



DARLINGTON
Borough Council

Council Tax and Business Rates Discretionary Relief Policy

2024 to 2029

Introduction

Legislation provides Councils with the ability to award discretionary relief to Business Rate payers and to Council Tax payers in a number of circumstances.

This policy sets out the criteria for making such awards of relief, which are subject to the discretion of the Council.

This policy will be split into 2 Sections. Section 1 will deal with Business Rates and Section 2 will deal with Council Tax

Section 1 Business Rates

This policy sets out the criteria for making awards of Discretionary Relief to ratepayers, where:

- The ratepayer is experiencing hardship, or
- It would help existing businesses retain jobs and grow their business, or
- It would help to attract firms, investment, and jobs to Darlington.

The aim is to provide clarity around the administration of applications for discretionary relief, identifying the key criteria that will be used to decide awards.

Legislation

Section 49 of the Local Government Finance Act 1988, provides the Council with the following discretionary powers:

A billing authority may—

- reduce any amount a person is liable to pay to it under section 43 or 45 (of the Act), or
- remit payment of the whole of any amount a person would otherwise be liable to pay to it under section 43 or 45 (of the Act).

But an authority may not act under this section unless it is satisfied that—

- the ratepayer would sustain hardship if the authority did not do so, and
- it is reasonable for the authority to do so, having regard to the interests of persons liable to pay Council Tax set by it.

In addition, section 69 of the Localism Act 2011 amends the Local Government Finance Act 1988 to allow Councils the discretion to award discretionary relief to all types of businesses. The new wording in section 47 of the Local Government Finance Act 1988 states that the only condition to make an award of discretionary relief is:

- 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 interests of persons liable to pay Council

Tax set by it.

The intention in the Localism Act is to give Councils more freedom to offer relief to help businesses retain jobs and grow their business, and to attract firms, investment and new jobs. Whilst the Council will ordinarily need to meet the cost of any discount from local resources, it may decide that the immediate cost of the discount is outweighed by the long-term benefits to Darlington.

General Criteria

Business Rates legislation provides a wide range of discounts, exemptions and reductions that have the effect of reducing the level of Business Rates due. Rate payers will be expected to have exhausted all other options before making an application under this policy. When applying this policy, the Council will similarly consider whether alternative actions should be undertaken before applying this policy.

The Council has the discretion to award relief to rate payers whose circumstances meet the criteria outlined in this policy. However, **all applications will be assessed on their own individual merits.**

The Council will consider requests for relief from rate payers who are experiencing hardship or where, in the Council's opinion, an award of discretionary relief will help businesses retain jobs and grow their business, and attract firms, investment and jobs into Darlington.

Discretionary relief is intended as a temporary measure and will not be considered as a way of reducing Business Rates liability indefinitely. In addition, it will not be used to artificially sustain a failing business.

Priority may be given to businesses that provide the only goods or services of that type in the local area or where the business is a niche business supplying specialist goods or services that are not widely available.

If the Business Rate account is in arrears, the Council must be satisfied that non-payment was not due to wilful refusal or culpable neglect to pay their liability.

Hardship

The purpose of discretionary awards under this section of the policy is to provide short-term assistance to businesses that are suffering unexpected hardship, arising from circumstances beyond their 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.

Discretionary relief will only be awarded where it is considered that:

- The rate payer would sustain hardship if the Council failed to grant discretionary relief, and

- It is reasonable to grant discretionary relief having regard to the interest of Council Tax payers.

The test of 'hardship' is not restricted to financial hardship and the Council will consider all relevant factors affecting the ability of the business to meet its Rates liability.

The 'interest' of Council Tax payers may go wider than direct financial interest and the Council will consider all relevant factors. For example, where employment prospects in an area would be worsened by a rate payer going out of business, or the amenities in an area might be reduced by, for instance, the loss of a neighbourhood shop.

The Council will expect that businesses will take prompt action to mitigate any factors giving rise to hardship. This may include, seeking financial advice, reviewing pricing and negotiating with creditors. Applications may be declined in circumstances where the business is unable to demonstrate that it is taking reasonable steps to alleviate hardship.

In addition, the Council will expect businesses to exercise due diligence to anticipate circumstances that may give rise to hardship, financial or otherwise, and to put in place measures to prevent or mitigate those circumstances.

The Council may request the business to provide a full breakdown of income and expenditure, together with supporting evidence, such as the last set of audited accounts.

