



# **Cheshire East Council Policy for the granting of Discretionary Non-Domestic Rate Relief**

## Version Control

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## **1.0 Purpose of the Policy**

- 1.1 The purpose of this policy is to determine the level of discretionary relief and related areas to be granted to certain defined ratepayers within the Council's area. The policy includes all changes effective from 1<sup>st</sup> April 2022 and includes all extended reliefs due to the COVID-19 crisis. The Council is keen to support businesses during the crisis, as far as possible.
- 1.2 The Local Government Finance Act 1988 and subsequent legislation requires the Council to grant mandatory relief for premises occupied by Charities and similar organisations that own or occupy them wholly or mainly for charitable purposes. Likewise, certain premises situated within a rural settlement area will be eligible for mandatory relief. Powers have also been granted under the Localism Act 2011, which allow for the granting of discretionary rate relief to any premises where the Council feels the granting of such relief would be of benefit to the local community.
- 1.3 In addition to the above, Central Government is keen that in certain cases, assistance should be provided to businesses who have had increases in their rate liability due to the revaluation of premises in April 2017. In these cases, and where the Council meets Central Government guidelines, grants are available under section 31 of the Local Government Act 2003.
- 1.4 Whilst the Council is obliged to grant relief to premises, which fall within the mandatory category, the Council also has powers to grant discretionary relief and reductions to ratepayers, subject to certain criteria being met. In the case of the new reliefs, some guidance has been issued by Central Government outlining actions expected to be taken by local authorities. This policy includes Government guidance where appropriate but also looks to target discretionary relief in line with the Council's priorities.
- 1.5 This document outlines the following areas:
- Details of the criteria for receiving Discretionary Reliefs for all relevant areas;
  - The Council's policy for the granting of all types of Discretionary Reliefs;
  - Guidance on granting and administering the reliefs and awards; and
  - The Council's Scheme of Delegation.
- 1.6 Where organisations apply for relief they will be granted (or not granted) relief or reductions in line with the following policy.

## 2.0 Mandatory Relief - Legislative Background

### Charity Relief

- 2.1 The powers relating to the granting of mandatory<sup>1</sup> and discretionary relief are given to the Council under the Local Government Finance Act 1988<sup>2</sup>. Charities and Trustees for Charities are only liable to pay one fifth of the Non-Domestic Rates that would otherwise be payable where property is occupied and used wholly or mainly for charitable purposes. This amounts to mandatory relief of 80%. For the purposes of the Act, a charity is an organisation or trust established for charitable purposes, whether or not it is registered with the Charity Commission. The provision has been extended under the Local Government Act 2003 (effective from 1<sup>st</sup> April 2004) to registered Community Amateur Sports Clubs (CASCs). Full details of the mandatory provisions are given later within this policy.
- 2.2 In the case of charity shops, the premises must meet the criteria laid down by section 64 (10) of the Local Government Finance Act 1988 which states that the premises are to be treated as used for charitable purposes at any time it is wholly or mainly used for the sale of goods donated to the charity and the proceeds of goods (after any deductions for expenses) are applied for the purpose of the charity.
- 2.3 The Council has discretion to grant relief of up to a further 20% for these mandatory cases under its discretionary provisions.

### Rural Rate Relief

- 2.4 From 1<sup>st</sup> April 1998, under powers originally granted to the Council by the Local Government and Rating Act 1997<sup>3</sup>, certain types of business in rural settlements, with a population below 3000 may qualify for mandatory rate relief of 50 per cent. Businesses that qualify for this relief are the sole general store and the sole post office in the settlement, provided it has a Rateable Value of up to £8,500; any food shop with a Rateable Value of up to £8,500; and the sole pub and the sole petrol station in the settlement provided it has a Rateable Value of up to £12,500.
- 2.5 From 1<sup>st</sup> April 2017, Central Government has indicated that it wants all authorities to give 100% relief to premises that receive mandatory rural rate relief. The legislation enabling this will not be forthcoming until 2018 and therefore it has indicated that where the additional 50% is granted, a section 31 grant will be made available to the Council. This is dealt with further within this policy and the Council will automatically grant the additional 50% discretionary relief where appropriate

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<sup>1</sup> S43 & S45 Local Government Finance Act 1988

<sup>2</sup> S47 & S48 Local Government Finance Act 1988

<sup>3</sup> LGFA 1988, s.47, as amended by Sch. 1 to the Local Government and Rating Act 1997

- 2.6 Where businesses in rural settlements have a Rateable Value of up to £16,500 and are not in receipt of mandatory relief, the Council may decide to give up to 100 per cent discretionary relief if it is satisfied that the business is of benefit to the community and having regard to the interests of its Council Taxpayers.

### **3.0 Discretionary Relief – Legislative Background**

#### **Introduction**

- 3.1 The original purpose of discretionary relief was to provide assistance where the property does not qualify for mandatory relief, or to ‘top’ up cases where ratepayers already receive mandatory relief.
- 3.2 Over recent years and particularly since 2011, the discretionary relief provisions have been amended to allow authorities the flexibility to provide more assistance to businesses and organisations.
- 3.3 The range of bodies, which are eligible for discretionary rate relief, is wide and not all of the criteria laid down by the legislation will be applicable in each case.
- 3.4 Unlike mandatory relief, ratepayers are obliged to make a written application to the Council. The Council will expect all businesses to make applications in such a format as is required (which may vary from time to time) and for the business to provide such information and evidence as required in order to determine whether relief should be awarded.
- 3.5 The Council is obliged to carefully consider every application on its merits, taking into account the contribution that the organisation makes to the amenities within the authority’s area. There is no statutory appeal process or Tribunal against any decision made by the Council although, as with any decision of a public authority, decisions can be reviewed by Judicial Review. The authority will however, upon request, review decisions made. Details of the internal review process are given within this policy.
- 3.6 Granting of the relief falls broadly into the following categories:
- (a) Discretionary Relief – Charities who already receive mandatory relief.
  - (b) Discretionary Relief – Premises occupied by organisations not established or conducted for profit whose main objects are charitable or are otherwise philanthropic or religious or concerned with education, social welfare, science, literature or the fine arts **or** premises occupied by organisations not established or conducted for profit and wholly or mainly used for purposes recreation;
  - (c) Discretionary Relief – Rural Rate relief - premises that already receive mandatory relief;
  - (d) Discretionary Relief – Rural Rate relief - premises not receiving mandatory relief but of benefit to the local community and less than £16,500 RV;
  - (e) Discretionary Relief – Granted under the Localism Act 2011 provisions;

- (f) Local Newspaper Relief (from 1<sup>st</sup> April 2017 until 2025);
- (g) Supporting Small Businesses Relief (from 1<sup>st</sup> April 2017 for a period of up to five years);
- (h) Expanded Business Rates Discount Relief (from 1<sup>st</sup> April 2021 for a period of one year);
- (i) Nursery Discount (from 1<sup>st</sup> April 2021 for a period of one year);
- (j) COVID Additional Relief Fund (from 1<sup>st</sup> April 2021 for a period of one year);
- (k) Extension to Transitional Relief and Supporting Small Business Rates Relief (from 1<sup>st</sup> April 2022 for a period of one year);
- (l) Retail, Hospitality and Leisure Business Rates Relief (from 1<sup>st</sup> April 2022 for a period of one year); and
- (m) S49 Hardship Relief.

3.7 The decision to grant or not to grant discretionary relief is a matter purely for the Council.

### **The Council's general approach to granting Discretionary Relief**

- 3.8 In deciding which organisations should receive discretionary rate relief, the Council has considered the following factors and priorities:
- (a) The awarding of relief will be in line with the Council's vision and values;
  - (b) That any award should support business, charities, organisations, and groups that help to retain services in the Council's area and not compete directly with existing businesses in an unfair manner;
  - (c) It should help and encourage business, charities, organisations, groups, and communities to become self-reliant;
  - (d) Awarding discretionary relief should not distort competition or significantly change the provision of services within the Council's area;
  - (e) Local organisations will be given priority over national organisations. Where requested, the organisation will need to supply the Council with clear evidence of **all** financial affairs (normally two full years) including, and most importantly, the amounts of monies raised, used, and invested locally. This will be essential where the organisation is national in nature;
  - (f) To enable appropriate organisations to start, develop or continue their activities, which deliver outcomes to the community and that also relate to the priorities of the Council, which without granting discretionary relief they would be unable to do;
  - (g) To assist the Council in delivering services which could not be provided otherwise; and
  - (h) To ensure that the financial impact of awarding discretionary business rate relief is justified in terms of the local outcomes achieved by the organisation receiving it;

- 3.9 Where any reduction or remission is granted to a ratepayer under S49 Local Government Finance Act 1988 where hardship is proven to the Council, then there will be no requirement to grant Discretionary Rate Relief for that amount.
- 3.10 In certain cases, the order in which relief is granted is specified. Mandatory relief shall be granted in all cases where the criteria is met irrespective of whether discretionary relief can be granted or not.

### **The Council's approach to granting Government led Discretionary Relief schemes**

- 3.11 Over the past few years, a number of schemes have been led by Central Government but without specific legislative changes. These are administered under S47 of the Local Government Finance Act 1988 and guidance is often provided. The Council is keen to support such initiatives especially where they are designed to help local businesses and will look to maximise both the reliefs given as well as maximise any grants receivable. However, the Council reserves the right to vary its approach where thought appropriate.

