

Spelthorne Borough Council Non-Domestic Rates Section 47 (LGFA) Policy

Date Effective: 1 April 2026

Rates

Review Date: January 2029

Version 1

Purpose/Introduction:

- 1.1 This policy sets out Spelthorne Council's intentions for dealing with applications for Non-Domestic Rate Discretionary Relief under Section 47 of the Local Government Finance Act 1988.
The Council recognizes the importance of supporting local businesses and organisations to promote the provision of local facilities, economic growth, employment and investment to improve prosperity across the borough and in particular support the most disadvantaged communities. Councils have the power to grant discretionary rate relief to organisations that meet certain criteria. Public funds are however limited, a proportion of the costs of relief granted is borne by the council taxpayers. In making decisions the Council must be confident that money invested in this way will be repaid in economic and/or community growth.
- 1.2 Section 47 of the Local Government Finance Act 1988 enables the Council to exercise discretion to award rate relief in respect of properties occupied by charities and other not-for-profit organisations. This includes the additional powers given to Councils by Section 69 of the Localism Act 2011 which amended Section 47 of the Local Government Finance Act 1988.
- 1.3 The criteria shall take effect for all applications made in respect of rate liabilities incurred from 1 April 2025 onwards.
- 1.4 When deciding on whether to grant a discretionary award, the Council will consider each application on its own merits and in line with the criteria specified within this document.
- 1.5 It is imperative and is the principal consideration that any relief awarded is in the best long-term interests of the taxpayers of the Spelthorne Council as the council taxpayers of the borough will fund the relief via their council tax contributions.

2. Mandatory Relief

The Local Government Finance Act 1988 requires the Council to grant Mandatory Relief of 80% of the business rates to the following categories of business rates:

- Charities where the property is wholly or mainly used for charitable purposes

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- Registered Community Amateur Sports Clubs (CASCs) for any club with appropriate registration with the HMRC.
- Rural shops – (Not applicable in Spelthorne Borough)

3. Discretionary Relief

Section 47 of the Local Government Finance Act 1988 requires the Council to maintain a Discretionary Rate Relief Scheme to award up to 100% business rates relief in respect of premises occupied by certain organisations and/or for certain purposes. These organisations being the following:

- A further award to charities up to 100%, known as discretionary “top up” relief, where the property is wholly or mainly used for charitable purposes. (Wholly and mainly is deemed to be greater than 50%)
- A further award of 20% on top of mandatory relief to registered Community Amateur Sports Clubs (CASCs)
- Other non-profit making organisations and the property is used for charitable purposes concerned with education, social welfare, science, literature or the fine arts; or it used wholly and mainly for recreation by a not-for-profit club or society.

In determining applications the Council may

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

Criteria applied is as follows.

3.1 Charities

Mandatory relief of 80% is granted to charities in the following circumstances:

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

The Council will consider applications for a 20% discretionary rate relief ‘top up’ from charities based on their own merits, on a case by case basis.

In determining the application, the following matters will be taken into consideration:

- Property rateable value of £24,999 or less
- ‘Top up’ relief of 20% is only awarded to local charities who can demonstrate financial hardship
- Unless a special case for financial hardship can be proved, ‘top up’ relief to national charities including charity shops or other premises should not be granted.
- Local charity to be defined as those whose objects provide that the activities of the charity shall be exclusively within the Spelthorne Borough or that persons who may benefit from the activities of the

charity shall be residents of Spelthorne Borough and whose main office is situated within the borough.

- Top up' relief will not be granted to charity shops as it is deemed unfair to other local market traders.
- Academy, Free, Foundation, Faith and Trust status schools are classified as charities and therefore receive 80% mandatory relief. 'Top up' relief should not be granted unless a special case for financial hardship can be proved.

3.2 Registered Community Amateur Sports Clubs and other Non-Profit Making Sports and Leisure Clubs.

Community Amateur Sports Clubs (CASCs) receive 80% Mandatory Relief for any club with the appropriate registration with HM Revenues and Customs. To qualify as a CASC the club must be set up with a formal constitution (for example its rules or memorandum and articles of association). The club's written constitution must require the club to meet certain conditions, and the club must also be able to show that it actually meets these conditions in practice.

