

NDR Discretionary Relief Policy

Implementation date: 10 December 2024

Control schedule

Approved by	Policy and Sustainability Committee
Approval date	10 December 2024
Senior Responsible Officer	Dr Deborah Smart, Executive Director of Corporate Services
Author	Cheryl Hynd, Customer Manager – Transactions
Scheduled for review	November 2025

Version	Date	Author	Comment
0.1	13/09/2013	Neil Jamieson	Original Document
0.2	30/11/2021	Cheryl Hynd	New Template
0.4	20/06/2023	Cheryl Hynd	Empty Property Approved at committee
0.5	19/09/24	Oliver Hoskins	Green Freeport Approved at committee

Date	Committee	Link to report	Link to minute
10/12/24	Policy and Sustainability Committee	CS Assurance	

NDR Discretionary Relief Policy

1. Policy statement

- 1.1 The power to grant discretionary rating relief (DRR) for Non Domestic Rates (NDR) is governed by the provisions of the Local Government (Financial Provisions etc.) (Scotland) Act 1962. Under the Act Council's may grant DRR in respect of:
- a) any lands and heritages which are occupied by, or by trustees for, a charity and are wholly or mainly used for charitable purpose (whether of that charity or of that and other charities);
 - b) any lands and heritages occupied for the purposes of one or more institutions or other organisations (whether corporate or unincorporated) which are not established or conducted for profit and whose main objects are charitable or are otherwise philanthropic or religious or concerned with education, social welfare, science, literature or the fine arts;
 - c) any lands and heritages occupied for the purpose of a club, society or other organisation not established or conducted for profit, and which are wholly or mainly used for the purposes of recreation.
- 1.2 This Policy outlines the Council's financial position on discretionary relief for Non-Domestic Rates (Business Rates) as noted above. Additionally, this policy outlines our position for Empty Property Relief as well as Green Freeport Relief.

2. Scope

- 2.1 This Policy applies to the collection of Non-Domestic Rates (Business Rates).

3. Definitions

- 3.1 None.

4. Policy content

- 4.1 The Council's NDR policy is detailed in the relevant appendices.
- Appendix 1 Non Domestic Rates - Discretionary Rating Relief
 - Appendix 2 Empty Property Relief
 - Appendix 3 Green Freeport Relief

5. Implementation

- 5.1 This policy is used by Council officers to administer and manage Non-Domestic Rates. The policy, and subsequent updates following committee approval, are shared with relevant senior officers of each directorate.

6. Roles and Responsibilities

- 6.1 The Council will ensure that transactions are governed by robust controls, with clear segregation of duties. Financial decisions will be made by identified officers and reviewed by appropriate managers. These arrangements will be clearly detailed in relevant service operation manuals.

7. Related documents

- 7.1 None

8. Integrated impact assessment

- 8.1 Relevant actions completed.

9. Risk assessment

- 9.1 The risks associated with policy non-compliance are linked to the annual review and update. This policy is used to inform officers and businesses of the relief available to empty business properties. Failure to maintain legislative or policy amendments, or follow guidance may lead to financial loss or reputational damage.

10. Review

- 10.1 The Non-Domestic Rates Discretionary Relief Policy will be reviewed annually in November by the Policy and Sustainability Committee as part of Customer and Digital Services annual policy assurance statement. This review will take account of changes in legislation, service improvements, regulations, and wider policy initiatives. Any proposed changes will be discussed with appropriate stakeholders.

Non Domestic Rates - Discretionary Rating Relief

1. Non Domestic Rates mandatory relief is granted to charities where they occupy premises and use them wholly or mainly for charitable purposes.
2. The power for councils to grant discretionary rating relief (DRR) for Non Domestic Rates (NDR) is governed by the provisions of the Local Government (Financial Provisions etc.) (Scotland) Act 1962
3. The Council's Non Domestic Rates – Discretionary Rating Relief (DRR) Policy is as follows:-
 - An additional 20% DRR is granted to organisations already in receipt of mandatory relief where they:-
 - are mainly concerned with working with youths (defined as under 19 years of age);
 - provide community facilities i.e. village halls and community centres.
 - 50% DRR is granted to recreation clubs which do not have a licence to sell alcohol.
 - 100% DRR is granted to all clubs who meet the definition of “Sports Clubs” as set out by the Scottish Sports Association and who operate an equal opportunities policy. This relief is granted subject to full compensation for such relief being contained within the Rating Pool arrangements.
 - 80% DRR is granted in respect of properties used for recreational purposes and occupied by clubs/societies which are charitable bodies and not established / conducted for profit.
 - An additional 20% DRR is granted to organisations already in receipt of mandatory relief where they:
 - provide and maintain grounds and buildings used for the purposes of leisure time occupation where facilities are available to members of the public at large.
 - support organisations which acted, primarily, to provide benefit to Edinburgh residents and taxpayers.
4. Legislation permits relief to be granted for the year in which, or the year next following that in which, the determination is made or for a specified term of years not exceeding five or for an indefinite period subject to termination by not less than twelve months notice. The Council currently grants relief for a period not exceeding five years.

Non Domestic Rates - Empty Property Relief

All Business Premises

Eligible empty premises will receive 50% rates relief for 3 months. When this 3-month period ends, the full rates charge will apply. This relief will be applied from the date the property was first identified as empty.