The Council may decide not to award discretionary relief where the business has access to loans or capital that could be realised and used to pay their rates liability.

Retain Jobs and Grow Business

The purpose of discretionary awards under this section of the policy is to help existing businesses in Darlington retain jobs and grow their business. Specifically, awards will be made to encourage and support the retention and improvement in employment delivering inclusive growth. Additionally, supporting businesses that can demonstrate financial sustainability and a focus on social value.

Applications for discretionary rate relief will normally only be considered where the Council is satisfied that an award will result in tangible benefits to local residents and in particular, where the award will directly result in job retention and employment improvement.

Businesses interested in applying for relief under this section of the policy should meet the following criteria:

- Be an existing business, occupying a business premises in Darlington
- Demonstrate that the business is committed to retain jobs and the employment of their current workforce
- Must not be a business which is a charity shop, betting shop, off license, e-cigarette shop, pawnbroker, short-term high interest loan company or similar.

Priority will be given to the following:

- Businesses that can demonstrate financial sustainability and a coherent plan to improve employment and deliver growth
- Businesses that can demonstrate a focus on social value and deliver benefits for local residents.

Growth, Investment and Jobs

The purpose of discretionary awards under this section of the policy is to help attract firms, investment and jobs to Darlington. Specifically, awards will be made to encourage economic development to attract investment into designated areas in and around the town centre, to support growth from the independent sector and to enhance Darlington's offer to shoppers and visitors.

Applications for discretionary rate relief will normally only be considered where the Council is satisfied that an award will result in tangible benefits to local residents and in particular, where the award will directly result in attracting businesses, investment, or jobs to Darlington.

Businesses interested in applying for relief under this section of the policy should meet the following criteria:

- Be new to Darlington town centre; not currently occupying a business premises in Darlington town centre.
- Want to occupy a currently empty ground floor retail unit or business premises in Darlington town centre.
- Must not be a business which is a charity shop, betting shop, off license, e-cigarette shop, pawnbroker, short-term high interest loan company or similar.
- Must agree and inform Darlington Borough Council of timescales in terms of moving into the vacant premises.

Priority will be given to the following:

- Businesses going into vacant units or business premises, preferably in a prominent ground floor location.
- Independent traders.
- Businesses able to source a level of financial contribution from the landlord, such as rent free periods.

State Aid

Discretionary relief will not be awarded in any circumstances where it appears that an award will result in the rate payer receiving state aid above the current de minimis level. Every application for discretionary relief must be accompanied by a statement from an appropriate person in the business or person representing the rate payer, setting out the amount of state aid that they have received in the previous three years. Applications will not be considered until this statement is received.

Exceptions

Discretionary relief will not be awarded to owners or landlords of empty properties, unless the purpose of the award is to assist in the occupation of that property.

Discretionary relief will not be awarded in respect of hereditaments that cannot be occupied, such as advertising hoardings, bus shelters, ATMs and telephone masts.

Making an application

Applications to discretionary relief under the 'hardship' provisions of this policy will be accepted from the business or their representative. Applications will only be accepted where the discretionary rate relief e-form on the Darlington Borough Council website has been completed.

Applications to discretionary relief under the 'retain jobs and grow business' and 'growth, investment and jobs' provisions of this policy will also be accepted from the business or their representative. Applications from the business or their representative will only be accepted where the discretionary rate relief e-form on the Darlington Borough Council website has been completed and where the application is supported by the Economic Growth section of the Council. Awards of discretionary relief under these provisions may also be made following a direct referral from the Economic Growth section of the Council, without the need for an application form being completed. However, in these cases the business or their representative must have made a statement as to the amount of state aid they have received in the previous three years.

There is no deadline by which the application must be made, but rate payers are encouraged to apply as soon as possible, as recovery of Business Rates will not be suspended whilst awaiting an application.

A rate payer awarded discretionary relief is required to notify the Council of any change of circumstances that may be relevant to their ongoing award.

Further applications can be made under this policy once an award has expired, or if a rate payer's circumstances change, or worsen if they have previously been refused. When deciding a repeat application, the Council will consider what actions the rate payer has taken to improve their circumstances and what efforts they have made to pay their Business Rates, such as keeping to agreed payment arrangements.

Amount and period of award

Both the amount and period of the award of discretionary relief is at the discretion of the Council.

