

**Discretionary Rates
Relief (Including Local
Newspapers Relief) &
Hardship Policy**

Altogether better



APRIL 2017

Contents

- 1. Introduction and Purpose of Policy Document**
- 2. Legislation**
- 3. Business Rates – Discretionary Rates Relief Policy**
 - 3.1 Equality and Fairness
 - 3.2 Criteria Used in the Decision Making Process
 - 3.3 Levels of Discretionary Rate Relief Available
 - 3.4 Claiming Mandatory and Discretionary Rate Relief
 - 3.5 Period of Award
 - 3.6 Notification of Award
 - 3.7 Appeals
- 4. Relief for Properties that are Partially Unoccupied for a Temporary Period**
 - 4.1 Legislation
 - 4.2 Making an Application
 - 4.3 The Decision Making Process
 - 4.4 Period of s44a Relief
 - 4.5 Calculation of s44a Relief
- 5. Business Rates – New Build Empty Property Relief**
 - 5.1 Legislation
 - 5.2 Properties that will Benefit from this Relief
 - 5.3 Criteria Used in the Decision Making Process
 - 5.4 Period of Relief for New Build Empty Properties

6. Business Rates – Local Newspapers

- 6.1 Legislation
- 6.2 Properties that will Benefit from this Relief
- 6.3 Criteria Used in the Decision Making Process
- 6.4 Period of Relief

7. Business Rates – Transitional Relief

- 7.1 Legislation
- 7.2 Properties that will Benefit from this Relief
- 7.3 Criteria Used in the Decision Making Process
- 7.4 Period of Transitional Relief

8 Business Rates – Hardship Relief

- 8.1 Legislation
- 8.2 Criteria Used in the Decision Making Process
- 8.3 Period of Hardship Relief
- 8.4 Claiming a reduction
- 8.5 The Decision Making Process
- 8.6 Review of Decision

1 Introduction and Purpose of Policy Document

1.1 This policy has been designed to ensure that all customers making an application for rate relief are treated in a fair, consistent and equal manner.

1.2 This policy has been written to:

- Demonstrate how Durham County Council will operate its discretionary powers set out in the Local Government Finance Act 1988 and Localism Act 2011 and the factors that will be considered when deciding if relief can be awarded and the way in which the value of relief will be granted.
- Set guidelines for the factors that should be considered when making a decision to award or refuse an application.
- Set out the delegated authority to award relief in appropriate circumstances.
- Establish an appeals procedure for customers dissatisfied with a decision.
- Safeguard the interest of the local taxpayers by ensuring that funds that are allocated for the award of relief are used in the most effective and economic way.

2 Legislation

2.1 Section 47 of the LGFA 1988 permits the billing authority to grant discretionary rate relief. This was amended by the Localism Act 2011 section 69 from 1 April 2012 which removed the previous restrictions of discretionary relief to only apply to charities and other organisations of prescribed types.

2.2 The billing authority may make a decision to grant relief, only if it is satisfied that it would be reasonable to do so, having regard to the interests of the council tax payers.

3 Business Rates – Discretionary Rates Relief Policy

3.1 Equality and Fairness

3.1.1 Each application for relief would be dealt with on its own merits and would treat all organisations that apply for discretionary rate relief equally and fairly. The scheme will operate in a manner that helps support Durham County Council priorities and key objectives contained in the Sustainable Community Strategy and the Council Plan. Public funds are not however

unlimited, a proportion of the costs of relief granted is borne by council tax payers.

3.2 Criteria Used in the Decision Making Process

3.2.1 The criteria to be used in deciding whether or not to give discretionary rate relief are based on assessing how an organisation's work helps achieve the Council's priorities and meeting the community's needs for services and facilities.

3.2.2 The following essential criteria **must** be met before Durham County Council would consider awarding discretionary rate relief:

- the ratepayer must be a non-profit making body, and/or
- Irrespective of whether an organisation is registered as a charity or not the property must be used by the ratepayer wholly or mainly for charitable, philanthropic or religious purposes, or concerned with education, social welfare, science, literature and the fine arts, or the ratepayer must use the property wholly or mainly for recreation by a non-profit making club or society. This is essential if any relief (either mandatory or discretionary) is to be granted. In most cases this can be readily seen by inspection but on occasions the authority has had to question the actual use of the premises to which relief is being sort.
- Consideration will be given as to what proportion of the premises is wholly or mainly used for the purposes of the organisation. Has the organisation exercised due diligence in ensuring the premises are of a suitable size for their requirement and have not committed to an onerous lease or excessive space.

