

# **Discretionary Rate Relief – Local Discount Policy**

## **1.) Introduction**

The Council has discretionary powers to award relief from payment of Non- Domestic Rates in a range of circumstances. Prior to April 2013 this was limited to businesses suffering hardship, charitable organisations and empty properties. The Government funds 50% of the cost of these awards. The Council has a separate Discretionary Rate Relief Policy to cover these circumstances.

Section 47 of the Local Government Finance Act 1988 has been amended by the Localism Act 2011 to give Council's the power to give a locally determined discretionary discount on business rates even where the existing criteria does not apply . The discount may be awarded to any property or business of the Councils choosing.

Any discounts awarded under Section 47 must be funded wholly by the Borough Council. Therefore any decisions under this policy must be taken with regard to value for money and the impact on the local taxpayer.

There is a financial implication to awarding discounts under Section 47 as the Council has to fund all awards without Government support, thereby having a direct impact on taxpayers of the Borough.

The Council reserves the right to withdraw the scheme at any time.

## **2.) Policy Aim**

The Policy for awarding local discounts has the following overall aim, which each decision will have regard to:

- To incentivise the creation of jobs for local people where there is a return on investment from higher future rates income.

To be eligible a proposal will have to deliver both elements of the aim. If an application only achieves one it falls outside this policy but can still be considered individually.

There is no maximum award level under the scheme, as long as both policy aims are delivered and state aid limits are adhered to. However, under the current business rates pooling arrangements, Nuneaton and Bedworth Borough Council retains 40% of the business rates income it collects and as such awards will generally be no greater than this.

### **3.) Principles for awarding Local Discounts**

Each application will be considered on its individual merits against the overall aim set out above. The scheme is discretionary and the applicant does not have a statutory right to payment.

To be considered for an award under this policy the applicant must be either:

- A new business starting up in the area
- A business relocating to the area
- An existing business expansion within the area

In addition:

- A minimum lease period of 3 years will be required
- A statement of intention to operate the business in the Borough for five years or more will be required

In addition, the terms of the discount will be:

- Each discount will be awarded for a maximum of 3 years
- Each discount will be no more than £130,000 over the 3 years, in line with State Aid criteria.
- A return on investment within 3 years will be required (via business rates)
- The discount will not be awarded until the business has all the required permissions, licences, and other provisions in place and has begun lawfully trading.

### **4.) Application and Decision Process**

An application form for a Section 47 Local Discount can be requested by emailing [econdev@nuneatonandbedworth.gov.uk](mailto:econdev@nuneatonandbedworth.gov.uk).

The application form must be completed fully and all relevant information provided as per the checklist before an application can be considered.

In considering an application for a local discount, the applicants may be asked to provide certain additional information. This may include, but not limited to:

- Last two years accounts
- Business Plan
- Evidence of at least 3 year occupation of premises

All decisions will be made by the Director – Finance and Procurement.

Applications and any subsequent awards will only be considered if the applicants business rates account is up to date and remains so.

The Council will aim to make a decision regarding the application within four weeks of receiving the application and all supporting evidence considered necessary to enable the application to be considered.

#### **5.) Payment of a Local Discount**

Any Local Discount awarded will be paid by crediting the Business Rate account to which it applies.

Before any award can be applied to a business rates account, an organisation will have to sign a State Aid declaration to confirm that they have not breached the State Aid criteria.

#### **6.) Right to Appeal**

There is no statutory right to appeal against a decision under Section 47, other than Judicial Review. An applicant may make a request for the decision maker to review a decision but only where either;

1. Additional information that is relevant to the application and that was not available at the time the decision was made becomes available, or
2. There are good grounds to believe the application or supporting information was not interpreted correctly at the time the decision was taken

A request for a review must be made within four weeks of notification of the decision and must set out the reasons for the request and any supporting information.

Cases will be reviewed by the Portfolio Holder or Leader/Deputy Leader

#### **7.) Clawback Provision**

The Council shall be under no obligation to pay the Local Discount if any of the Clawback Events and Termination Events listed in Appendix A occurs.

The Council may at the Council's absolute discretion if (in the Council's opinion) any of the Clawback Events or Termination Events listed in Appendix A occurs:

- a. Suspend the payment of the Local Discount under this Policy for such period as the Council shall determine;
- b. Vary the Local Discount payable under this Policy, in which case the payment of funding shall thereafter be made in accordance with the written variation notified to the Applicant;
- c. terminate any agreement to pay the Local Discount under this Policy whereupon the Council shall cease to be under any obligation to provide any further Local Discount to the Applicant and (in addition) the Council may require the Applicant to repay the whole or any part of the Local Discount previously paid to the Applicant and the Applicant agrees that upon receipt of written notice requiring repayment the Applicant shall repay the sums required within 30 days of receipt of such notice.

Notwithstanding the provisions of Clauses a. and b above, in the event that an applicant relocates the business for which the Local Discount is payable to a location outside of the Borough, within a period of five years from the date of the decision to award the Local Discount, the Council shall be entitled to recover some or all of the Local Discount on the following basis:

- a. The relocation occurs before 3 calendar years have expired beginning with the date of the decision, 100% of the Local Discount shall be recoverable, at the Council's discretion;
- b. The relocation occurs after 3 years and before 4 calendar years have expired beginning with the date of the decision, a maximum of 50% of the Local Discount shall be recoverable, at the Council's discretion;
- c. The relocation occurs after 4 years and before 5 calendar years have expired beginning with the date of the decision, a maximum of 25% of the Local Discount shall be recoverable, at the Council's discretion.

APPENDIX A  
**CLAWBACK AND TERMINATION EVENTS**

The following Clawback and Termination Events apply to this Policy:

1. There is any change in the Applicant's legal status and such a change is likely to adversely affect the Local Discount; or
2. Any claim and/or report submitted by the Applicant does not properly comply with the requirements detailed in this Policy; or
3. Any information supplied by the Applicant under or in connection with the Local Discount proves to be materially incorrect or misleading; or
4. The Applicant does not comply with or observe any condition of this Policy; or
5. The assistance exceeds European Community State Aid limits to the extent that any Local Discount paid should not have been paid or if a decision of the European Commission or of the European Court of Justice requires payment to be withheld or recovered; or
6. There is an unsatisfactory report from the auditors. This will be the case if the auditors refer to a fundamental uncertainty, a disagreement or a limitation to their opinion, or if the auditors are unable to form an opinion; or if they report that the statement of grant does not give a true and fair view; or
7. There is evidence of irregularity, impropriety or negligence; or
8. If
  - a. the Applicant, being an individual becomes bankrupt, has a receiving order or administration order made against it, makes any composition or arrangement for the benefit of creditors, makes any conveyance or assignment for the benefit of creditors or purports to do so, or is the subject of an application under the Insolvency Act 1986 (or superseding legislation) for the sequestration of the Applicants estate or of a trust on behalf of the Applicant's creditors; or
  - b. the Applicant, being an unincorporated body is dissolved; or
  - c. the Applicant, being an incorporated body passes a resolution that the Applicant should be wound up, is ordered by the High Court to be wound up, has an administrator appointed by order of the Court, has an administrative receiver appointed, or being a company is struck from the register at Companies House.