The amount of the award will not exceed the full Business Rates liability. Awards of discretionary relief will not be made beyond 31st March of the financial year in which the award is made. A new application must be made for each financial year; however, awards are intended to provide short-term relief and will not usually exceed 12 months.

When making decisions on applications to discretionary relief, the Council will consider the rate payer's circumstances, including:

- The rate payer's Business Rates payment history (if applicable), and what efforts they have made to pay their rates liability.
- Whether or not all other avenues of financial assistance have been pursued.
- Whether or not the rate payer has engaged with the application process and provided all the relevant and requested information to support the application, including the statement relating to state aid.
- Any difficulties experienced by the rate payer, which prohibits them from being able to meet their rates liability and the length of time that this difficulty is expected to exist.
- The financial position of the business, including any outstanding debts.
- Any steps taken by the rate payer to help themselves, such as seeking financial advice, reviewing pricing and negotiating with creditors.
- Whether discretionary relief will help prevent hardship.
- Whether discretionary relief will help existing businesses in Darlington retain jobs and grow their business.
- Whether discretionary relief will help to attract firms, investment or jobs to Darlington.
- The impact of not awarding discretionary relief or restricting an award of discretionary relief may have on the rate payer and their business.

The above list is not exhaustive, and any other relevant factors and circumstances will be considered. The weight to be placed upon any factor considered by the Council will be a matter for the Council in its discretion.

An award of discretionary relief does not guarantee that a further award will be made at a later date, even if the rate payer's circumstances do not change.

Applications may be refused, or the level of award may be reduced if:

- The Council does not consider the rate payer's circumstances to be exceptional
- The rate payer has failed to comply with the application process
- The Council considers that the rate payer has sufficient income or capital to meet their rates liability
- The Council considers that the rate payer can make financial savings in other areas of expenditure or outgoings
- The rate payer's expenditure is considered unreasonable or excessive
- The rate payer has wilfully refused to pay their Business Rates liability, or has not kept up with agreed payment arrangements, without good cause
- The Council is not satisfied that it would be reasonable for it to do so, having regard to the interests of persons liable to pay Council Tax set by it
- The Council is not in a financial position to make an award.

The above list is not exhaustive, and any other relevant factors and circumstances may be considered and may be used to refuse an application.

Discretionary relief is applied as a reduction in Business Rates liability. The reduction will be applied to the rate payer's Rates account and a revised bill will be issued.

Notification of decisions

The rate payer will be notified in writing whether the application is successful or not. Where the application is refused, the letter will contain the Council's reason for refusing the application.

The Council will notify the rate payer of the outcome of the application normally within one month of the application being received, or as soon as practicable.

Reviewing Decisions

There will be no right of appeal against a discretionary relief decision. The decision will only be reviewed if the ratepayer has new or further information they wish to have considered.

There is no automatic right of appeal against the Council's use of discretionary powers, this would be by way of an application of Judicial Review to the high court.

Ending a discretionary relief award

The Council may decide to end an award of discretionary relief before the notified period end date. This could be where:

- The rate payer's liability to Business Rates ends.
- The rate payer has a change in their circumstances relevant to their discretionary relief award.
- The rate payer has misrepresented or failed to disclose a material fact, fraudulently or otherwise.
- Discretionary relief has been awarded in error.
- The rate payer wilfully refuses to pay their Business Rates, or does not keep up with agreed payment arrangements, without good cause.
- The Council is no longer in a financial position to continue to make an award.

Finance

There is no separate budget for these awards, they are financed by Council Tax payers within the borough and are paid from the Council's Collection Fund.

Section 2 Council Tax

This policy sets out the criteria for making awards of Discretionary Relief to Council Tax payers in exceptional circumstances, where:

- Council Tax payers are in receipt of Council Tax Support and are experiencing severe financial hardship
- Council Tax payers who, through no fault of their own, have experienced a crisis or event that has made their home uninhabitable.

However, all applications will be assessed on their own individual merits.

Legislation

Section 13a (1) (c) of the Local Government Finance Act 1992 (as amended by section 76 of the Local Government Act 2003) provides the Council with the following discretionary powers:

- Where a person is liable to pay Council Tax in respect of any chargeable dwelling, the billing authority in which the dwelling is situated, may reduce the amount to such an extent as they think fit
- This includes power to reduce an amount to nil, and
- May be exercised in relation to particular cases or by determining a class of cases in which liability is to be reduced to an extent provided by the determination.