The conditions are that:

- The club must be open to the whole community
- The club's main purpose must be to provide facilities for eligible sports and to encourage people to take part in them
- The club must be organised on an amateur basis
- The rateable value must be £24,999 or less

The club must also be able to show that:

- It is set up and provides its facilities in an eligible area
- It is managed by fit and proper persons

CASCs which qualify for the mandatory business rate relief can also apply to the Council for the top up discretionary element up to 20%. Other non-profit making sports and leisure clubs who do not qualify for mandatory relief can apply for discretionary relief.

The Council will consider applications for a discretionary rate relief top up from CASCs and discretionary relief for non-profit making sports and leisure clubs based on their own merits on a case to case basis.

The Council will consider applications that can demonstrate:

- The contribution that the organization makes to Spelthorne Borough
- Membership fees must be affordable for the majority of people residing in Spelthorne Borough, should be open to everybody and 75% of its members must be Spelthorne Borough residents.
- Every effort should be made by the organization to encourage open membership from groups such as young people, disabled persons, ethnic minorities, armed and ex armed forces personnel and unemployed people: In particular;

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- Membership should consist of at least 25% of people from such groups
 - The facilities should be made available to local communities other than members
 - Differential fee structures to encourage such groups to apply
 - Scheme of education or training for such groups must exist.
- The Council will take into account whether the building is accessible to disabled people and if reasonable attempts are being made to make it accessible.
- The organisation should not have an annual turnover that exceeds £100k or hold in excess £50k in any form of reserves.
- Where a club is run on a voluntary basis generally 75% relief will be given, only in exceptional circumstances such as hardship would any further relief be considered.
- Where the club is run using paid staff a maximum of 50% will be given.
- The Council will not normally grant relief to any club where the bar is, in practice, the main purpose for belonging to or attending a club. The criteria used will be whether the bar is the main purpose of the premises or whether it is just part of the facilities provided.

The Council will take into account whether the building is accessible to disabled people and if reasonable attempts are being made to make it accessible.

3.3 Non-Profit Making Organisations (other than charities, CASCs, or other sports and leisure clubs) and Community Interest Companies (CIC)

Non-Profit Making Organisations who are not classed as registered charities or CASCs, can apply for Discretionary Rate Relief which can be paid at any rate up to 100%. Such organisations would include; philanthropic, religious, concerned with education or social welfare, science, literature, fine arts, or wholly and mainly for recreation by non-profit club of society.

Community Interest Companies (registered with the Office of the Regulator of Community Interest Companies) can apply for Discretionary Rate Relief which can be paid at any rate up to 100%.

The Council will consider applications for discretionary rate relief from organisations based on their own merits, on a case by case basis.

The Council will consider applications from organisations that can demonstrate;

- The rateable value of the property being used is £24,999 or less
- The activities of the organisation must support at least one of the Council's priorities
- The organisation must promote its services for the benefit of Spelthorne residents

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- Membership of the organisation must be open to all members of the community, regardless of ability, subject to physical capacity of the premises
- Membership rates must be affordable for the majority of the Spelthorne Borough residents. Comparisons will be made with similar organisations to ensure a level of consistency
- Organisations must actively encourage membership from groups such as young people, older age groups, persons with disability, ethnic minorities, armed and ex-armed forces personnel and unemployed people. This should be demonstrated by either;
 - a) Differential fee structures for such groups ; or
 - b) Provision of schemes of training or education for such groups; or
 - c) A membership which consists of at least 25% of people from such groups.
- The facilities of the organisation should, where practical be made available to people, bodies, or groups, other than members, e.g. from schools, casual public sessions, etc. subject to licensing requirements.
- The organisation must be affiliated to local or national organisation where one exists
- At least 75% of the membership must be made up of Spelthorne Borough residents
- The organisation should not have an annual turnover that exceeds £100k or hold in excess £50k in any form of reserves.
- The organisation must provide a copy of their constitution, and a copy of their last 3 years audited annual accounts where available.

3.4 Period of the Award

The period of the award will normally be for the financial year that the application was made and will be reviewed on a 3 year basis thereafter.