3.2.3 It is possible for a voluntary organisation to apply for 100% discretionary rate relief, and for registered charities to apply for an additional 20% discretionary relief in addition to the mandatory relief they already receive providing they meet the essential criteria detailed in the Levels of Discretion detailed in paragraphs 3.3.1 to 3.3.2.

3.2.4 Community Interest Companies (CICS) would not qualify for mandatory relief and any discretionary relief application would be considered based on the essential criteria detailed in the Levels of Discretion detailed in paragraphs 3.3.1 to 3.3.2.

3.2.5 There are however, exceptions to this general rule which include; Housing Associations, Leisure Trusts, Voluntary Schools, Colleges and Universities or similar, these organisations are charitable trusts for the purposes of the rating legislation and qualify for mandatory relief. However due to the funding streams available no discretionary top-up relief will be granted to these bodies.

3.2.6 Every application for discretionary rate relief will be considered on an individual basis.

3.2.7 The Council will need to be satisfied that value for money is being provided to the people of Durham County, bearing in mind the relief an organisation will receive. In making awards, consideration will be given to the financial impact on the Council and whether or not an organisation is already funded or commissioned by the Council. The decision to award relief must only be taken where it is in the wider interest of Council Taxpayers in County Durham.

3.2.8 Relief may be refused if it is considered that the cost to the Council and its taxpayers outweighs the benefit that will be gained from the award of the relief. If the benefit of the rate relief is kept locally, the relief is more likely to be awarded.

3.2.9 The finances of the organisation will be examined. This will include examination of the membership fees structure, examination and reasoning of level of reserves in relation to the amount of turnover and the rates actually charged, payments to staff and directors will all be taken into consideration when determining the application. If it appears that the reserve finances are not being used or partially used to benefit the local community, the application may be refused unless the ratepayer can demonstrate their reasoning.

3.2.10 Some organisations or charities do not need to be registered with the Charity Commission where the annual income is under £5,000. In these cases, if the organisation has applied to Her Majesty’s Revenue and Customs (HMRC) for tax relief, a HMRC number will be provided and mandatory relief can be awarded.

3.2.11 Organisations that meet the qualifying criteria for small business rates relief will not be considered for discretionary rate relief until they have applied for small business rates relief. This will reduce the financial contribution on the authority. These organisations even though they may not be a small business, they are however ratepayers who are entitled to apply for this relief. Durham County Council will provide support and guidance on how to apply for small business rates relief from the Council.

3.3 Levels of Discretionary Rate Relief Available

3.3.1 Registered charities or equivalent already in receipt of mandatory relief will receive the following top up relief provided they meet the relevant criteria (as identified above):

For Registered Charities or Equivalent (CASC’s, CIO or Exempt Charities) entitled to Mandatory Rate Relief	% Relief Awarded (Top up to Mandatory Rate Relief)
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For Registered Charities or Equivalent (CASC's, CIO or Exempt Charities) entitled to Mandatory Rate Relief	% Relief Awarded (Top up to Mandatory Rate Relief)
1. Community Centres/Community Associations and other registered charities responsible for paying rates on Community Centre and village halls.	100
2. Training Centres/Training Organisations offering schemes for particular groups to develop their skills e.g. young people, unemployed people.	100
3. National Charity Shops	0
4. Local Charity Shops	100
5. Local Heritage Projects	100
6. Essential Community Services e.g. CAB, Hospice, Samaritans	100
7. Sports Clubs (Must be CASC or registered Charity)	Up to 100
8. Museums	100
9. Private Schools, Leisure Trust, Universities/Colleges and Academies	0
10. Housing Associations or similar organisations	0

3.3.2 Non Registered charities and community based organisations will receive the following relief provided they meet the relevant criteria.

Organisations not entitled to Mandatory Rate Relief but who are established Not for Profit Making Organisation	% Relief
1. Community Centre, Community Associations, Agencies, Community Resource Centres which are not conducted for profit and which occupy premises that provide a community focal point.	100
2. Recreational community based clubs or societies e.g. youth clubs, boy scouts, girl guides. (Sports Clubs will not qualify unless CASC or registered Charity)	100
3. Philanthropic organisations that are community based.	100
4. Religious organisations that promote an understanding of religion that leads to a greater awareness of religious differences within the community.	100
5. Educational organisations that provide education support or training.	100
6. Scientific organisations that promote an awareness of science etc.	100
7. Literature and Fine Arts that promote an awareness of Literature and Fine Arts.	100
8. Training Centres/Training Organisations offering schemes for particular groups to develop their skills e.g. young people, unemployed people.	100
9. Training Centres/Training Organisations offering schemes and advice to businesses.	50
10. Private Nurseries and Day Care Centres	0
11. Community Interest Companies (CICS)	Up to 100

The following additional criteria will be used when dealing with applications for discretionary rate relief.