## **4.0 Effect on the Council's Finances**

- 4.1 The granting of discretionary relief will, in the main, involve a cost to the Council. Since the change to the funding for Non-Domestic Rating in April 2013, the effect of the relief is complex.
- 4.2 Any amounts granted prior to 1<sup>st</sup> April 2013 and continuing since that date will be included in the Council's baseline within the Business Rates Retention Scheme. For any amounts granted for similar cases after 1<sup>st</sup> April 2013, the costs of the relief will be borne in accordance with the Business Rates Retention Scheme share namely 50% borne by Central Government and 50% by the Council. This also applies where mandatory relief is granted.
- 4.3 Where Central Government leads an initiative, grants are often available through section 31 of the Local Government Act 2003. This is not automatic and Central Government will look to the Council to adopt the recommended approach when granting in these areas
- 4.4 The financial effects of discretionary reliefs covered by this policy are as follows:

<b>Appendix</b>	<b>Relief Type</b>	<b>Granted after 1<sup>st</sup> April 2013</b>
	<b>Charity Relief</b>	
A	Discretionary relief granted to Mandatory Relief recipients	50% borne by the Council

<b>Appendix</b>	<b>Relief Type</b>	<b>Granted after 1<sup>st</sup> April 2013</b>
B	Non-profit Making Organisations including Sports Clubs and societies	50% borne by the Council
	<b>Rural Rate Relief</b>	
C	50% Discretionary relief granted to Mandatory Rural Relief recipients	Section 31 Grant
D	Other premises within a rural settlement under £16500 RV	50% borne by the Council
	<b>Localism</b>	
E	Discretionary Relief granted to ratepayers generally and not covered by any other section	50% borne by the Council
	<b>Local Newspaper Relief</b>	
F	Discretionary Relief granted to local newspapers meeting the criteria (From 1 <sup>st</sup> April 2017 up until 2025)	Section 31 Grant
	<b>Supporting Small Business Relief</b>	
G	Supporting Small Businesses Relief (from 1 <sup>st</sup> April 2017 for a period of up to five years if conditions are met)	Section 31 Grant
	<b>Expanded Business Rates Discount Relief</b>	
H	Expanded Business Rates Discount Relief (from 1 <sup>st</sup> April 2021 for a period of one year)	Section 31 Grant
	<b>Nursery Discount</b>	
I	Nursery Discount (from 1 <sup>st</sup> April 2021 for a period of one year)	Section 31 Grant
J	<b>COVID Additional Relief Fund (CARF)</b>	
	The Council's COVID Additional Relief Fund (for 2021/22 only)	Section 31 Grant
K	<b>Extension to Transitional Relief and Supporting Small Business Rates Relief</b>	
	Extension to Transitional Relief and Supporting Small Business Rates Relief (from 1 <sup>st</sup> April 2022 for a period of one year)	Section 31 Grant
L	<b>Retail, Hospitality and Leisure Business Rates Relief</b>	
	Retail, Hospitality and Leisure Business Rates Relief (from 1 <sup>st</sup> April 2022 for a period of one year)	Section 31 Grant
	<b>S49 Hardship Relief</b>	
M	Partial or full relief for cases of hardship where it would be reasonable to do so	50% borne by the Council

Appendix	Relief Type	Granted after 1 <sup>st</sup> April 2013
	having due regard to the interests of council taxpayers	

## 5.0 Administration of Discretionary Relief

- 5.1 The following section outlines the procedures followed by officers in granting, amending, or cancelling discretionary relief and reduction. This is essentially laid down by legislation<sup>4</sup>

### Applications and Evidence

- 5.2 All reliefs must be applied for. Application forms are produced by the Council both in hard copy and electronic format. The relevant application forms available online at the Council's website  
[https://www.cheshireeast.gov.uk/business/business\\_rates/business-rates-relief/business-rates-reliefs.aspx](https://www.cheshireeast.gov.uk/business/business_rates/business-rates-relief/business-rates-reliefs.aspx)
- 5.3 Organisations are required to provide a completed application form plus any such evidence, documents, accounts, financial statements etc. necessary to allow the Council to make a decision. Where insufficient information is provided, then no relief will be granted. In some cases, it may be necessary for officers to visit premises and we would expect organisations claiming relief to facilitate this where necessary.
- 5.4 Applications should initially be made to the Revenues and Benefits Services and will be determined in accordance with Section 7 of this policy.
- 5.5 **The Council will provide this service and provide guidance free of charge. Ratepayers are encouraged to approach the Council direct and NOT pay for such services through third parties.**

### Granting of relief

- 5.6 In all cases, the Council will notify the ratepayer of decisions made.
- 5.7 Where an application is successful, then the following will be notified to them in writing:
- The amount of relief granted and the date from which it has been granted;
  - If relief has been granted for a specified period, the date on which it will end. (It should be noted that reliefs are granted for the period specified in the appropriate Appendix and may vary from a day to a full financial year);
  - The new chargeable amount;

<sup>4</sup> The Non-Domestic Rating (Discretionary Relief) Regulations 1989

- The details of any planned review dates and the notice that will be given in advance of a change to the level of relief granted; and
  - A requirement that the applicant should notify the Council of any change in circumstances that may affect entitlement to relief.
- 5.8 Where relief is not granted, then the following information is provided, again in writing:
- An explanation of the decision within the context of the Council’s statutory duty; and
  - An explanation of the appeal rights (see below).
- 5.9 Discretionary relief is to be granted from the beginning of the financial year in which the decision is made or when liability begins whichever is the later. Since 1997 decisions can be made up to 6 months after the end of the financial year for which the application was made. In such cases, the Council *may* backdate its decision.
- 5.10 A decision to award discretionary relief and how much relief is given is normally only applicable to the financial year for which the application is made. However, the Council reserves the right to grant relief for any other period as appropriate.
- 5.11 A fresh application for discretionary relief will be necessary for each financial year **or** at such time-period as the Council determines.

### **Variation of a decision**

- 5.12 Variations in any decision will be notified to ratepayers as soon as practicable and will take effect as follows:
- Where the amount is to be increased due to a change in rate charge or a change in the Council’s decision which increases the award – this will apply from a date determined by the Council as appropriate;
  - Where the amount is to increase for any other reason, it will take effect at the expiry of a financial year and so that at least one year’s notice is given;
  - Where the amount is to be reduced due to a reduction in the rate charge or liability including any reduction in rateable value, awarding of another relief or exemption this will apply from the date of the decrease in rate charge; and
  - Where the amount is to be reduced for any other reason, it will take effect from a date determined by the Council as appropriate;
- 5.13 A decision may be revoked at any time however; a one-year period of notice will be given, and the change will take effect at the expiry of a financial year.

## **6.0 Scheme of Delegation**

### **Granting, Varying, Reviewing and Revocation of Relief**

- 6.1 All powers in relation to reliefs are given under the Local Government Finance Act 1988, the Local Government and Rating Act 1997, the Local Government Act 2003, and the Localism Act 2011. However section 223 of the Local Government Act 1992 allows for delegation of decisions by the Council to Cabinet, Committees, Sub-Committees or Officers.
- 6.2 The Council's scheme of delegation allows for the Revenues Manager to award, revise or revoke any discretionary relief applications. However, any application which is considered to be of a significant nature will be subject to consultation with the relevant executive or committee prior to final determination.
- 6.3 Applications that are refused will, on request, be reconsidered if additional supporting information is provided or the refusal is subsequently considered to be based on a misinterpretation of the application.

### **Reviews**

- 6.4 The policy for granting relief will be reviewed annually or where there is a substantial change to the legislation or funding rules. At such time, a revised policy will be brought before the relevant committee of the Council.

### **Appeals**

- 6.5 Where the Council receives an appeal from the ratepayer regarding the granting, non-granting or the amount of any discretionary relief, the case will be reviewed by the Revenues Manager. Where a decision is revised then the ratepayer shall be informed, likewise if the original decision is upheld.
- 6.6 Where the ratepayer wishes to appeal the decision of the Revenues Manager the case will be considered by the Section 151 officer, whose decision on behalf of the Council will be final
- 6.7 Ultimately the formal appeal process for the ratepayer is Judicial Review although the Council will endeavour to explain any decision fully and openly with the ratepayer.

## **7.0 Reporting changes in circumstances**

- 7.1 Where any award is granted to a ratepayer, the Council will require any changes in circumstances which may affect the relief, to be reported as soon as possible. This will be important where the change would result in the amount of the award being reduced or cancelled e.g., where the premises comes unoccupied or is used for a purpose other than that determined by the Council as eligible for relief.
- 7.2 Where a change of circumstances is reported, the relief will, if appropriate, be revised or cancelled as appropriate. Where any award is to be reduced, the Council will look to recover the amount from the date the change of circumstances occurred.

## **8.0 Fraud**

- 8.1 Where a ratepayer falsely applies for any relief, or where the ratepayer provides false information, makes false representation, or deliberately withholds information in order to gain relief, prosecutions will be considered under the Fraud Act 2006.

## **Appendix A**

### **Discretionary Relief – Mandatory Relief recipients**

## Discretionary Relief – Mandatory Relief recipients

### General Explanation

- A.1 S43 of the Local Government Finance Act 1988 allows mandatory relief (80%) to be granted on premises if the ratepayer is a charity or trustees for a charity and the premises are wholly or mainly used for charitable purposes. No charge is made in respect of unoccupied premises where it appears that *when next in use* it will be used wholly or mainly for those purposes.
- A.2 The legislation has been amended by the Local Government Act 2003 (effective from 1<sup>st</sup> April 2004) to include registered<sup>5</sup> Community Amateur Sports Clubs (CASC). These organisations can now receive the mandatory (80%) relief.

### Charity registration

- A.3 Charities are defined within the legislation as being an institution<sup>6</sup> or other organisation established for charitable purposes only or by persons administering a trust established for charitable purposes only.
- A.4 The question as to whether an organisation is a charity may be resolved in the majority of cases by reference to the register of charities maintained by the Charity Commissioners under s.4 of the Charities Act 1960. Entry in the register is conclusive evidence. By definition, under the Non-Domestic Rating legislation, there is no actual need for an organisation to be a registered charity to receive the relief and this has been supported by litigation<sup>7</sup>, however in all cases the organisation must fall within the following categories:
- trusts for the relief of poverty;
  - trusts for the advancement of religion;
  - trusts for the advancement of education; and
  - trusts for other purposes beneficial to the community, but not falling under any of the preceding heads.
- A.5 Certain organisations are exempted from registration generally and are not required to make formal application to the Charity Commissioners these are:
- the Church Commissioners and any institution administered by them;
  - any registered society within the meaning of the Friendly Societies Acts of 1896 to 1974;
  - units of the Boy Scouts Association or the Girl Guides Association; and
  - voluntary schools within the meaning of the Education Acts of 1944 to 1980.

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<sup>5</sup> Registered with HMRC as a CASC

<sup>6</sup> S67(10) Local Government Finance Act 1988

<sup>7</sup> Income Tax Special Commissioners v Pemsell (1891)

- A.6 The Council will consider charitable organisations, registered or not, for mandatory relief.

### **Use of Premises – wholly or mainly used**

- A.7 Irrespective of whether an organisation is registered as a charity or not, the premises **must** be wholly or mainly used for charitable purposes. 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 Council has had to question the actual use to which the premises are to be put. In some cases, it will be necessary for the Council to inspect any premises fully.
- A.8 Guidance from the Department of Communities and Local Government (now MHCLG) has stated that in the case of ‘mainly’, at least 51% must be used for charitable purposes whether of that charity or of that and other charities
- A.9 The following part of this section gives details on typical uses where relief may be given plus additional criteria that have to be satisfied. The list is not exhaustive but gives clear guidance on premises for which mandatory relief can be granted *and therefore* premises which may be equally considered for discretionary rate relief.

### **Offices, administration, and similar premises**

- A.10 Premises used for administration of the Charity include:
- Offices;
  - Meeting Rooms; and
  - Conference Rooms.

### **Charity shops**

- A.11 Charity shops are required to meet additional legislative criteria if they are to receive mandatory relief. Section 64 (10) of the Local Government Finance Act 1988 provides that a property is to be treated as being wholly or mainly used for charitable purposes at any time if, at the time, it is wholly or mainly used for the sale of goods donated to a charity and the proceeds of the sale of the goods (after any deduction of expenses) are applied for the purposes of the charity.
- A.12 In order to ascertain whether an organisation meets these requirements, inspections may be made by an officer of the Council when an application is received

## Granting of Mandatory Relief - the Council's Policy

A.13 Where the criteria for awarding mandatory relief are met, the rate charges shall be calculated in accordance with the legislation reducing the liability of ratepayers for each day that the criteria are met.