The relief timescale is applied to the property, not the accountholder. This means the timescale commences from the last date the property was occupied, irrespective of the owner. This practice ensures appropriate liabilities are billed.

Aa minimum occupancy requirement of six months will apply.

There is no right of appeal to the Non-Domestic Rates Empty Property Relief Policy change.

Exception

Business properties where occupation is “prohibited by law” will continue to receive 100% Non-Domestic Rates relief. None of the other previous 100% empty relief categories, including for listed buildings, will continue to apply.

Non Domestic Rates - Green Freeport Relief

A key element of the Forth Green Freeport is the NDR rates relief that will be awarded to eligible properties for a maximum of five years at up to 100%.

The Scottish Government has confirmed that it will meet the full cost of awarding the relief. The Council reserves the right to review the relief should the Scottish Government not fund the relief in full.

Applicable Timescales

The relief is available from 12 June 2024 and unless otherwise changed the latest date by which businesses can apply is 30 September 2034.

Legislative Background

Relief will be awarded in terms of Section 3A to the Local Government (Financial Provisions etc) (Scotland) Act 1962 as amended by Section 140 (Part 11) to the Community Empowerment (Scotland) Act 2015.

Overarching Eligibility Criteria

To be eligible for relief, all applicants must meet one or more of the following criteria:

- Promoting regeneration and high-quality job creation.
- Promoting decarbonisation and just transition to a net zero economy.
- Establishing hubs for global trade and investment.
- Fostering an innovation environment.

In addition to the above four key principles, the applicant must demonstrate the embedding of fair work first practices by signing the Forth Green Freeport Fair Work Charter.

Categories of Eligible Properties

Where an applicant is a ratepayer in respect of one of the following types of property and is otherwise eligible under the qualifying criteria set out in [Local Government Finance Circular 4/2024](#) they will be entitled to relief of up to 100% of NDR that would normally be owed on that property for a period of five years, subject to the principles outlined below:

New Build and New Occupation

100% relief will be granted on properties that become occupied for the first time within the set timeframe (12/06/24 to 30/09/34) regardless of whether they are occupied by new or existing businesses (the latter so long as it is expanding into further properties).

- Newly occupied new builds (these will be identified by a mark on the valuation roll under section 2A of the Local Government (Scotland) Act 1975).
- Newly occupied existing property if the property is occupied by a “new business” for the first time regardless of whether the property has been occupied previously; or by an “existing business”, providing the existing business is expanding into a separate further property in addition to the one(s) it already occupies in the Green Freeport designate area. The relief is only available when properties become occupied for the

first time within the specified timeframe (12/06/24 to 30/09/34), regardless of any previous occupation that ended prior to this timeframe.

No relief will be awarded in this provision where it is deemed that the business has just moved from an area out with the Green Freeport designated area into the Green Freeport designated area (displacement) unless it meets the “but for” test, i.e. demonstrates that in doing so it has met one of the 4 overarching principles, fair work criteria and that without the Green Freeport incentives the relevant investment would not have occurred.

New Part-property Occupation and Property Improvements

100% relief will be awarded based on any increased rateable value of new space that has been newly built or occupied, or to the increased rateable value of a property attributed to improvements to an existing occupied space. This covers the following situations:

- Where the occupier of a property creates a new space by expanding the property (e.g. builds an extension).
- Where the occupier of a property newly occupies a previously unoccupied part of a property (e.g. newly occupies a previously unoccupied new room/floors in an existing property).
- Where the occupier of an existing property makes new space useable through a property development or other improvement (e.g. installation of a mezzanine level or any other improvement work). These improvement changes can be identified by the Assessor marking the valuation roll as a property improvement in terms of Section 2A of the Local Government (Scotland) Act 1975.

No relief will be awarded under this provision where:

- The expansion is merely into a part of a property that is already in use.
- The improvement is to a space that prior to the Green Freeport designation, was already occupied and in use (i.e. no relief awarded for general refurbishments/improvements such as heating or air conditioning).
- The expansion pre-dates the Green Freeport designation.
- Where it is deemed that the business has displaced from another area out with the Green Freeport area unless it meets the “but for” test, i.e. demonstrates that in doing so it has met one of the 4 overarching principles, fair work criteria and that without the Green Freeport incentives the relevant investment would not have occurred.

Requirement for an Application

Businesses wishing to apply for Green Freeport relief must complete the application process, which will be hosted on the Council’s website.

Information and Evidence

Council officers reserve the right to request supplementary information from businesses deemed appropriate in support of their application. They will make the relief decisions and will accept a letter of support from the Forth Green Freeport operating company as proof that the applicant meets the necessary overarching principles laid out above.

Overlapping Reliefs - Interaction

A property may be eligible for Green Freeport relief and another relief such as Business Growth Accelerator relief or Fresh Start relief. The other relief will be awarded first and the Green Freeport relief will be awarded (for the full five years) when the other relief ends.

Recovery of Overpaid Relief

Where it is established that an award has been made incorrectly, whether due to fraud or error on the part of the applicant or if relevant eligibility conditions are no longer met, the Council will seek to recover the amount of the award in full.

Subsidy Control

Green Freeport relief is subject to the Subsidy Control Act 2022 and any relief awarded under the Council's scheme will be given in compliance with the Act.