Reason for Increasing Amount of Relief:

1. Active encouragement of membership for all groups
2. Affiliated to local or national organisations
3. More than 50% drawn locally

Reason for Reducing Amount of Relief:

1. Bar facilities**
2. Restrictive fees and Restrictive membership***

	Maximum Percentage of Relief to be Awarded
Bar Facilities** Licensed Bar – Full licence operating through the year for registered charities or CASC.	10% Discretionary Rate Relief top-up.
Licensed bar is open but where the club/organisation has a restricted seasonal/match day licence for registered charities or CASC:-	10% or 20% Discretionary Rate Relief top-up.
No Bar and a registered charity or CASC	20% Discretionary Rate Relief or top-up.
Restrictive fees and membership*** Where coaching, mentoring or training is at a minimal cost and the membership subscription can be shown not to exclude the general community.	50%
Where the organisation encourages the young, those with disabilities and the elderly to partake in their activities and where the organisation benefits the local community by its activities.	40%
Where the organisation actively seeks to eliminate all forms of discrimination in its activities, in line with the new authority's own commitment to Equal Opportunities	10%

- 3.3.3 Businesses in Rural settlement lists will receive the following relief provided they meet the relevant criteria and receive mandatory rural relief.

Rural relief	% Relief
1. Sole shop in a rural settlement area selling mainly food and household goods meeting the criteria of mandatory relief	100
2. Sole Post Office in a rural settlement area meeting the criteria for mandatory relief	100
3. Sole public house in a rural settlement area meeting the criteria for mandatory relief	100
4. Sole petrol station in a rural settlement area meeting the criteria for mandatory relief.	100

3.4 Claiming Mandatory and Discretionary Rate Relief

- 3.4.1 A claim must be made using the discretionary rate relief application form which is also available on the Councils website (www.durham.gov.uk). This application form and supporting information, including the Memorandum, Articles of Association or constitution, the latest Annual Report and the last two years professionally prepared account should be completed and returned to: -

Durham County Council
Revenues and Benefits
PO Box 238
Stanley
Co Durham
DH8 1FP

- 3.4.2 It is the responsibility of the organisation applying for the relief to provide sufficient information and documentary evidence to support applications. If the organisation applying does not or will not provide the required evidence the application will still be considered but only on the basis of the information and evidence provided.

3.5 Period of Award

- 3.5.1 Entitlement to relief will be subject to a regular review or if there is a change in legislation that would affect its operation and taking into account Council policies and priorities, any withdrawal or variation of relief is subject to one financial years notice.

3.6 Notification of Award

- 3.6.1 The Council will inform the organisation applying for relief, in writing of the outcome of their application for discretionary rate relief.

- 3.6.2 The Council will endeavour to determine any application received within 28 days of receipt of the full information required to assess the claim.
- 3.6.3 Where the application is not successful, the notification will provide full reasons why it has not been decided not to award discretionary rate relief and the applicant's right to ask us to look at the decision again.
- 3.6.4 Where the application is successful, the notification will include the percentage of relief awarded and details of when an amended Business Rate Demand will be issued.

3.7 Appeals

- 3.7.1 If you disagree with a decision made under this policy, you must write and tell Durham County Council why you think the decision is wrong and provide any additional information in support of the claim. An independent panel will look at the case.
- 3.7.2 The panel will check the discretionary rate relief application thoroughly and take account of any additional information in your appeal letter. The panel will decide whether or not the criteria have been properly applied. The panel will confirm the decision, change the decision to pay more discretionary rate relief or change the decision to pay less discretionary rate relief.
- 3.7.3 Durham County Council will write to tell you the outcome of the appeal. There is no further right of appeal against the decision of the panel. Any further appeal against this decision must be done through judicial review proceedings

4 Relief for Properties that are Partially Unoccupied for a Temporary Period

4.1 Legislation

- 4.1.1 Section 44A of the Local Government Finance Act 1988 enables a billing authority discretionary powers to grant relief on a property that is partly unoccupied or not fully occupied if it appears to the authority that this situation will remain for a "short period of time" only.
- 4.1.2 Partially occupied rate relief (also referred to as Section 44A Relief) is not intended to be used where part of a property is temporarily not used. The intention is aimed at situations where there are practical difficulties in occupying or vacating all of a property.