### Charity Relief – Mandatory Relief recipients, the Council's Policy for granting discretionary relief.

A.14 The Council has decided that discretionary relief for charities who receive mandatory relief shall be awarded as follows:

Type of charity	Mandatory discount	Maximum discretionary discount	Rate relief category
Village halls, community centres, meeting rooms	80%	20%	1
Youth organisations	80%	20%	2
Voluntary schools - aided and Special Agreement	80%	-	3
Schools / colleges including foundation schools	80%	-	4
Nursery schools	80%	20%	5
Charity shops - local charity within Cheshire and with own accounts	80%	20%	6
Charity shops - national charity	80%	-	7
Drop in / advice centres with open access to public	80%	20%	8
Local charity admin office - within Cheshire and with own accounts	80%	20%	9
National charity admin offices	80%	-	10
Sports and social clubs with a bar and where the rateable value is above the Small Business Rate Relief threshold	80%	-	11
Sports and social clubs with a bar and where the rateable value is below the Small Business Rate Relief threshold	80%	5%	12
Sports and social clubs without a bar and where the rateable value is above the Small Business Rate Relief threshold	80%	-	13
Sports and social clubs without a bar and where the rateable value is below the Small Business Rate Relief threshold	80%	20%	14

Community Amateur Sports Clubs with a bar and a rateable value above the Small Business Rate Relief threshold	80%	-	15
Community Amateur Sports Clubs with a bar and a rateable value below the Small Business Rate Relief threshold	80%	5%	16
Community Amateur Sports Clubs without a bar	80%	20%	17
Museums / historical houses / heritage centres - free admission	80%	20%	18
Museums / historical houses / heritage centres - admission charged	80%	10%	19
Other local charities - within Cheshire and with own accounts	80%	20%	20
Other national charities	80%	-	21
Social housing organisation premises (Registered Friendly Societies)	80%	-	22

## **Appendix B**

### **Discretionary Relief – Non-Profit Making Organisations including Recreation**

## Discretionary Relief – Non-Profit Making Organisations including Recreation

### General explanation

#### Non-Profit

- B.1 The legislation<sup>8</sup> allows the Council to grant discretionary relief where the property is not an *excepted* one and all or part of it is occupied for the purposes of one or more institutions or other organisations none of which is established or conducted for profit and each of whose main objects are charitable or are otherwise philanthropic or religious or concerned with education, social welfare, science, literature, or the fine arts.
- B.2 Relief cannot be granted to any premises occupied by the Council, or any town, parish council or major Precepting Authority (*excepted premises*).
- B.3 A number of issues arise from the term ‘not established or conducted for profit’. This requires the Council to make enquiries as to the overall purpose of the organisation although if surpluses and such amounts are directed towards the furtherance or achievement of the objects of the organisation then it does not necessarily mean that the organisation was established or conducted for profit.<sup>9</sup>

#### Recreation Clubs

- B.4 Ideally all recreation clubs should be encouraged to apply for Community Amateur sports Club (CASC) status, which would automatically entitle them to 80% relief. The relief granted to CASCs is covered earlier within this policy.
- B.5 Recreation clubs can also apply to the Charity Commissioners for registration as a Charity (thereby falling under the mandatory provisions for 80% relief) where they meet the following conditions:
- (a) The promotion of community participation in healthy recreation and by the provision of facilities for the playing of particular sports; and
  - (b) The advancement of the physical education of young people not undergoing formal education.
- B.6 Where sports clubs do not meet the CASC requirement, and are not registered charities, discretionary relief can be granted (0-100%) where the property is not an *excepted* one, it is wholly or mainly used for purposes of recreation and all or part of it is occupied for the purpose of a club, society or other organisation not established or conducted for profit.

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<sup>8</sup> S47 Local Government Finance Act 1988

## Definition of Recreation

B.7 Recreation is clearly defined by the Sports Council as any of the following<sup>10</sup>

Aikido	Croquet	Kabaddi	Real Tennis	Tang Soo
American Football	Crossbow	Karate	Roller Hockey	Do
Angling	Curling	Kendo	Roller Skating	Tenpin
Archery	Cycling	Korfball	Rounders	Bowling
Arm Wrestling Association	Disability Sport	Lacrosse	Rowing	Trampolinin g
Football	Dragon Boat Racing	Lawn Tennis	Rugby League	Triathlon
Athletics	Equestrian	Life Saving	Rugby Union	Tug of War
Australian Rules Football	Fencing	Luge	Sailing	Unihoc
Badminton	Fives	Modern Pentathlon	Sand/Land Yachting	Volleyball
Ballooning	Flying	Motor Cycling	Shinty	Water Skiing
Baseball	Gaelic Football	Motor Sports	Shooting	Weightliftin g
Basketball	Gliding	Mountaineering	Skateboarding	Wrestling
Baton Twirling	Golf	Movement, Dance, Exercise & Fitness	Skiing	Yoga
Biathlon	Gymnastics	Netball	Skipping	
Bicycle Polo	Handball	Orienteering	Snowboarding	
Billiards and Snooker	Hang/Para Gliding	Parachuting	Softball	
Bobsleigh	Highland Games	Petanque	Sombo	
Boccia	Hockey	Polo	Wrestling	
Bowls	Horse Racing	Pony Trekking	Squash	
Boxing	Hovering	Pool	Skater/Street Hockey	
Camogie	Hurling	Quoits	Sub-Aqua	
Canoeing	Ice Hockey	Racketball	Surf Life Saving	
Caving	Ice Skating	Rackets	Surfing	
Chinese Martial Arts	Jet Skiing	Raquetball	Swimming & Diving	
Cricket	Ju Jitsu	Rambling	Table Tennis	
	Judo		Taekwondo	

## Access to clubs

B.8 Guidance issued by the DCLG (now DLUHC) also requires the Council to consider access to clubs within the community before granting discretionary relief.

B.9 Membership should be open to all sections of the community. There may be legitimate restrictions placed on membership which relate for example to ability in sport or to the achievement of a standard in the field covered by the

<sup>10</sup> Definition last reviewed by Sport England in 2002

organisation or where the capacity of the facility is limited, but in general membership should not be exclusive or restrictive.

- B.10 Membership rates should not be set at such a high level as to exclude the general community. However, membership fees may be payable at different rates that distinguish the different classes of membership such as juniors, adults, students, pensioners, players, non-players, employed and unemployed. In general, the club or organisation must be prepared to show that the criteria by which it considers applications for membership are consistent with the principle of open access.
- B.11 The Council also asks the following question to help establish the level of access ‘Does the organisation actively encourage membership from particular groups in the community e.g., young people, women, older age groups, persons with disability, ethnic minorities’ etc.?’

### **Provision of facilities**

- B.12 Clubs which provide training or education are encouraged, as are those who provide schemes for particular groups to develop their skills e.g., young people, the disabled, retired people.
- B.13 A number of organisations run a bar. The mere existence of a bar will not in itself be a reason for not granting relief. However, the Council focuses on the main purpose of the organisation. The Council is encouraged to examine the balance between playing and non-playing members.
- B.14 Within this area, the Council also considers whether the facilities provided relieve the Council of the need to do so or enhance and supplement those that it does provide.

### **Discretionary Relief - Non–Profit Organisations including Recreation – the Council’s Policy**

- B.15 The Council will consider applications for discretionary rate relief from non-profit making organisations on their own merits on a case-by-case basis. In determining the application, the following matters will be taken into consideration (The list is not exhaustive):
- How the organisation supports and links into the Council’s corporate vision and priorities;
  - Whether the facilities provided include education and/or training for members as a whole or for special groups;
  - The extent to which the facilities provided reduce the demand for Council services or produce savings;
  - Any membership and fee structure and whether the facilities are accessible to all residents, including whether there are concessions for certain groups, for example people on a low income or young people under 18;

- If covered by a membership scheme, membership numbers and the number and percentage of these members that are local residents; and
- If the organisation has due regard to equality issues and if its facilities are used by all members of the community, for example black and minority ethnic residents, people over 50 and people with disabilities.

B.16 The Council will also require additional financial information including:

- If the organisation runs a bar or food provision, the level of income from this activity and how this money is used.; and
- Whether the organisation operates at a local or national level and where appropriate, the local and national funding streams and financial position of the organisation.

B.17 The Council's current policy for awarding relief is as follows:

<b>Type of organisation</b>	<b>Mandatory discount</b>	<b>Maximum discretionary discount</b>	<b>Rates relief category</b>
Other sports and social clubs with a bar and a rateable value above the Small Business Rate Relief threshold	Nil	25%	23
Other sports and social clubs with a bar and a rateable value under the Small Business Rate Relief threshold	Nil	Up to 50% of the bill less the amount of small business relief granted	24
Other sports and social clubs without a bar and with a rateable value above the Small Business Rate Relief threshold	Nil	25%	25
Other sports and social clubs without a bar and with a rateable value below the Small Business Rate Relief threshold	Nil	Up to 100% less the amount of small business relief granted	26
Other non-registered charities with a rateable value above the Small Business Rate Relief threshold	Nil	25%	27
Other non-registered charities with a rateable value below the Small Business Rate Relief threshold	Nil	Up to the 100% less the amount of small business relief granted	28

## **Appendix C**

### **Discretionary Relief - Rural Rate Relief – Mandatory Relief recipients**

## Discretionary Relief - Rural Rate Relief – Mandatory Relief recipients

### What are the qualifying criteria for Mandatory Relief?

- C.1 For a Post Office or General Store to be entitled to 50% Mandatory Relief, all the following criteria must be met:
- The Rateable Value of the property must not exceed £8,500 (from 1 April 2010);
  - The property must be used as a Post Office or a General Store (see below for definition), or both;
  - The property must be the only Post Office or the only General Store within the Rural Settlement.
- C.2 For a Public House or Petrol Filling Station to be entitled to 50% Mandatory Relief, all the following criteria must be met:
- The Rateable Value of the property must not exceed £12,500 from 1 April 2010);
  - The property must be used as a Public House (see below for definition) or a Petrol Filling Station (see below for definition); and
  - The property must be the only Public House or the only Petrol Filling Station within the Rural Settlement.
- C.3 For a village food shop to be entitled to 50% Mandatory Relief, all the following criteria must be met:
- The Rateable Value of the property must not exceed £8,500 from 1 April 2010); and
  - The property must be used as a shop selling mainly food (see below for definition).