3.5 Changes in Liability

The organisation must inform the Council of any change in circumstances, which might affect eligibility for relief. The change should be notified within two weeks of the date it occurs.

4. Section 44A Relief on Partly Occupied Premises Rateable Value Apportionment.

Premises that are partly occupied for a short time only can receive a discretionary relief under Section 44A of the Local Government Finance Act 1988. This is a process where, if the local authority approves an application for relief under section 44A, the Valuation Office will be asked to apportion the rateable value of the property so that the occupier may benefit from an exemption for the unoccupied area and pay full charge only on the occupied apportionment.

4.1 An application will be considered on its own merits and must meet the following criteria:

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- The property must be partly occupied. Detailed plans must be provided to indicate the whole property and which parts are occupied and unoccupied.
- The intended part occupation will be a 'short time only'. The term 'short time' is not defined in legislation. However, for the purposes of these guidelines, the Council considers this to mean a period of 3 to 6 months.
- The part occupation must not be as a result of maintenance, renewal, reorganization, repairs or seasonal shutdown/holidays. In the main, section 44A relief should be for the phased occupation or vacating of a premises. Details of the reason for part occupation must be provided.

4.2 The properties will be inspected by the Council.

Consideration will be given to other evidence that the business may provide to support its application.

Applications must be made in a timely manner. They will not be accepted for retrospective periods as the property cannot be inspected to verify the validity of the application.

This is a discretionary provision and full rates will remain payable on a partly occupied property should the Council chose not to exercise its power in this respect.

4.3 Discretionary Relief – Hardship

The Council is able to exercise its discretion under Section 49 of the Local Government Finance Act 1988 to provide either partial or full relief to non-domestic rate payments in cases of hardship where it would be reasonable to do so having regard to the interests of council tax payers in general.

Hardship should only be granted if the authority is satisfied that:

- (a) The ratepayer would sustain financial hardship if the authority did not do so
- (b) It is reasonable for the authority to do so, having regard to the interest of the persons subject to council tax.

To qualify for hardship relief, a business will:

- Generally be that of a general store, a post office, the only service provider or large employer in the specified area
- Generally be the only business of that nature with the settlement area

And in making decisions on whether to award the relief the council should take into account the following criteria (not listed in any priority):

- Any reduction or remission in rates on the grounds of hardship should be the exception rather than the rule
- Any reduction of the rates must be shown to be significant to the future viability of the business
- The business must continue to trade
- Cash flow forecast for a minimum of the next 12 months must be provided together with a comprehensive Business Plan incorporating a brief history of the business

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- The of 'hardship' is not strictly confined to financial hardship and that this in itself is not a deciding factor, for example hardship a severe loss of trade could be due to external factors such as a natural disaster
- The loss of business would worsen the employment prospects in the area
- The interest of the Council taxpayers of the area would be best served by awarding relief
- The business must demonstrate how it is beneficial to the local community and why it is suffering financial hardship
- The business provides employment to local residents in an area where employment opportunities are limited
- Independent advice by banks or financial advisors should be sought to demonstrate the future viability of the business
- Applications will only be considered where a signed ratepayer, or, where an organization is the ratepayer, an appropriately authorized representative of the organization, and
- The ratepayer will provide additional information as deemed necessary by the Council to be essential in order for a fair evaluation of the application.

This list is by no means exhaustive and each case will be assessed on its own merits.

5. Right of Appeal

Any discretionary application will be assessed once all the required information is in the Council's possession by the Revenues Technical Manager.

There is no statutory right of appeal against a decision regarding any form of discretionary relief made by the Council.

However, the Council recognizes that ratepayers should be entitled to have a decision reviewed objectively if they are dissatisfied with the outcome.

Therefore appeals will be considered by either the Group Head Commissioning and Transformation or the Deputy Chief Executive of which their decision will be final.

- Applicants must make an appeal within 4 weeks of the letter issued notifying them of the Council's decision.
- Applicants may appeal against the decision to award or not to award relief or against the level of the relief award
- Appeals must be in writing giving reasons why it is believed the decision should be amended. New or additional information may be included but only if it is relevant to the decision making process
- The applicant will be advised of the final decision and the reasons for the decision within 4 weeks of the review hearing. The appellant does not have the right to appear in person at the review hearing.