4.2 Making an Application

- 4.2.1 Applications must be made by the ratepayer.
- 4.2.2 Durham County Council will require a written application and the ratepayer must supply a plan of the property, with the unoccupied portions clearly identified and a timetable or schedule of works detailing plans for the phased occupation/vacation.

4.3 The Decision Making Process

- 4.3.1 Durham County Council will require accompanied access to the property during normal working hours to verify the application.
- 4.3.2 Relief will not be awarded under any circumstance where it is not possible to verify the application.
- 4.3.3 No award shall be made where it appears to the Council that the reason that part of the property is unoccupied is wholly or mainly for the purpose of applying for rate relief.
- 4.3.4 Durham County Council will notify the applicant of the decision in writing and where the relief is refused, an explanation of the reasons why will be given.
- 4.3.5 Durham County Council will not consider applications where the customer has failed to provide information within the timescales provided to them and will notify the customer in writing that the application has been refused

4.4 Period of Section 44A Relief

- 4.4.1 Section 44A Relief will only be applied to a property that is partly occupied for a temporary period. The relief can only be awarded for a maximum of 3 months in cases of offices and shops, or 6 months in the case of industrial properties
- 4.4.2 Section 44A Relief will end under the following circumstances
 - At the end of a financial year, regardless of the date relief was applied;
 - Where all or part of the unoccupied area becomes occupied;
 - The person liable for Business Rates changes

4.5 Calculation of Section 44A Relief

- 4.5.1 Where Durham County Council agrees to award a Section 44A Relief, notification will be sent to the Valuation Officer to seek a reduction in the rateable value

4.5.2 The amount of relief is calculated on a statutory basis based on the rateable value of the empty portion of the property. The appropriate rateable value is provided to Durham County Council by the Valuation Office Agency

5 Business Rates - New Build Empty Property Relief

5.1 Legislation

5.1.1 This relief has been introduced from 1 October 2013 as a temporary measure and under Section 47 of the Local Government Finance Act 1988 the billing authority has discretionary powers to grant the relief in the prescribed circumstances below.

5.2 Properties that will benefit from this Relief

5.2.1 Properties that are empty and entered into the rating list between 1 October 2013 and 30 September 2016 could be eligible for exemption from empty property rates for the first 18 months, up to state aid limits.

5.2.2 Properties that will benefit from relief will be all unoccupied non domestic hereditaments that are wholly or mainly (more than half) comprised of qualifying new structures completed within this timeframe.

5.3 Criteria used in the Decision Making Process

5.3.1 Durham County Council will require a written application form.

5.3.2 The relief will stay with the property rather than the owner.

5.3.3 The new build empty property relief is granted as de minimis aid for State Aid purposes. There is currently a ceiling of 200,000 Euros of de minimis aid that can be granted over a three year rolling period.

5.3.4 Durham County Council will notify the applicant of the decision in writing and where the relief is refused, an explanation of the reasons why will be given.

5.3.5 Durham County Council will not consider applications where the customer has failed to provide information within the timescales provided to them and will notify the customer in writing that the application has been refused

5.4 Period of Relief New Build Empty Property

5.4.1 The relief is for a maximum of 18 months; this includes the first 3 or 6 months unoccupied empty relief.

6 Business Rates – Local Newspaper Relief

6.1 Legislation

- 6.1.1 This relief was introduced from 1 April 2017 for a 2-year period under Section 47 of the Local Government Finance Act 1988 the billing authority has discretionary powers to grant relief in the prescribed circumstances.

6.2 Properties that will benefit from this relief

A £1,500 business rates discount for office space occupied by local newspapers in England, up to a maximum of one discount per local newspaper title and per hereditament, and up to state aid limits.

6.3 Criteria used in the Decision Making Process

Durham County Council will require a written application form.

The new local newspaper relief is granted as de minimis aid for State Aid purposes. There is currently a ceiling of 200,000 Euros of de minimis aid that can be granted over a three year rolling period.

Durham County Council will notify the applicant of the decision in writing and where the relief is refused, an explanation of the reasons why will be given.