### What rural settlements exist within the Cheshire East Council's area?

- C.4 The following are deemed to be rural settlements within the District Council's area:

Rural Settlements		
Acton	Adlington	Agden
Alraham	Arclid	Ashley
Astbury (inc. Astbury marsh)	Aston by Budworth	Aston juxta Mondrum
Audlem	Austerson	Baddiley
Baddington	Barthomley	Basford
Batherton	Bickerton	Blakenhall
Bosley	Bradwall	Brereton (rest)
Brereton Green (Brereton)	Bridgemere	Brindley

Rural Settlements		
Broomhall	Buerton	Bulkeley
Bunbury	Burland	Calveley
Checkley cum Wrinehill	Chelford	Cholmondeley
Cholmondeston	Chorley (SK9)	Chorley (CW5)
Chorlton cum Wrinehill	Church Lawton (rest)	Church Lawton North (Church Lawton)
Church Lawton South (Church Lawton)	Church Minshull	Coole Pilate
Cranage	Crewe Green	Dodcott cum Wilkesley
Doddington	Eaton	Edleston
Egerton	Faddiley	Gawsworth
Goostrey (rest)	Goostrey Village	Great Warford
Hankelow	Hassall	Hassall Green
Hassall Green (Betchton)	Hatherton	Haughton
Henbury	Henhull	High Legh
Hough	Hulme Walfield	Hunsterson
Hurleston	Kerridge	Kettleshulme
Lea	Little Bollington	Little Warford
Lower Peover	Lyme Handley	Macclesfield Forest
Marbury cum Quoisley	Marton	Mere
Millington	Minshull Vernon	Mobberley
Moreton cum Alcumlow	Mottram St Andrew	Mount Pleasant (Odd Rode)
Mow Cop (Odd Rode)	Nether Alderley	Newbold (Betchton rest)
Newhall	Norbury	North Rode
Odd Rode	Ollerton and Marthall	Over Alderley
Peckforton	Peover Superior	Pickmere
Plumley with Toft and Bexton	Poole	Pott Shrigley
Rainow	Ravensmoor	Ridley
Rode Heath (Odd Rode)	Rostherne	Scholar Green (Odd Rode)
Siddington	Smallwood	Snelson
Somerford	Somerford Booths	Sound
Spurstow	Stapeley	Stoke
Styal	Sutton (except ward 4G01)	Sutton Langley (Ward 4G01)
Swettenham	Tabley	Tatton
Twemlow	Walgherton	Wardle

Rural Settlements		
Warmingham	Weston	Wettenhall
Wildboardclough	Windle	Winterley (Haslington)
Wirswall	Woolstanwood	Worleston
Wrenbury cum Firth	Wybunbury	

### **What is the definition of a General Store?**

- C.5 For the purposes of Rural Rate Relief, ‘General Store’ means a business or trade, which wholly or mainly sells by retail both food (other than confectionery) for human consumption and general household goods. Where there are two or more General Stores within the same Rural Settlement, none can qualify for Mandatory Relief on that basis, although if one of them functions as a Post Office or a Food Shop relief may be claimed independently on that ground. However, both a General Store and a Post Office in the same Rural Settlement will qualify for Mandatory Relief, provided that, they both meet the criteria. Although a General Store or a Post Office may not meet the criteria for Mandatory Relief, they may still be eligible to apply for Discretionary Relief.

### **What is the definition of a Public House?**

- C.6 For the purposes of Rural Rate Relief, ‘Public House’ means any premises as defined in the Licensing Act 2003, which has a premises license authorising sale by retail of alcohol for consumption on the premises. In addition, the premises must be used principally for retail sales of alcohol to members of the public for consumption on the premises, and sales must not be subject to the condition that buyers reside at or consume food on the premises.

### **What is the definition of a Petrol Filling Station?**

- C.7 For the purposes of Rural Rate Relief, ‘Petrol Filling Station’ means premises where petrol or other automotive fuels are sold retail to the general public for fuelling motor vehicles intended or adapted for use on roads

### **What is the definition of a Food Shop?**

- C.8 For the purpose of Rural Rate Relief, ‘Food Shop’ means a trade or business consisting wholly or mainly of the sale by retail of food for human consumption (excluding confectionery and catering – in this context catering means any supply of food for consumption on the premises on which it is supplied and any supply of hot food for consumption off the premises). This definition may also include shops, which sell mainly household foods, and which may partly also sell hot take away food or food consumed on the premises. But shops whose main business is a restaurant, tearoom, take-away, or confectionery sales are not food shops and so will not qualify for mandatory relief.

## **What are the qualifying criteria for Discretionary Relief?**

- C.9 The Council may grant up to 50% Discretionary Relief in respect of any property which qualifies for 50% Mandatory Relief and the Council may also grant up to 100% Discretionary Relief to any rural business which does not meet the mandatory provisions. It should be noted that for 2017 onwards Central Government has requested that Council grant 50% discretionary relief to all ratepayers who receive 50% mandatory rural rate relief.

### **Rural Rate Relief – Mandatory Relief recipients, the Council’s Policy for granting discretionary relief.**

- C.10 As Central Government has requested and fully funds any additional relief granted to ratepayers who receive mandatory rural rate relief, the Council will automatically grant the additional 50% until such time as primarily legislation is changed.

## **Appendix D**

### **Discretionary Relief – Premises within Rural Settlements**

## **Discretionary Relief – Premises within Rural Settlements**

- D.1 In addition to having the ability to grant discretionary relief to those in receipt of mandatory relief, the Local Government and Rating Act 1997 allows discretionary relief of up to 100% to be granted where the rateable value is £16,500 or less and:
- (a) Property is used for purposes which are of benefit to the local community; and
  - (b) It would be reasonable for the billing authority to award relief, having regards to the Council's Council Taxpayers.
- D.2 As with most discretionary relief, part of the cost, is met by Central Government and the balance from local sources.
- D.3 The main criteria for granting discretionary relief in respect of rural rate relief is that premises are used to benefit the local community.

### **Benefit to the local community**

- D.4 Whilst each application for the relief will be considered on its own merits, there are certain factors which weigh heavily in the decision-making process. It is this Council's belief that the spirit of the legislation is to assist businesses and amenities, which contribute significantly to the quality of life of the people who have their main home in the Rural Settlement.
- D.5 To be successful for consideration, a business must show that its existence is a significant benefit to the local community with the majority of local residents directly benefiting from services or facilities provided by that business

### **Rural Rate Relief – the Council's Policy for granting discretionary relief.**

- D.6 The Council will also consider applications for a discretionary rural rate relief from all ratepayers, not entitled to mandatory relief up to a maximum of 100%.
- D.7 In determining the application the following matters will be taken into consideration:
- The granting of any discretionary relief will be essential in ensuring the viability of any business within the rural settlement;
  - The granting of any discretionary relief is proportionate given the level of any business rates charged compared with the overall turnover of the business;
  - The granting of any discretionary relief will assist the business in continuing to be viable and / or prevent the business from failing;
  - The business is considered by the Council to be essential to the community and that any reduction or withdrawal of the business will have a serious detrimental effect on the rural settlement;
  - The granting of any discretionary relief is reasonable having regard to the effect on taxpayers of the Cheshire East Council.

## **Appendix E**

### **Discretionary Relief – Localism Act 2011**

## Discretionary Relief – Localism Act 2011

### General explanation

- E.1 Section 69 of the Localism Act 2011 amended Section 47 of the Local Government Finance Act 1988. These provisions allow all Councils to grant discretionary relief in **any** circumstances where it feels fit having regards to the effect on the Council Taxpayers of its area.
- E.2 The provisions are designed to give authorities flexibility in granting relief where it is felt that to do so would be of benefit generally to the area and be reasonable given the financial effect to Council Taxpayers.

### Discretionary Relief – Localism – the Council’s Policy

- E.3 Applications will be considered from any ratepayer who wishes to apply. However, where a ratepayer is suffering hardship or severe difficulties in paying their rates liability then relief can be granted under the existing provisions as laid down by Section 49 of the Local Government Finance Act 1988. There will be no requirement to grant relief in such cases under the Council’s discretionary relief policy.
- E.4 Any ratepayer applying for discretionary rate relief under these provisions and who does not meet the criteria for existing relief (charities, non-profit making organisations etc.) must meet **all** of the following criteria and the amount of relief granted will be dependent on the following key factors:
- (a) The ratepayer **must not** be entitled to mandatory rate relief (Charity or Rural Rate Relief);
  - (b) The ratepayer **must not** be entitled to Central Government funded reliefs;
  - (c) The ratepayer **must not** be an organisation that could receive relief as a non-profit making organisation or as a sports club or similar;
  - (d) The ratepayer **must** occupy the premises (no discretionary rate relief will be granted for unoccupied premises);
  - (e) The premises and organisation **must** be of *significant* benefit to residents of the Council’s area;
  - (f) The premises and organisation **must** relieve the Council of providing similar facilities;
  - (g) The ratepayer **must**;
    - (i) Provide facilities to certain priority groups such as elderly, disabled, minority groups, disadvantaged groups; **or**
    - (ii) Provide *significant* employment or employment opportunities to residents of the Council; **or**
    - (iii) Provide the residents of the area with such services, opportunities or facilities that cannot be obtained locally or are not provided locally by another organisation;

- (h) The ratepayer **must** demonstrate that assistance (provided by the discretionary rate relief) will be for a *short time only* **and** that any business / operation is financially viable in the medium and long term;
- (i) whether the premises occupied are considered to be reasonable having regard to the size and location of the premises, the size and nature of the organisation, and the use being made of the premises by the organisation; **and**
- (j) The ratepayer **must** show that the activities of the organisation are consistent with the Council's core values and priorities.

E.5 Where a ratepayer can demonstrate that **all** of the above criteria are met, relief will be considered for initially a short period.

## **Appendix F**

### **Local Newspaper Relief**

## **General Explanation**

- F.1 This is a temporary relief that will be awarded until 2025 and the Government is not changing the legislation around the reliefs available to these properties. Central Government will reimburse local authorities that use their discretionary relief powers (under section 47(3)) of the Local Government Finance Act 1988 to grant relief in line with the eligibility criteria set out in this guidance.
- F.2 The Council will be compensated by Central Government through a grant under section 31 of the Local Government Act 2003.

## **Eligibility criteria**

- F.3 The scheme will provide a £1,500 relief for office space occupied by local newspapers up to a maximum of one discount per local newspaper title and per hereditament.

## **Local Newspapers**

- F.4 The relief is to be specifically for local newspapers and by that, the Council means what would be considered a “traditional local newspaper.” The relief will not be available to magazines.

## **Office Space**

- F.5 The hereditament **must** be occupied by a local newspaper and wholly or mainly used as office premises for journalists and reporters.

## **Amount of Relief**

- F.6 The amount of relief is limited to a maximum of one discount per newspaper title (e.g., per newspaper name) **AND** per hereditament.

## **Local Newspaper Relief – the Council’s policy for granting discretionary relief.**

- F.7 The Council has decided to grant relief strictly in accordance with Central Government guidelines.

