016, up to State Aid De Minimis limits. The government has stated that it will be fully funding any relief granted within the agreed protocols. The Council agreed to use these powers and invited applications from organisations that met the criteria for re-occupations between 1 April 2014 and 31 March 2016. Applications will be considered by the Local Taxation Manager.

7. Transitional Relief Discretionary Scheme

The transitional relief scheme was introduced in 2010 to help those ratepayers who were faced with higher bills. The scheme ended on 31 March 2015 and as a result a small number of ratepayers faced an increase in their rates bill from 1 April 2015.

The government announced in the Autumn Statement on 3 December 2014 that it would extend to March 2017 the current transitional relief scheme for properties with a rateable value up to and including £50,000.

The relief must be awarded by the Council in accordance with the Discretionary Rate Relief powers as contained within the Local Government Finance Act 1988 (as amended). The “transitional relief” awarded by the Council if made in accordance with the Government Guidance will be fully reimbursed. The relief will be awarded for the 2015/2016 and 2016/17 financial years only.

Determination and award of any reduction will be in accordance with the policy as outlined in **Appendix E** and applications will be considered by the Local Taxation Manager.

8. Applications and review process

All applications for discretionary reliefs should be made in writing where possible using the Council’s application forms. The Council will also require evidence to support applications, the details of which will be included on each claim form.

Where applications will be considered by the Council’s Section 151 Officer or their nominated representative the council’s constitution also allows for an appeal panel to be formed from members of the Audit Committee should an individual applicant wish to appeal the original decision.

There is however no appeal mechanism to formally appeal against a Local Authorities decision to refuse discretionary relief. A ratepayer may however challenge the decision by judicial review if the decision has not been made in accordance with the law.

9. Award periods

All areas of discretionary relief will normally be granted for up to one financial year from 1st April to 31st March or as stipulated by government conditions for Local Business Rates Discount wholly funded by central government.

The Non-Domestic Rating (Discretionary Relief) Regulations 1989 (S.I. 1989/1059) require authorities to provide ratepayers with at least one year’s notice in writing before any decision to revoke or vary a decision so as to increase the amount the ratepayer has to

pay takes effect. Such a revocation or variation of a decision can only take effect at the end of a financial year.

If necessary any relief will be subject to an annual review process. The Council reserves the right to review the award should the circumstances of the organisation change during the period of the award.

10. State Aid

State Aid refers to forms of assistance from a public body, or publicly-funded body, given to selected undertakings (any entity which puts goods or services on the given market), which has the potential to distort competition and affect trade between member states of the European Union.

European Union state aid rules generally prohibit government subsidies to businesses. Relief from taxes, including non-domestic rates, can in some cases constitute state aid.

However, there is a general exception from the state aid rules, where the aid is below a “de minimis” level (see Comm Reg 69/2001). This is €200,000 to any one business over any three year period.

The Council will be mindful of these rules and will ensure compliance with the legal requirements and any permitted exemptions. Each case will be considered based on the organisation’s individual circumstances in full consideration of the state aid rules.

11. Policy Review

This policy will be reviewed on an annual basis or sooner if there is a change in legislation that would affect its operation.