Durham County Council will not consider applications where the customer has failed to provide information within the timescales provided to them and will notify the customer in writing that the application has been refused.

6.4 Period of Local Newspaper Relief

- 6.4.1 The relief is only applicable for the financial years 2017/18 and 2018/19.

7 Business Rates – Transitional Relief

7.1 Legislation

- 7.1.1 This relief has been introduced from 1 April 2015 for 2-year period under Section 47 of the Local Government Finance Act 1988 the billing authority has discretionary powers to grant the relief in the prescribed circumstances below.

7.2 Properties that will benefit from this Relief

- 7.2.1 Properties with a rateable value up to and including £50,000. As a result of this measure small properties (with a rateable value of less than £18,000) that would otherwise face bill increases above 15% and medium sized

properties (with a rateable value of £50,000 or less) that would otherwise face bill increases above 25% will benefit.

7.2.2 Changes in rateable value which take effect from 1 April 2010 or the substituted day in the cases of split and mergers. Properties whose rateable value is £50,000 or less on 1 April 2010 (or the day of merger) but increase above £50,000 from a later date will still be eligible for relief. Where the Valuation Office Agency issue certificates for the value at 31 March 2010 or 1 April 2010 the relief will be recalculated on a daily basis.

7.2.3 As this is a discretionary relief, the reliefs are measured in the following order,

- Charitable/Community Amateur Sports Clubs/Rural Rate Relief/Top up and not for profit/Small Business Rate Relief
- Other discretionary reliefs (Local Discounts)
- Long Term Empty Relief (50% business rate relief for 18 months between 1 April 2014 and 31 March 2016 for businesses that move into retail premises that have been empty for a year or more.
- Retail Relief of £1,000 for 2014-15 and £1,500 for 2015-16
- Transitional Relief

7.3 Criteria used in the Decision Making Process

7.3.1 Durham County Council a written application form.

7.3.2 Any new applications identified after 1 April 2017 will only be granted for 2016/17 financial year where the decision is made to grant relief before 30 September 2017.

7.3.3 The new transitional relief is granted as de minimis aid for State Aid purposes. There is currently a ceiling of 200,000 Euros of de minimis aid that can be granted over a three year rolling period.

7.3.4 Durham County Council will notify the applicant of the decision in writing and where the relief is refused, an explanation of the reasons why will be given. Where there is a recalculation of the amount of relief written notification will be provided detailing the reason.

7.4 Period of Transitional Relief

7.4.1 The relief will only applicable for the financial year 2016/17.

8 Hardship Relief for Business Rates

8.1 Legislation

- 8.1.1 The provisions are set out in Section 49 of the Local Government Finance Act 1988. Councils have the power to reduce or remit the business rate charge where it considers that 'hardship' would otherwise be caused to the ratepayer. Hardship relief for non-domestic property is intended to provide short term assistance to a business suffering unexpected hardship, financial, or otherwise, arising as a result of exceptional circumstances or short term crisis beyond the business's 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. As the Hardship Relief scheme covers unforeseen events, it is not possible to offer precise definitions. However, a 'crisis' would have to result in a serious loss of trade or have a major effect on the services that can be provided.
- 8.1.2 'Exceptional circumstances' will usually be circumstances that came from outside the business or organisation, are beyond the normal risks faced by businesses and cannot be foreseen or avoided. The effect of strikes within a business or organisation, increased running costs and increased competition would not be considered as 'exceptional circumstances' as they are normal business risks.

8.2 Criteria Used in the Decision Making Process

- 8.2.1 Applications to reduce or remit the business rate charge will only be considered where the Council is satisfied that the rate payer would otherwise sustain hardship if no award was made and that it is reasonable to grant relief having regard to the interest of council tax payers who are affected by decisions under this section. This is because 50% of the cost of exercising this power has to be funded by the Council through general fund expenditure.
- 8.2.2 Applications for hardship will be examined on a case by case basis and each application will be assessed on its individual merits. Other issues or requirements will also be considered in relation to the application as they arise including: -
- All applications should be made in writing from the rate payer, their advocate/appointee or a recognised third party acting on their behalf, preferably using the relevant form, and should contain the necessary information to substantiate the request.
 - All applications are only intended as short term assistance and will not extend beyond the current financial year, and should not be considered as a way of reducing Business Rate Liability indefinitely.