## **Appendix G**

### **Supporting Small Businesses Relief (until 31<sup>st</sup> March 2022)**

## General Explanation

- G.1 Central Government has increased the thresholds for Small Business Rate Relief from 1 April 2017 to £12,000 for the 100% relief and £15,000 for the tapered relief. They have also allowed rural rate relief to be granted up to 100% using S47 of the Local Government Finance Act 1988 as a top up to the mandatory level of 50%, albeit that the rateable value limits have not been changes in respect of rural hereditaments (see section D of this policy). Unfortunately, despite these changes, some small businesses and businesses in rural areas may lose their entitlement to the relief due to increases in Rateable Value through the revaluation on 1<sup>st</sup> April 2017.
- G.2 The transitional relief scheme (provided under the Non-Domestic Rating (Chargeable Amounts) (England) Regulations 2016 No. 1265) does not provide support in respect of changes in reliefs. Therefore, those ratepayers who have lost some or all of their small business or rural rate relief may face large percentage increases in bills from 1 April 2017.
- G.3 In view of this, Central Government announced that a new scheme of relief would be made available to those ratepayers facing large increases as a result of the loss of small business or rural rate relief due to the revaluation. All authorities are encouraged to grant the relief in accordance with the guidelines laid down by Central Government and if granted strictly in accordance with guidance, the Council will be compensated by Central Government through a grant under section 31 of the Local Government Act 2003.
- G.4 The relief is known as the ‘Supporting Small Businesses Scheme’

### Who is eligible for the relief and how much relief will be available?

- G.5 The Supporting Small Businesses relief will help those ratepayers who as a result of the change in their rateable value at the revaluation are losing some or all of their small business or rural rate relief and, as a result, are facing large increases in their bills.
- G.6 To support these ratepayers, the Supporting Small Businesses relief will ensure that the increase per year in the bills of these ratepayers is limited **to the greater of:**
- (a) a percentage increase per annum. of 5%, 7.5%, 10%, 15% and 15% 2017/18 to 2021/22 all plus inflation. ( Unlike the transitional relief scheme under the Chargeable Amount regulations), for the first year of the scheme the percentage increase is taken against the bill for 31 March 2017 after small business rate relief or rural rate relief; **or**
  - (b) a cash value of £600 per year (£50 per month);

- G.7 This cash minimum increase ensures that those ratepayers paying nothing or very small amounts in 2016/17 after small business rate relief are brought into paying something;
- G.8 In the first year of the scheme, this means all ratepayers losing some or all of their small business rate relief or rural rate relief will see the increase in their bill capped at £600. The cash minimum increase is £600 per year thereafter. This means that ratepayers who in 2016/17 paid nothing under small business rate relief and are losing all of their entitlement to relief (i.e., moving from £6,000 rateable value or less to more than £15,000) would under this scheme be paying £3,000 in year 5;
- G.9 The Government has also decided that those on the Supporting Small Businesses relief scheme whose 2017 rateable values are £51,000 or more will not be liable to pay the supplement (1.3p) to fund small business rate relief while they are eligible for the Supporting Small Businesses relief scheme;
- G.10 Ratepayers will remain in the Supporting Small Businesses relief scheme for either 5 years or until they reach the bill they would have paid without the scheme (this would be the charge payable as their true rates payable or the charge calculated under the Non-Domestic Rating (Chargeable Amounts) (England) Regulations 2016);
- G.11 A change of ratepayer will not affect eligibility for the Supporting Small Businesses relief scheme, **but** eligibility will be lost if the property falls vacant or becomes occupied by a charity or Community Amateur Sports Club.

### **Recalculation of relief**

- G.12 The amount of relief awarded under the Supporting Small Businesses relief scheme will be recalculated in the event of a change of circumstances including the following:
- This could include, for example, a backdated change to the rateable value or the hereditament; or
  - The awarding of another relief.
- G.13 The Council will, in effect, calculate the award on a daily basis taking into account the above, and the relief will be re-calculated if the rateable value changes.

### **Other Reliefs**

- G.14 Hereditaments eligible for charity or Community Amateur Sports Club relief or hereditaments which are unoccupied are not eligible for Supporting Small Businesses Relief. Likewise, the same principle applies to properties for which a Section 44A certificate has been granted (apportionment of rateable values for partly occupied properties). The presence of a section 44A certificate will not further reduce the bill found under the Supporting Small Business scheme.

G.15 In accordance with Central Government guidelines, all other discretionary reliefs, will be considered **after** the application of Supporting Small Businesses relief.

**Supporting Small Businesses Relief – the Council’s policy for granting discretionary relief.**

G.16 The Council has decided to grant relief strictly in accordance with Central Government guidelines

## **Appendix H**

### **Expanded Retail Discount Scheme (2021/22 only)**

## General Explanation

- H.1 In response to the coronavirus pandemic (COVID-19), in the Budget on 3rd March 2021, the Government announced that it would provide an extension to the discount granted under the Expanded Retail Discount provisions into the financial year 2021/22 **only** to all those premises that received the discount during 2020/21 and meet the full eligibility criteria

## Who is eligible for the relief?

- H.2 Properties that will benefit from the relief will be occupied hereditaments that which meet **all** of the following conditions for each chargeable day, namely that they are **wholly or mainly** being used as:
- (a) shops, restaurants, cafes, drinking establishments, cinemas, and live music venues;
  - (b) for assembly and leisure; or
  - (c) as hotels, guest & boarding premises, and self-catering accommodation,
- H.3 The Council considers shops, restaurants, cafes, drinking establishments, cinemas, and live music venues to mean:

### **Hereditaments that are being wholly or mainly used for the sale of goods to visiting members of the public:**

- Shops (such as: florists, bakers, butchers, grocers, greengrocers, jewellers, stationers, off licences, chemists, newsagents, hardware stores, supermarkets, etc);
- Charity shops;
- Opticians;
- Post offices;
- Furnishing shops/ display rooms (such as: carpet shops, double glazing, garage doors);
- Car/caravan show rooms;
- Second-hand car lots;
- Markets;
- Petrol stations;
- Garden centres; and
- Art galleries (where art is for sale/hire)

### **Hereditaments that are being wholly or mainly used for the provision of the following services to visiting members of the public:**

- Hair and beauty services (such as: hairdressers, nail bars, beauty salons, tanning shops, etc)
- Shoe repairs/key cutting;
- Travel agents;
- Ticket offices e.g., for theatre;
- Dry cleaners;
- Launderettes;
- PC/TV/domestic appliance repair;

- Funeral directors;
- Photo processing;
- Tool hire;
- Car hire;
- Employment agencies;
- Estate agents and letting agents; and
- Betting shops.

**Hereditaments that are being wholly or mainly used for the sale of food and/or drink to visiting members of the public:**

- Restaurants;
- Takeaways;
- Sandwich shops;
- Coffee shops;
- Pubs; and
- Bars.

**Hereditaments which are being used wholly and mainly as cinemas**

**Hereditaments that are being used wholly and mainly as live music venues**

- The Council considers that live music venues are hereditaments wholly or mainly used for the performance of live music for the purpose of entertaining an audience. Hereditaments cannot be considered a live music venue for the purpose of business rates relief where a venue is wholly or mainly used as a nightclub or a theatre, for the purposes of the Town and Country Planning (Use Classes) Order 1987 (as amended).
- Hereditaments can be a live music venue even if used for other activities, but only if those other activities:
  - i. are merely ancillary or incidental to the performance of live music (e.g., the sale/supply of alcohol to audience members); or
  - ii. do not affect the fact that the primary activity for the premises is the performance of live music (e.g., because those other activities are insufficiently regular or frequent, such as a polling station or a fortnightly community event).
- There may be circumstances in which it is difficult to tell whether an activity is a performance of live music or, instead, the playing of recorded music. Although the Council would expect this would be clear in most circumstances, guidance on this may be found in Chapter 16 of the statutory guidance issued in April 2018 under section 182 of the Licensing Act 2003

### **Sport and leisure**

- Hereditaments that are being used wholly or mainly for the provision of sport, leisure, and facilities to visiting members of the public (including for the viewing of such activities) including:
  - Sports grounds and clubs
  - Museums and art galleries
  - Nightclubs
  - Sport and leisure facilities
  - Stately homes and historic houses
  - Theatres
  - Tourist attractions
  - Gyms
  - Wellness centres, spas, massage parlours
  - Casinos, gambling clubs and bingo halls

### **Assembly**

- Hereditaments that are being used for the assembly of visiting members of the public;
- Public halls;
- Clubhouses, clubs, and institutions.

### **Hotels, guest & boarding premises, and self-catering accommodation**

- The Council considers guest & boarding premises and self-catering accommodation to mean hereditaments where the non-domestic part is being used wholly or mainly for the provision of living accommodation as a business such as:
  - Hotels, Guest, and Boarding Houses
  - Holiday homes
  - Caravan parks and sites

H.4 To qualify for the discount the hereditament should be **wholly or mainly** being used for the above qualifying purposes. Hereditaments which are occupied but not wholly or mainly used for the qualifying purpose will not qualify for the relief.

H.5 For the avoidance of doubt, hereditaments which have closed due to the government's advice on COVID-19 but would have otherwise remained open will be treated as occupied for the purposes of this relief.

H.6 It should be noted that the list set out above is not intended to be exhaustive and each case will be considered on its individual merits.

H.7 In line with Government guidance the list below sets out the types of uses that **will not be considered as eligible** for the purpose of this discount.

### **Hereditaments that are being used for the provision of the following services to visiting members of the public**

- Financial services (e.g., banks, building societies, cash points, bureaux de change, short-term loan providers);
- Medical services (e.g., vets, dentists, doctors, osteopaths, chiropractors);
- Professional services (e.g., solicitors, accountants, insurance agents/ financial advisers); and
- Post office sorting offices.

### **Hereditaments that are not reasonably accessible to visiting members of the public**

H.8 In line with the legal restrictions in section 47(8A) of the Local Government Finance Act 1988, Council may not grant the discount to itself or a precepting authority.

### **The Closed Cash Cap**

H.9 In addition to meeting the criteria laid down within the previous paragraphs, consideration will also be given as to whether the ratepayers also meet the 'Closed Cash Cap' provisions as follows:

- (a) Ratepayers that meet the eligibility criteria for the closed cash cap will be ratepayers who for a chargeable day occupy one or more hereditaments whose use on the chargeable day would, based on the law and guidance applicable on 5 January 2021, have meant that the business or activity would have been mandated to close by the government. For the avoidance of doubt, hereditaments which have closed due to the government's response to coronavirus will be treated as occupied for the purposes of the closed cash cap;
- (b) If, under this eligibility test, a person would have been required to close its main, in-person service but could have adapted its business to operate takeaway, click and collect or online with delivery services, it will be considered closed and be eligible for the closed cash cap because its substantive business would have been mandated to close;
- (c) In cases where hereditaments would have remained open to provide services that can continue as they are exempt from the regulations (e.g., post office services, food banks etc.) the ratepayer may still be eligible for the closed cash cap, because they would have been unable to provide their main in-person service.