Accordingly, Darlington Borough Council can apply discretionary relief in respect of any amount of Council Tax liability.

Purpose of the Policy

Part 1 of this section details the application of section 13a (1) (c) discretion to certain classes of Care Leaver.

Part 2 of this section details the conditions that should be satisfied in order for the Council to consider relief under section 13a (1) (c) for all other cases not covered in Part 1.

Part 3 of this section details reviewing decisions relating to parts 1 and 2.

Part 4 of this section details how discretionary awards are financed.

The policy is intended to enable the Council to provide relief to those in the most extreme financial hardship.

Part 1 Discretionary Relief for Care Leavers

A decision was made by Council on the 24 November 2022 to grant a Council Tax exemption for Care Leavers with effect from 1 April 2023. Awards will be made automatically for care leavers meeting the following definition and eligibility criteria.

Definition

A care leaver, for the purpose of this Council Tax exemption, is a person aged 18 to 24 who was formerly a child in the care of Darlington Borough Council, or any other local authority, and has then become a “care leaver” as defined by the Children (Leaving Care) Act 2000.

Eligibility Criteria

The following eligibility criteria will apply for the Council Tax exemption:

- The care leaver must be liable for Council Tax on a dwelling they occupy as their sole or main residence.

- The exemption will apply from 1 April 2023, or from their 18th birthday, if this is after that date. Any person aged under 18 who is liable for Council Tax on a dwelling they occupy as their sole or main residence, is subject to a statutory Council Tax exemption.
- The Council Tax exemption will be applied to the Council Tax liability, after taking into account any other available Council Tax discounts to which the care leaver may be entitled (such as the single occupancy discount).
- The Council Tax exemption will apply to the full Council Tax liability where:
 - The care leaver has sole Council Tax liability
 - The care leaver is jointly and severally liable for Council Tax with one or more eligible care leavers who are also under the age of 25
 - The care leaver is jointly and severally liable for Council Tax with one other person who is their partner.
- Otherwise, where the care leaver is jointly and severally liable for Council Tax with one or more other persons, the Council Tax exemption will be divided by the number of people who are jointly and severally liable.

The Council Tax exemption will cease on the care leaver's 25th birthday.

Making an Application

Requests for a reduction can be made by:

- Completing a Care Leaver Discount e-form on the Darlington Borough Council website, and
- Providing evidence from the relevant local authority that the care leaver satisfies the requirements of entitlement, or
- By notification from the Council's Looked After Through Care Team confirming the care leaver satisfies the requirements of entitlement, and
- Confirming the care leaver's name, address and date of birth.

Notification of the Decision

Decisions in respect of care leaver relief will be made by Council and where the relief is awarded the care leaver will receive an amended Council Tax bill, detailing the discount, and confirming a nil balance.

Where care leaver relief is not awarded, the applicant will be notified in writing normally within one month of submitting the request, confirming the reasons for refusal.

Part 2 Discretionary Relief for Council Tax payers other than Care Leavers

Hardship

Criteria

The Council will consider awarding discretionary relief if all of the following circumstances are satisfied:

- The applicant has an outstanding Council Tax balance
- There is evidence of severe financial hardship
- No other occupants of the property could contribute towards the Council Tax payable
- Enforcing the full Council Tax liability would result in severe hardship, for example insufficient money available for basic and essential needs such as food, heating, lighting or essential medical needs
- The liable person or persons do not have access to assets or funds of any kind which could be used to meet their Council Tax liability
- The liable person or persons can demonstrate that they have no available income to pay their Council Tax
- All alternative means of resolving the outstanding liability have been exhausted, this includes but is not limited to:
 - Council Tax discounts
 - Council Tax exemptions
 - Council Tax Support
 - Valuation Office Agency appeal and/or Valuation Tribunal application
- If the liability relates to a retrospective period, the customer can demonstrate and evidence that arrears did not accrue due to their wilful refusal to pay their Council Tax
- The applicant's circumstances are exceptional.

If all of the above circumstances are satisfied, the Council will consider granting relief.

Non-Hardship

Criteria

- In the event the Council Tax payers who, through no fault of their own, have experienced a crisis or event that has made their home uninhabitable, and do not have insurance which covers their Council Tax liability.
- The liable person or persons can demonstrate that they have no available income or capital to pay their Council Tax.
- The applicant's circumstances are exceptional.

