

# Mansfield District Council - National Non Domestic Rate Policy for Section 69 Local Rate Relief Discount

## 1. Introduction

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.

The legal powers provide increased flexibility to the Council to support businesses and specifically target locally focused initiatives.

Any discount awarded is funded through the cost splitting formula for both mandatory and discretionary rate through the Business Rate Retention Scheme. Central government funds 50%, the county council 9%, the fire and rescue service 1% and the district council 40%

Given that a large proportion is financed by local Council Tax payers the Council needs to be satisfied that any award will result in tangible benefits for local residents and has the potential to encourage and generate further economic investment and jobs.

## 2. Application

There is no prescribed application form. The applicant needs to decide on the relevant information to be submitted in support of the application, however, this must include:-

- a. full details of why the relief is being requested
- b. company accounts for the past three years
- c. the results the potential award of relief is anticipated to bring to the area (e.g. new business being set up, expansion of existing business including creating new jobs)
- d. evidence of the benefit to local Council Taxpayers who have to fund the award
- e. whether State Aid of up to a maximum of €200,000 has been received in the past three years

## 3. Progressing and Determining the Application

When the details outlined in the application section (2) have been satisfied the Council will process the application.

Whilst the application is being processed full business rates remain payable as applicable.

Initially the application will be forwarded to the Council's Regeneration Service to undertake an evaluation of the potential economic benefits an award to the business would bring to the district.

An officer in the Regeneration Service will contact the person named in the application documents to discuss any points which are considered to require clarification.

The officer will prepare a written report with recommendations on whether the application can be supported or should be refused. In either case reasons for the recommendation must be outlined.

If the application is supported a recommendation will be made to the Director of Commerce and Customer Services (the Council's Chief Financial Officer). The recommendation will detail the level of rate relief in percentage terms, the duration of the relief and the reasons why the application is supported.

The recommendation does not guarantee that an award will be made. The Director of Commerce and Customer Services will make an assessment taking account of the following:-

- a) The effect an award will have on the Council's finances which will include the loss of income or retained rates yield;
- b) Whether there is funding available from the Council's resources;
- c) The benefits in relation to increased rates yield over the longer term

If all three criteria are satisfied an award will be authorised. However, the amount of the award may differ from that recommended by the Regeneration Service due to funding issues and the effect on local Council Taxpayers who have to fund the relief.

The Council will progress the application within one month of receipt all the documents and information required and make a decision as rapidly as possible.

Prior to an award being finalised the business will be required to certify the amount of State Aid it has received in the past three years. Even if all the relevant criteria are satisfied the Council will be unable to make any award if State Aid received in the last three years amounts to €200,000, see the details in section 4 below.

#### **4. State Aid**

European Union competition rules generally prohibit government subsidies to businesses. Relief from taxes, including non-domestic rates, generally constitute State Aid.

The State Aid limits as defined by European Union legislation will not exceed €200,000 in any three year period.

All applicants for any form of rate relief will be required to declare through a statement signed by the appropriate person representing the business setting

out the amount of State Aid, including but not limited to discretionary rate relief, which the ratepayer has received within the previous three years across England and Wales.

## **5. Award Periods**

Rate relief will be given for a maximum period of two years.

No further application will be considered if it is made within 3 years of the end of an earlier award period.

An application may be made during the current financial year and the award may run into future financial years subject to the maximum two years duration period.

No backdating will be considered.

## **6. Additional Information**

This policy is primarily designed to support:-

- a) new businesses starting up in the area
- b) a business relocating to the area
- c) an existing business expanding within the area and creating additional jobs or safeguarding existing jobs

However, the Council does not limit the policy to the exclusive criteria outlined above and may from time to time decide to exercise its powers under Section 69 of the Localism Act 2011 to devise other locally defined discount initiatives.

The Council does not fetter its discretion to make an award for any other credible application from a business, subject to financial resources being available.

Any award made will be credited against the business rate account to reduce the balance payable to the Council.

The level of award may be an amount between 1% and 50% of the business rate bill. If exceptional circumstances can be demonstrated the amount may exceed 50% up to a maximum of 100%. These provisions are subject to financial resources being available and the interests of local Council Tax payers.

Before any relief is awarded the applicant will be required to sign a statement of intent to operate the business in the district for five years or more.

## **7. Claw Back**

The Council reserves the right to claw back relief in the following circumstances:-

- a) there is any change in the legal status of the business or applicant which adversely affects entitlement to the rate relief
- b) any information supplied by the applicant in connection or support of the rate relief application proves to be materially incorrect or misleading
- c) the assistance awarded exceeds EU State Aid limits to the extent that any rate relief paid should not have been paid
- d) if a decision of the European Commission or European Court of Justice requires payment to be withheld or recovered

## **8. Appeals**

The award of Section 69 rate relief is a discretionary power awarded by law to the Council.

The Council will determine the outcome of each application on its own merits after applying the guidance detailed in this policy document.

The decision on the application will be made by the Section 151 Officer as a delegated decision.

If the application is refused the applicant will have a right of appeal.

The appeal must be submitted in writing outlining the reasons for disagreement with the refusal and may include any additional information to assist in the appeal.

The appeal must be made within 28 days of the date of the notification letter from the Council declining to award a rate relief discount.

Appeals will be determined by the Chief Executive Officer of the Council.

The Council will determine the appeal within 56 days of its receipt by the Council.

If the organisation remains dissatisfied with the outcome of the appeal it has a route to challenge the decision by way of Judicial Review.

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