- Government guidance advises that remission of Business Rates on the grounds of hardship should be the exception rather than the rule.
- The financial interests of the council tax payers will not be the sole overriding factor e.g. impact on employment and amenities provision will also be taken into account.
- The test of 'hardship' is not confined strictly to financial hardship - all relevant factors affecting the ability of a business to meet its liability for rates are taken into account where readily available. Where the granting of relief will have an adverse effect on the financial interests of the council tax payers, relief may still be granted if the case for relief on balance outweighs the costs to taxpayers.
- The potential amount of any relief may in some cases constitute state aid and therefore adherence to EU regulations must be followed.
- The test of hardship will include an assessment of the ratepayer's individual accounts to verify that the payment of rates would cause hardship.
- The assessment of the accounts will identify the cause of the business failings and a simple accounting calculation will be carried out as follows:

% of Rates to Sales
 % of Rates to Gross Profit
 % of Rates to Expenditure

Ratio of Current Assets to Current Liabilities.

Ratio of Current Assets Less Stock to Current Liabilities.

- Relief will normally only be awarded retrospectively. However, where you can show that the circumstances will remain the same for a period up to the end of the current financial year relief may be award for the remainder of the year
- It is unlikely that Hardship Relief would be granted in respect of an empty property or where there is little expectation of economic survival.
- It is expected that businesses should have taken prompt action to mitigate any factors giving rise to hardship. Examples of mitigating actions may include seeking business advice, discounts and promotions, reviewing pricing, extending the range of stock or services, negotiating with creditors etc. Applications may be declined in circumstances where the business is unable to demonstrate that it is taking reasonable steps to alleviate the hardship.

8.3 Period of Hardship Relief

8.3.1 In all cases relief will end in the following circumstances:

- At the end of a financial year
- All or part of the unoccupied area becoming occupied
- A change of liable person
- The property becomes empty or is used for a different purpose, or it becomes occupied
- The ratepayer enters any form of formal insolvency
- The ratepayer's financial circumstances significantly change. The rate payer must inform the council if their circumstance change, e.g. change in rateable value. Circumstances may also be reviewed by the Council periodically where awards are made to confirm hardship persists.

From the assessment of the above criteria, the Council will determine if the business is suffering from financial hardship due to the payment of Business Rates. If hardship relief is granted, applicants will be entitled to make further submissions in subsequent years. In the event of successive applications, evidence from an accountant or other professional adviser regarding the long-term viability of the business may be required.

8.3.2 Examples of Appropriate Circumstances

The following examples indicate circumstances where it may be appropriate to award relief. They are included in this policy in the form of broad general guidelines and are not intended to be prescriptive.

- Without rate relief the business will close and deprive local residents of an essential service and a source of significant local employment.
- The ratepayer's business has been detrimentally affected by circumstances beyond the ratepayers control and that do not constitute part of the normal risks in running a business of that nature (e.g. a natural disaster, an unusual or uncontrollable event in the neighbourhood of the business such as a fire making the immediate area of the business unsafe).

N.B. in addition, it must be in the interest of the community as a whole for Hardship relief to be granted.

8.4 Claiming a Reduction due to Hardship

8.4.1 A claim must be made on an approved application form. This application form and any supporting information should be completed and returned to:

Durham County Council
Revenues and Benefits
PO Box 238
Stanley
Co Durham
DH8 1FP

8.4.2 It is the responsibility of the Ratepayer applying for relief to provide sufficient information and documentary evidence to support their applications. If the Ratepayer applying does not or will not provide the required evidence, we will still consider the application but only on the basis of the information and evidence provided.

8.5 The Decision Making Process

8.5.1 Upon receipt of written application form, all supporting information must be included for consideration.

- Initial applications will be considered by Revenues Team Manager (NNDR). These will include review sheet, with findings and financial implications and initial recommendations.
- Recommendations will then be forwarded to Revenues & Benefits Manager via the Revenues Manager.
- These will then be forwarded to Head of Financial Services for approval/refusal.
- Once decision has been approved the ratepayer will be advised in writing of the decision.

8.6 Review of Decision

8.6.1 Under the Local Government Finance Act 1988, there is no right of appeal against the Council's use of discretionary powers. However, on individual discounts, the Council will accept a customer's request from a ratepayer for a re-determination of its decision.

- Re-determination of the decision will be by the Corporate Director.
- The Council will consider whether the ratepayer has provided any additional information that will justify a change to its original decision.
- The Council will notify the ratepayer of its decision within 21 days of receiving a request for a redetermination.