H.10 The following hereditaments **will not meet** eligibility for the closed cash cap:

- (a) Hereditaments occupied by businesses and other ratepayers that would have been able to conduct their main service because they do not depend on providing direct in-person services from premises and can operate their services effectively remotely (e.g., accountants, solicitors); and
- (b) Hereditaments whose occupiers may have chosen to close but not been required to.

## **How much relief will be available?**

- H.11 Subject to the cash caps, the total amount of government-funded relief available for each property for 2021/22 under this scheme is:
- (a) For chargeable days from 1 April 2021 to 30 June 2021 100% of the chargeable amount: and
  - (b) For chargeable days from 1 July 2021 to 31 March 2022, 66% of the chargeable amount.
- H.12 The relief will be applied after mandatory reliefs and, other discretionary reliefs funded by Section 31 grants from Central Government have been applied, excluding those where the Council has used its wider discretionary relief powers introduced by the Localism Act, which are not funded by Section 31 grants.
- H.13 Subject to the cash cap, the eligibility for the discount and the discount itself will be assessed by the Council and calculated on a daily basis. The following formula should be used to determine the amount of relief to be granted for a chargeable day for a particular hereditament in the financial year 2021/22:
- Amount of relief to be granted =  $V \times$  percentage Expanded Retail Discount, where:
  - $V$  is the daily charge for the hereditament for the chargeable day after the application of any mandatory relief and any other discretionary reliefs
  - The calculation will be undertaken ignoring any prior year adjustments in liabilities which fall to be liable on the day.
- H.14 Ratepayers that occupy more than one property will be entitled to relief for each of their eligible properties subject to the cash caps explained below.

## **The calculation and the cash caps**

- H.15 No cash caps will apply for the period between 1 April 2021 to 30 June 2021.
- H.16 Under the cash caps, a ratepayer may only receive up to the following cash caps of Expanded Retail Discount in 2021/22 ignoring any relief for the period before 1 July 2021:
- (a) £2 million for ratepayers meeting the eligibility for the closed cash cap test set out above; and
  - (b) £105,000 for all other ratepayers.
- H.17 No ratepayer can, in any circumstances, exceed the £2 million cash cap across all of their hereditaments in England. Where a ratepayer eligible for the closed cash cap also occupies hereditaments which do not meet the criteria for the closed cash cap and the value of the discount on the closed hereditaments is less than £2 million then they may also claim the discount on other eligible hereditaments but only up to the cap of £105,000 in respect of those other eligible hereditaments. For example, such a ratepayer whose rate bill from 1 July 2021 onwards on

hereditaments eligible for the closed cash cap is £1 million and also occupies other eligible hereditaments with a rates bill of £3 million is able to claim up to £1,105,000 in discount from 1 July 2021 onwards (£1million on their closed hereditament and then up to the £105,000 cash cap on their other eligible hereditaments).

- H.18 Where a ratepayer has a qualifying connection with another ratepayer then those ratepayers will be considered as **one** ratepayer for the purposes of the cash caps. A ratepayer shall be treated as having a qualifying connection with another:
- (a) where both ratepayers are companies, and
    - (i) one is a subsidiary of the other; or
    - (ii) both are subsidiaries of the same company; or
  - (b) where only one ratepayer is a company, the other ratepayer (the “second ratepayer”) has such an interest in that company as would, if the second ratepayer were a company, result in its being the holding company of the other.
- H.19 In those cases where it is clear to the Council that the ratepayer is likely to breach the cash caps, then the Council will automatically withhold the discount. The Council reserves the right to request information from ratepayers to assist in its decision and to determine whether any relief should be paid.

**Expanded Retail Discount – the Council’s policy for granting discretionary relief.**

- H.20 The Council has decided to grant relief in accordance with Central Government guidelines and in accordance with this policy.

## **Appendix I**

### **Nursery Discount Scheme (2021/22 only)**

## General Explanation

- I.1 The Government announced an extension to the business rates Nursery Discount on 3<sup>rd</sup> March 2021. This relief will apply to hereditaments occupied by providers on Ofsted's Early Years Register and wholly or mainly used for the provision of the Early Years Foundation Stage and which are subject to business rates in the year 2021/22. There will be no rateable value limit on the relief and Ofsted will ensure that all local authorities can access the Ofsted Early Years Register to help authorities identify eligible properties.

## Who is eligible for the relief?

- I.2 Properties that will benefit from the relief will be hereditaments occupied by providers on Ofsted's Early Years Register and wholly or mainly used for the provision of the Early Years Foundation Stage.
- I.3 To qualify for the relief the hereditament should be wholly or mainly being used for the above qualifying purpose. For the avoidance of doubt, hereditaments which have closed temporarily due to the government's advice on COVID19 should be treated as occupied for the purposes of this relief.
- I.4 In line with the legal restrictions in section 47(8A) of the Local Government Finance Act 1988, the Council may not grant the discount to itself or a precepting authority.

## How much relief will be available?

- I.5 Subject to the cash caps, the total amount of government-funded relief available for each property for 2021/22 under this scheme is:
- (a) For chargeable days from 1 April 2021 to 30 June 2021 100% of the chargeable amount: and
  - (b) For chargeable days from 1 July 2021 to 31 March 2022, 66% of the chargeable amount.
- I.6 The relief will be applied after mandatory reliefs and, other discretionary reliefs funded by Section 31 grants from Central Government have been applied, excluding those where the Council has used its wider discretionary relief powers introduced by the Localism Act, which are not funded by Section 31 grants
- I.7 Subject to the cash cap, the eligibility for the discount and the discount itself will be assessed by the Council and calculated on a daily basis. The following formula should be used to determine the amount of relief to be granted for a chargeable day for a particular hereditament in the financial year 2021/22:
- Amount of relief to be granted = V x percentage Expanded Retail Discount, where:

- V is the daily charge for the hereditament for the chargeable day after the application of any mandatory relief and any other discretionary reliefs
- The calculation will be undertaken ignoring any prior year adjustments in liabilities which fall to be liable on the day.

I.8 Ratepayers that occupy more than one property will be entitled to relief for each of their eligible properties subject to the cash caps explained below.

### **The calculation and the cash caps**

- I.9 No cash caps will apply for the period between 1 April 2021 to 30 June 2021.
- I.10 Under the cash caps, a ratepayer may only receive Nursery Discount up to £105,000 for 2021/22 ignoring any relief for the period before 1 July 2021.
- I.11 No ratepayer can in any circumstances can exceed the cash cap across all of their hereditaments in England.
- I.12 Where a ratepayer has a qualifying connection with another ratepayer then those ratepayers will be considered as one ratepayer for the purposes of the cash caps. A ratepayer shall be treated as having a qualifying connection with another:
- (a) where both ratepayers are companies, and
    - (i) one is a subsidiary of the other; or
    - (ii) both are subsidiaries of the same company; or
  - (b) where only one ratepayer is a company, the other ratepayer (the “second ratepayer”) has such an interest in that company as would, if the second ratepayer were a company, result in its being the holding company of the other.
- I.13 In those cases where it is clear to the Council that the ratepayer is likely to breach the cash caps then the Council will automatically withhold the discount. The Council reserves the right to request information from ratepayers to assist in its decision and to determine whether any relief should be paid.

### **Nursery Discount Scheme – the Council’s policy for granting discretionary relief.**

- I.14 The Council has decided to grant relief in accordance with Central Government guidelines and in accordance with this policy.

## **Appendix J**

### **COVID Additional Relief Fund (2021/22 only)**

## General Explanation

- J.1 The purpose of this policy is to determine the level of discretionary relief payable under the Council's COVID-19 Additional Relief Fund (CARF) scheme.
- J.2 Central Government has provided the authority with funding to assist those ratepayers whose businesses have been (and continue to be) affected by the pandemic but that are ineligible for existing support linked to business rates.
- J.3 The Government has not changed the legislation relating to the business rates reliefs available to properties. Instead, the Government will, in line with the eligibility criteria set out in this policy, reimburse local authorities where relief is granted using discretionary relief powers under section 47 of the Local Government Finance Act 1988.
- J.4 Whilst funding is provided by Central Government, it is for the Council to decide its own local scheme and determine in each individual case whether to grant this particular relief.
- J.5 Relief under the CARF scheme will only be available to reduce chargeable amounts in respect of the 2021/22 financial year.
- J.6 Where ratepayers receive relief it will be granted under the COVID-19 Additional Relief Fund (CARF) scheme in line with the following policy.

## Eligibility for discretionary relief under the COVID-19 Additional Relief Fund (CARF) scheme

- J.7 Whilst the Council has determined its own scheme, the Department for Levelling Up, Housing and Communities has stated that, in order for the Council to receive the allocated funding, it must:
- (a) **not** award relief to ratepayers who for the same period of the relief either are or would have been eligible for the Expanded Retail Discount (covering Retail, Hospitality and Leisure), the Nursery Discount or the Airport and Ground Operations Support Scheme (AGOSS);
  - (b) **not** award relief to a hereditament for a period when it is unoccupied (other than hereditaments which have become closed temporarily due to the government's advice on COVID-19, which should be treated as occupied for the purposes of this relief), and
  - (c) direct their support towards ratepayers who have been adversely affected by the pandemic and have been unable to adequately adapt to that impact.
- J.8 In line with section 47(8) of the Local Government Finance Act 1988, the Council must not grant any relief to itself or to either local or major precepting authorities.
- J.9 The relief will be applied after mandatory reliefs and other discretionary reliefs funded by section 31 grants have been applied, excluding those where the Council

has provided relief using its wider discretionary relief powers introduced by the Localism Act 2011 which are not funded by section 31 grants.

- J.10 Where any reduction or remission is granted to a ratepayer under S49 Local Government Finance Act 1988 (where hardship is proven to the Council), then there will be no requirement to grant CARF Discretionary Rate Relief for that amount.
- J.11 In certain cases, the order in which relief is granted is specified. Mandatory relief shall be granted in all cases where the relevant criteria are met irrespective of whether discretionary relief can be granted or not.

### **Council's policy for granting relief under the COVID-19 Additional Relief Fund.**

- J.12 Over the past few years, a number of schemes (such as the COVID-19 Additional Relief Fund) have been led by Central Government but without specific legislative changes.
- J.13 The Council is keen to support such initiatives especially where they are designed to help local businesses and will look to maximise both the reliefs given as well as maximise any grants receivable.
- J.14 In view of this, the Council has decided that where a ratepayer meets **all** of the relevant criteria, relief will be 17% of the 2021/22 liability **after** any other reliefs and reductions have been applied. The council will roll forward any credit balances from 2021/22 to reduce liability for 2022/23 and will not issue refunds for any overpayment due to CARF in the year 2021/22. The Council will award relief only where the monetary value is £100 or more.
- J.15 The criteria for the COVID-19 Additional Relief Fund are as follows:
- (a) the ratepayer is **not** eligible (or would be eligible) for the Expanded Retail Discount (covering Retail, Hospitality and Leisure), the Nursery Discount or the Airport and Ground Operations Support Scheme (AGOSS);
  - (b) the ratepayer is not entitled to either Small Business Rate Relief or Rural Rate Relief granted at 100%;
  - (c) the ratepayer is **not** entitled to mandatory relief (80%) and discretionary (top up) of 20% which is funded through business rates retention;
  - (d) the hereditament is treated as occupied by the Council;
  - (e) the ratepayer confirms that they have been adversely affected by the pandemic and have been unable to adequately adapt to that impact;
  - (f) the ratepayer is **not** subject to Subsidy Control and
  - (g) the hereditament is not excluded as shown below.