If all of the above circumstances are satisfied, the Council will consider granting relief.

In all cases, the Council retains ultimate discretion, and all requests will be considered on their individual merits.

Making an Application

Requests for a reduction can be made by:

- Completing a Council Tax Discretionary Discount e-form on the Darlington Borough Council website
- A third party such as Citizens Advice Bureau can make an application on behalf of a Council Tax payer, if the body has authority to do so; the request must set out:
 - The circumstances on which the application is based

- Details of the applicant's financial circumstances

In both circumstances, any evidence relevant to the application may be requested. The Council may refuse to award relief where the absence of information and evidence prevents it from reaching an informed decision regarding the applicant's circumstances.

Amount and period of award

The Council retains discretion over the amount and the period for which relief may be granted.

Any amount of relief granted will be credited to the Council Tax account and should not result in a credit balance on the account. Relief will only be granted on liability for the financial year in which the request is made or for such prior period as the Council deems appropriate.

When making decisions on applications to discretionary relief, the Council will consider the Council Tax payer's circumstances, including:

- The liable person or persons payment history (if applicable), and what efforts they have made to pay their Council Tax liability.
- Whether or not all other avenues of financial assistance have been pursued.
- Whether or not the liable person or persons have engaged with the application process and provided all the relevant and requested information to support the application.
- Any difficulties experienced by the liable person or persons, which prohibits them from being able to meet their liability and the length of time that this difficulty is expected to exist.
- Any other outstanding debts.
- Any steps taken by the liable person or persons to help themselves, such as seeking financial advice.

The above list is not exhaustive, and any other relevant factors and circumstances will be considered, at the Council's discretion.

An award of discretionary relief does not guarantee that a further award will be made at a later date, even if the Council Tax payer's circumstances do not change.

Applications may be refused, or the level of award may be reduced if:

- The Council does not consider the circumstances to be exceptional
- The liable person or persons have failed to comply with the application process
- The Council considers that the liable person or persons have sufficient income or capital to meet their liability
- The Council considers that the liable person or persons can make financial savings in other areas of expenditure or outgoings
- The liable person or persons expenditure is considered unreasonable or excessive
- The liable person or persons have wilfully refused to pay their Council Tax liability, or has not kept up with agreed payment arrangements, without good cause
- The Council is not in a financial position to make an award.

The above list is not exhaustive, and any other relevant factors and circumstances may be considered and may be used to refuse an application.

Discretionary relief is applied as a reduction in Council Tax liability. The reduction will be applied to the Council Tax account and a revised bill will be issued.

Notification of the Decision

Decisions in respect of discretionary relief will be made by the Council and where the relief is awarded, the Council Tax payer will be notified in writing normally within one month of submitting the request, or as soon as practicable, and will receive an amended Council Tax bill, detailing the discount, and confirming any balance outstanding.

Where discretionary relief is not awarded, the applicant will be notified in writing confirming the reasons for refusal, normally within one month of submitting the request, or as soon as practicable.

Ending a discretionary relief award

The Council retains the right to withdraw relief at any time, including for retrospective periods. This could be where:

- The Council Tax liability ends.
- The liable person or persons have a change in their circumstances relevant to their discretionary relief award.
- The liable person or persons have misrepresented or failed to disclose a material fact, fraudulently or otherwise.
- Discretionary relief has been awarded in error.
- The liable person or persons wilfully refuse to pay their Council Tax liability, or does not keep up with agreed payment arrangements, without good cause.
- The Council is no longer in a financial position to continue to make an award.

The liable person or persons must notify the Council of any such relevant change in their circumstances with 21 days of the change occurring.

Part 3 Reviewing Decisions relating to Parts 1 and 2

Customers can request a review of a decision in respect of discretionary relief.

Requests for a review or reconsideration should be made in writing by letter or by completing an Enquiry e-form on the Darlington Borough Council website, within one month of notification of the original decision and should detail the reasons for the request.

Upon receipt of a request, a different Officer to that who made the original decision, will review the original decision and consider whether there are grounds to change the decision. If further evidence or information is required, it will be requested from the customer.

The Council will notify the customer of its decision normally within one month of receiving a request for review or reconsideration, or as soon as practicable.

Part 4 Finance

There is no separate budget for these awards, they are financed by other Council Tax payer's within the borough and are paid from the Council's Collection Fund.