## Excluded hereditaments

- J.16 The Council has decided that the following hereditaments / ratepayers will be excluded from relief under the Council's COVID-19 Additional Relief Fund (CARF) scheme:
- Hereditaments that do not directly employ anyone (for example: parking spaces, advertising boards, communication masts, ATMs);
  - NHS including NHS and Foundation Trusts, practitioners who provide services under contract to the NHS;
  - Government departments, legislative bodies, the armed forces, the fire and police services;
  - Financial Services (e.g., banks, building societies, cash points, bureaux de change, short-term loan providers);
  - Medical services (e.g., vets, dentists, doctors, osteopaths, chiropractors);
  - Professional services (e.g., solicitor, accountants, insurance agents/financial advisers);
  - Post office sorting offices;
  - Businesses in administration, liquidation or subject to a strike off notice on Companies house will not benefit from this relief; and
  - Businesses who entered into a CVA or IVA prior to 31 March 2022.

## Subsidy Control

- J.17 The Council's COVID-19 Additional Relief Fund (CARF) scheme is subject to the subsidies chapter within the UK-EU Trade and Cooperation Agreement (TCA). However, for CARF there is an exemption for subsidies under the value of approximately £2,243,000 per economic actor (broadly speaking, for example, a holding company and its subsidiaries).
- J.18 This allowance comprises 325,000 Special Drawing Rights (at current exchange rates about £343,000) for Small Amounts of Financial Assistance and a further £1,900,000 for COVID-19 related subsidy.
- J.19 Therefore, to be awarded CARF the ratepayer must not have claimed over the period 2019/20 to 2021/22 more than £2,243,000 from schemes which fell within the Small Amounts of Financial Assistance or COVID-19 related allowances.
- J.20 Any COVID-19 business grants a ratepayer has received from local government generally and the 2019/20 Retail Relief should count towards this limit, but the ratepayer should not count any Extended Retail Discount they have received since 1 April 2020.
- J.21 Further details of subsidy control can be found at:  
<https://www.gov.uk/government/publications/covid-19-additional-relief-fund-carf-local-authority-guidance>
- J.22 The ratepayer will need to indicate to the Council:

- if they have not to date received any subsidy which fell within the Small Amounts of Financial Assistance or COVID-19 related allowances; or
- if the ratepayer has received other such subsidies, they will be required to provide the name and total value of those subsidies.

J.23 A ratepayer is not eligible to receive CARF if they have already exceeded the £2,243,000 allowance. However, the Council will still apply relief under the CARF scheme if they have reached this limit provided the ratepayer can evidence that they:

- (a) Intend to use the support to fund uncovered fixed costs (costs not covered by profits for insurance etc) during the period of COVID-19. Economic actors may claim for up to 70% of their uncovered costs (although this 70% limit does not apply to small businesses with less than 50 employees and less than £9 million turnover where the limit is instead 90%); and
- (b) Have shown a decline in turnover of at least 30% within the April 2020 to March 2021 period, compared to the same 2019 to 2020 period.

J.24 The ratepayer may claim up to a further £10 million of additional allowance (on top of the £2,243,000) if they meet the above tests and they have not claimed any other support from the additional allowance up to an aggregate £10 million limit (such as from the COVID-19 business grants).

J.25 Government and the Council will not tolerate any business falsifying their records or providing false evidence to gain this relief including claiming support above these thresholds.

J.27 A ratepayer who falsely applies for any relief or provides false information or makes false representation in order to gain relief may be guilty of fraud under the Fraud Act 2006.

### **Effect on the Council's Finances**

J.28 As Central Government leads this initiative, funding will be provided through section 31 of the Local Government Act 2003. This is not automatic and Central Government will look to the Council to adopt the recommended approach when granting in these areas.

J.29 In order to guarantee funding, the Council will ensure that the criteria in this policy are met in full

## **Appendix K**

### **Extension to the Transitional Relief Scheme Supporting Small Business Rates Relief Scheme (2022/23 only)**

## **Purpose of the Policy**

- K.1 The purpose of this policy is to determine the level of discretionary relief to be awarded in respect of Transitional Relief (TR) and Supporting Small Business Rates relief (SSB) for the financial year commencing 1<sup>st</sup> April 2022.
- K.2 This is a government led initiative and the Council is keen to support businesses as far as possible.

## **General Explanation**

- K.3 The Transitional Relief scheme was introduced in 2017 to help those ratepayers who were faced with higher bills as a result of the revaluation. The scheme ends on 31 March 2022 and, as a result, a small number of ratepayers would face a significant increase to their full rates bill from 1 April 2022.
- K.4 Government has announced that it would like to extend the current Transitional Relief (TR) scheme and the Supporting Small Business scheme (SSB) for one year to the end of the current revaluation cycle.
- K.5 This scheme, which has been adopted by the Council, will restrict increases in bills to 15% for businesses with small properties (up to and including £20,000 rateable value) and 25% for medium properties (up to and including £100,000 rateable value).

## **How will the relief be provided?**

- K.6 As this is a temporary measure for 2022/23, the government is not changing the legislation around transitional relief. Instead, the government will, in line with the eligibility criteria set out in this guidance, reimburse the Council if it uses its discretionary relief powers, under section 47 of the Local Government Finance Act 1988, to grant relief.

## **Who is eligible for the relief?**

- K.7 Hereditaments that will benefit are those with a rateable value up to and including £100,000 who would have received transitional relief and/or SSB in 2022/23. In line with the existing thresholds in the Transitional Relief scheme, the £100,000 rateable value threshold will be based on the rateable value shown for 1<sup>st</sup> April 2017 or the substituted day in the cases of splits and mergers.
- K.8 This policy does **not** apply to those in downward transition to lower bills, those will fall to their full bill on 1 April 2022.

## How much relief will be available?

- K.9 Government will fund the discretionary relief to ensure eligible properties receive the same level of protection they would have received had the statutory Transitional Relief scheme and Supporting Small Business scheme extended into 2022/23.
- K.10 The practical effects of the Transitional Relief scheme will be assumed to remain as it is in the current statutory scheme (As prescribed in the Non-Domestic Rating (Chargeable Amounts) (England) Regulations 2016 No. 1265) except that:
- (a) the cap on increases for small properties (with a rateable value of less than or equal to £20,000/£28,000 in London) in 2022/23 will be assumed to be 15% (before the increase for the change in the multiplier). Specifically, X in regulation 10(6) for the year commencing 1 April 2022 will be assumed to be 115. Q in regulation 10(12) should be assumed to be 1; and
  - (b) the cap on increases for other properties (up to and including £100,000 rateable value) in 2022/23 will be assumed to be 25% (before the increase for the change in the multiplier). Specifically, X in regulation 10(4) for year commencing 1 April 2022 will be assumed to be 125. Q will be assumed to be 1.
- K.11 This scheme applies only to hereditaments up to and including £100,000 rateable value based on the value shown for 1<sup>st</sup> April 2017 or the substituted day in the cases of splits and mergers.
- K.12 Changes in rateable value which take effect from a later date will be calculated using the normal rules in the Transitional Relief scheme. For the avoidance of doubt, properties whose rateable value is £100,000 or less on 1<sup>st</sup> April 2017 (or the day of merger) but increase above £100,000 from a later date will still be eligible for the relief.
- K.13 Where necessary, the Valuation Office Agency will continue to issue certificates for the value at 31<sup>st</sup> March 2017 (regulation 17, SI 2016 No. 1265) or 1<sup>st</sup> April 2017 (as required under regulations 16 and 18 SI 2016 No.1265).
- K.14 The relief will be calculated on a daily basis.
- K.15 The Supporting Small Business scheme will be assumed to remain as it is in the Council's current scheme (for periods up to 31<sup>st</sup> March 2022) with a percentage cap in 2022/23 of 15% plus inflation (or a cash value increase of £600 if greater).
- K.16 Where a ratepayer would have been in receipt of both Transitional Relief and Supporting Small Business in respect of 2022/23, a single award of section 47 relief will be granted resulting in a chargeable amount equivalent to that had the original Transitional Relief and Supporting Small Business schemes continued.

## **Recalculations of relief**

- K.17 As with the original Transitional Relief scheme, the amount of relief awarded will be recalculated in the event of a change of circumstances. This could include, for example, a backdated change to the rateable value or to the hereditament. This change of circumstances could arise during the year in question or during a later year.

## **Calculating the extension of Transitional Relief and Supporting Small Business where other reliefs apply**

- K.18 Under the statutory Transition scheme which ends on 31 March 2022, Transitional Relief is measured before all other reliefs. But the extension of Transitional Relief and Supporting Small Business scheme into 2022/23 will be delivered via section 47 of the Local Government Finance Act 1988 which will be measured **after** other reliefs (including other funded reliefs granted under section 47).

## **Subsidy control**

- K.19 The extension of Transitional Relief and Supporting Small Business relief scheme is likely to amount to subsidy. Any relief provided by the Council under this scheme will need to comply with the UK's domestic and international subsidy control obligations.
- K.20 To the extent that the Council is seeking to provide relief that falls within the Small Amounts of Financial Assistance Allowance, Article 364 of the TCA allows an economic actor (e.g. a holding company and its subsidiaries) to receive up to 325,000 Special Drawing Rights (£343,000 as at 9 December 2021) in a three-year period (consisting of the 2022/23 financial year and the two previous financial years) Expanded Retail Discount granted in either 2020/21 or 2021/22 does not count towards the £343,000 allowance but BEIS business grants (throughout the 3 years) and any other subsidies claimed under the Small Amounts of Financial Assistance limit, should be counted.
- K.21 In those cases where it is clear to the Council that the ratepayer is likely to breach the Small Amounts of Financial Assistance Allowance then the Council will automatically withhold the relief.

## **Transitional Relief & Supporting Small Business Rates Relief (2022/23) - the Council's policy for granting discretionary relief.**

- K.22 Over the past few years, a number of schemes have been led by government but without specific legislative changes. These are administered under S47 of the Local Government Finance Act 1988. The Council is keen to support such initiatives especially where they are designed to help local businesses and will look to

maximise both the reliefs given as well as maximise any grants receivable. However, the Council reserves the right to vary its approach where thought appropriate.

- K.23 In the case of transitional relief and supporting small business rates relief, the Council will grant the relief strictly in accordance with government guidance.

### **Effect on the Council's Finances**

- K.24 As this is a government led initiative, grants for the full amount awarded will be available through section 31 of the Local Government Act 2003.

## **Appendix L**

### **Retail, Hospitality and Leisure Relief (2022/23 only)**

## **Purpose of the Policy**

- L.1 The purpose of this policy is to determine the level of discretionary relief to be awarded in respect of the Retail, Hospitality and Leisure Business Rates Relief Scheme for the financial year commencing 1<sup>st</sup> April 2022.
- L.2 This is a government led initiative and the Council is keen to support businesses as far as possible.

## **General Explanation**

- L.3 The 2022/23 Retail, Hospitality and Leisure Business Rates Relief scheme will provide eligible, occupied, retail, hospitality, and leisure properties with a 50% relief, up to a cash cap limit of £110,000 per business.

## **Who is eligible for the relief?**

- L.4 Hereditaments which benefit from the relief will be those which for a chargeable day in 2022/23:
  - (a) meet the eligibility criteria; and
  - (b) the ratepayer for that chargeable day has not refused the relief for the eligible hereditament. The ratepayer may refuse the relief for each eligible hereditament anytime up to 30 April 2023. The ratepayer cannot withdraw their refusal for either all or part of the financial year.
- L.5 In line with the legal restrictions in section 47(8A) of the Local Government Finance Act 1988, the Council may not grant the discount to themselves certain precepting authorities (e.g., a parish or county council) or a functional body, within the meaning of the Greater London Authority Act 1999.

## **How much relief will be available?**

- L.6 Subject to the £110,000 cash cap per business, the total amount of government-funded relief available for each property for 2022/23 under this scheme is for chargeable days from 1 April 2022 to 31 March 2023, 50% of the chargeable amount.
- L.7 The relief will be applied after mandatory reliefs and other discretionary reliefs funded by section 31 grants have been applied, but before those where the Council has used their wider discretionary relief powers introduced by the Localism Act 2011, which are not funded by section 31 grants.
- L.8 Subject to the cash cap, the eligibility for the discount and the relief itself will be assessed and calculated on a daily basis. The formula that will be used to determine the amount of relief to be granted for a chargeable day for a particular

hereditament in the financial year 2022/23 is  $V \times 0.5$ , where  $V$  is the daily charge for the hereditament for the chargeable day after the application of any mandatory relief and any certain other discretionary reliefs.

- L.9 Ratepayers that occupy more than one property will be entitled to relief for each of their eligible properties up to the maximum £110,000 cash cap, per business.

### **The cash cap and subsidy control**

- L.10 Under the cash cap, no ratepayer can in any circumstances exceed the £110,000 cash cap across all of their hereditaments in England.
- L.11 Where a ratepayer has a qualifying connection with another ratepayer then those ratepayers will be considered as one ratepayer for the purposes of the cash caps. A ratepayer shall be treated as having a qualifying connection with another:
- (a) where both ratepayers are companies, and
    - (i) one is a subsidiary of the other; or
    - (ii) both are subsidiaries of the same company; or
  - (b) where only one ratepayer is a company, the other ratepayer (the “second ratepayer”) has such an interest in that company as would, if the second ratepayer were a company, result in its being the holding company of the other.
- L.12 Furthermore, the Retail, Hospitality and Leisure Scheme is likely to amount to subsidy. Any relief provided by the Council under this scheme will need to comply with the UK’s domestic and international subsidy control obligations
- L.13 To the extent that the Council is seeking to provide relief that falls within the Small Amounts of Financial Assistance Allowance, Article 364 of the TCA allows an economic actor (e.g., a holding company and its subsidiaries) to receive up to 325,000 Special Drawing Rights (£343,000 as at 9<sup>th</sup> December 2021) in a three-year period (consisting of the 2022/23 year and the two previous financial years). Expanded Retail Discount granted in either 2020/21 or 2021/22 does not count towards the £343,000 allowance but BEIS business grants (throughout the 3 years) and any other subsidies claimed under the Small Amounts of Financial Assistance limit should be counted.
- L.14 In those cases where it is clear to the Council that the ratepayer is likely to breach the cash cap or the Small Amounts of Financial Assistance limit then the authority will automatically withhold the relief.
- L.15 The amount of relief awarded will be recalculated in the event of a change of circumstances. This could include, for example, a backdated change to the rateable value or the hereditament. This change of circumstances could arise during the year in question or during a later year.

## Eligibility for the Retail, Hospitality and Leisure Relief Scheme

L.16 Hereditaments that are eligible for Retail, Hospitality and Leisure scheme will be occupied hereditaments which meet all of the following conditions for the chargeable day:

(a) they are wholly or mainly being used:

- (i) as shops, restaurants, cafes, drinking establishments, cinemas, or live music venues;
- (ii) for assembly and leisure; or
- (iii) as hotels, guest & boarding premises, or self-catering accommodation.

L.17 The Council considers shops, restaurants, cafes, drinking establishments, cinemas, and live music venues to mean:

**(i) Hereditaments that are being used for the sale of goods to visiting members of the public:**

- Shops (such as: florists, bakers, butchers, grocers, greengrocers, jewellers, stationers, off licences, chemists, newsagents, hardware stores, supermarkets, etc);
- Charity shops;
- Opticians;
- Post offices;
- Furnishing shops/ display rooms (such as: carpet shops, double glazing, garage doors);
- Car/ caravan show rooms;
- Second-hand car lots;
- Markets;
- Petrol stations;
- Garden centres; and
- Art galleries (where art is for sale/hire).

**(ii) Hereditaments that are being used for the provision of the following services to visiting members of the public:**

- Hair and beauty services (such as: hairdressers, nail bars, beauty salons, tanning shops, etc);
- Shoe repairs/ key cutting;
- Travel agents;
- Ticket offices e.g., for theatre;
- Dry cleaners;
- Launderettes;
- PC/ TV/ domestic appliance repair;
- Funeral directors;
- Photo processing;
- Tool hire; and
- Car hire.

**(iii) Hereditaments that are being used for the sale of food and/or drink to visiting members of the public:**

- Restaurants;
- Takeaways;
- Sandwich shops;
- Coffee shops;
- Pubs; and
- Bars.

**(iv) Hereditaments which are being used as cinemas**

**(v) Hereditaments that are being used as live music venues:**

- Live music venues are hereditaments wholly or mainly used for the performance of live music for the purpose of entertaining an audience. Hereditaments cannot be considered a live music venue for the purpose of business rates relief where a venue is wholly or mainly used as a nightclub or a theatre, for the purposes of the Town and Country Planning (Use Classes) Order 1987 (as amended);
- Hereditaments can be a live music venue even if used for other activities, but only if those other activities (i) that are merely ancillary or incidental to the performance of live music (e.g., the sale/supply of alcohol to audience members) or (ii) do not affect the fact that the primary activity for the premises is the performance of live music (e.g., because those other activities are insufficiently regular or frequent, such as a polling station or a fortnightly community event).

L.18 The Council considers assembly and leisure to mean:

**(i) Hereditaments that are being used for the provision of sport, leisure, and facilities to visiting members of the public (including for the viewing of such activities):**

- Sports grounds and clubs;
- Museums and art galleries;
- Nightclubs;
- Sport and leisure facilities;
- Stately homes and historic houses;
- Theatres;
- Tourist attractions;
- Gyms;
- Wellness centres, spas, massage parlours; and
- Casinos, gambling clubs and bingo halls.

**(ii) Hereditaments that are being used for the assembly of visiting members of the public:**

- Public halls; and
- Clubhouses, clubs, and institutions.

L.19 The Council considers hotels, guest & boarding premises, and self-catering accommodation to mean:

**(i) Hereditaments where the non-domestic part is being used for the provision of living accommodation as a business:**

- Hotels, guest, and boarding houses;
- Holiday homes; and
- Caravan parks and sites.

L.20 To qualify for the relief, the hereditament should be wholly or mainly being used for the above qualifying purposes. This is a test on use rather than occupation, therefore hereditaments which are occupied but not wholly or mainly used for the qualifying purpose will not qualify for the relief.

L.21 The lists set out above are not intended to be exhaustive as it would be impossible to list the many and varied uses that exist within the qualifying purposes.

### **Ineligible uses**

L.22 The lists below set out the types of uses that the government **does not** consider to be an eligible use for the purpose of this discount.

**(i) Hereditaments that are being used for the provision of the following services to visiting members of the public:**

- Financial services (e.g., banks, building societies, cash points, bureaux de change, short-term loan providers, betting shops);
- Medical services (e.g., vets, dentists, doctors, osteopaths, chiropractors);
- Professional services (e.g., solicitors, accountants, insurance agents/ financial advisers, employment agencies, estate agents, letting agents); and
- Post office sorting offices.

**(ii) Hereditaments that are not reasonably accessible to visiting members of the public**

### **Retail, Hospitality and Leisure Business Rates Scheme (2022/23) - the Council's policy for granting discretionary relief.**

L.23 Over the past few years, a number of schemes have been led by government but without specific legislative changes. These are administered under S47 of the Local Government Finance Act 1988. The Council is keen to support such initiatives especially where they are designed to help local businesses and will look to maximise both the reliefs given as well as maximise any grants receivable. However, the Council reserves the right to vary its approach where thought appropriate.

L.24 In the case of Retail, Hospitality and Leisure Business Rates Relief scheme, the Council will grant the relief strictly in accordance with government guidance.

## **Effect on the Council's Finances**

- L.25 As this is a government led initiative, grants for the full amount awarded will be available through section 31 of the Local Government Act 2003.

## **Appendix M**

### **Section 49 – Hardship Relief**

## Section 49 – Hardship Relief

### General explanation

M.1 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 for non-domestic rate payments in cases of hardship where it would be reasonable to do so having due regard to the interests of council tax payers in general.

### Section 49 Hardship Relief – the Council’s Policy

M.2 The Council will consider applications for hardship relief from individuals and organisations based on their own merits on a case-by-case basis. The Revenues Manager will consider applications. Application forms are available at the following links:

M.3 In making decisions on whether to award the relief the Council takes into account the following criteria (not listed in any priority):

- Any reduction or remission of 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;
- Evidence provided must include (but not limited to):
  - audited or independently verified accounts from the last two years
  - copies of your last three months' bank statements
  - a copy of any business plan
  - a brief history of your business
  - a cash flow forecast for the next 12 month
- The test of "hardship" is not strictly confined to financial hardship and that this, in itself, is not a deciding factor;
- The loss of the business would reduce amenities of an area if it is the sole provider of a service in the area;
- The loss of the business would worsen the employment prospects in the area;
- The interests of the Council Tax payers of the area would be best served by awarding the relief;
- The business must demonstrate how it is beneficial to the local community and why it is currently suffering financial hardship;
- The business provides employment to local residents in an area where employment opportunities are limited;
- Independent advice given by banks or financial advisors should be sought to demonstrate the future viability of the business; and
- Applications will only be considered where signed by the ratepayer, or, where an organisation is the ratepayer, an appropriately authorised representative of the organisation.