



Discretionary Rate Relief & Business Rates Hardship Policy

March 2022

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1 Introduction and Purpose of Policy Document

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

1.2 This policy has been written to:

- (a) demonstrate how Durham County Council will operate its discretionary powers set out in the Local Government Finance Act (LGFA) 1988 and Localism Act 2011 and the factors that will be considered when deciding if relief can be awarded and the way in which the value of relief will be granted;
- (b) demonstrate how Durham County Council will administer Government funded rates relief schemes – including the schemes first announced in 2017 and the extension of these schemes announced in December 2019 Queens Speech and the March 2020 and October 2021 budget plus the package of targeted measures announced in March 2020, May 2020 and March 2021 to support businesses through the period of disruption caused by COVID 19. These schemes being:
 - support for small businesses losing Small Business Rate Relief (SBRR) as a result of the revaluation effective from April 2017, where increases would be limited to the greater of £600 or the real terms transitional relief cap for small businesses each year;
 - a one third discount for retail property with a rateable value below £51,000, subject to state aid limits for businesses with multiple properties, for one year from 1 April 2019, increasing to 50 percent discount for one year from 1 April 2020, but increased to 100% and extended to include the leisure and hospitality sectors in 2020/21;
 - A 100% nursery discount 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;
 - The extension of transitional relief and supporting small business relief for small and medium properties
 - A 50% relief for eligible occupied retail, hospitality and leisure properties
 - The new COVID-19 Additional Relief Fund (CARF) to support those businesses affected by the pandemic but that are ineligible for existing support linked to business rates

- (c) set guidelines for the factors that should be considered when deciding to award or refuse an application;
- (d) set out the delegated authority to award relief in appropriate circumstances;
- (e) establish an appeals procedure for customers dissatisfied with a decision;
- (f) safeguard the interest of the local taxpayers by ensuring that funds that are allocated for the award of relief are used in the most effective and economic way.

2 Legislation

- 2.1 Section 47 of the LGFA 1988 permits the billing authority to grant discretionary rate relief. This was amended by the Localism Act 2011 section 69 from 1 April 2012, which removed the previous restrictions of discretionary relief to only apply to charities and other organisations of prescribed types.
- 2.2 The billing authority may decide to grant relief, only if it is satisfied that it would be reasonable to do so, having regard to the interests of the council taxpayers.
- 2.3 Discretionary relief may not be granted where the property is an excepted property i.e. occupied by a billing authority or a precepting authority.

3 Business Rates – Discretionary Rates Relief Policy

3.1 Equality and Fairness

- 3.1.1 Each application for relief will be dealt with on its own merits and the council will treat all organisations that apply for discretionary rate relief equally and fairly. The scheme will operate in a manner that helps support Durham County Council priorities and key objectives contained in the Sustainable Community Strategy and the Council Plan. Public funds are not however unlimited, a proportion of the costs of relief granted is borne by council taxpayers.

3.2 Criteria Used in the Decision-Making Process

- 3.2.1 The criteria to be used in deciding whether to give discretionary rate relief are based on assessing how an organisation's work helps achieve the Council's priorities and meeting the community's needs for services and facilities.

- 3.2.2 The following essential criteria must be met before Durham County Council would consider awarding discretionary rate relief:
- (a) The ratepayer must be a non-profit making body; and/or
 - (b) Irrespective of whether an organisation is registered as a charity or not, the property must be used by the ratepayer wholly or mainly for charitable, philanthropic or religious purposes, or concerned with education, social welfare, science, literature and the fine arts, or the ratepayer must use the property wholly or mainly for recreation by a non-profit making club or society. This is essential if any relief (either mandatory or discretionary) is to be granted. In most cases this can be readily seen by inspection but on occasions the authority has had to question the actual use of the premises to which relief is being sort.
 - (c) Consideration will be given as to what proportion of the premises is wholly or mainly used for the purposes of the organisation. Has the organisation exercised due diligence in ensuring the premises are of a suitable size for their requirement and have not committed to an onerous lease or excessive space?
- 3.2.3 It is possible for a voluntary organisation to apply for 100% discretionary rate relief, and for registered charities to apply for an additional 20% discretionary relief in addition to the mandatory relief they already receive providing they meet the essential criteria detailed in the Levels of Discretion detailed in paragraphs 3.3.1 to 3.3.2.
- 3.2.4 Community Interest Companies (CICs) would not qualify for mandatory relief and any discretionary relief application would be considered based on the essential criteria detailed in the Levels of Discretion detailed in paragraphs 3.3.1 to 3.3.2.
- 3.2.5 There are, however, exceptions to this general rule which include: Housing Associations, Leisure Trusts, Voluntary Schools, Colleges and Universities or similar. These organisations are charitable trusts for the purposes of the rating legislation and qualify for mandatory relief. However due to the funding streams available no discretionary top-up relief will be granted to these bodies.
- 3.2.6 Every application for discretionary rate relief will be considered on an individual basis.
- 3.2.7 The Council will need to be satisfied that value for money is being provided to the people of County Durham, bearing in mind the relief an organisation will receive. In making awards, consideration will be given to the financial impact on the council and whether an organisation is already funded or commissioned by the council. The decision to award relief must only be taken where it is in the wider interest of Council Taxpayers in County Durham.

- 3.2.8 Relief may be refused if it is considered that the cost to the council and its taxpayers outweighs the benefit that will be gained from the award of the relief. If the benefit of the rate relief is kept locally, the relief is more likely to be awarded.
- 3.2.9 The finances of the organisation will be examined. This will include examination of the membership fees structure, examination and reasoning of level of reserves in relation to the amount of turnover and the rates charged, payments to staff and directors will all be taken into consideration when determining the application. If it appears that the reserve finances are not being used or partially used to benefit the local community, the application may be refused unless the ratepayer can demonstrate their reasoning.
- 3.2.10 Some organisations or charities do not need to be registered with the Charity Commission where the annual income is under £5,000. In these cases, if the organisation has applied to Her Majesty's Revenue and Customs (HMRC) for tax relief, a HMRC number will be provided and mandatory relief can be awarded.
- 3.2.11 Organisations that meet the qualifying criteria for small business rates relief will not be considered for discretionary rate relief until they have applied for small business rates relief. This will reduce the financial contribution on the authority. These organisations even though they may not be a small business, are however ratepayers who are entitled to apply for this relief. Durham County Council will provide support and guidance on how to apply for small business rates relief from the Council.

3.3 Levels of Discretionary Rate Relief Available

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

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

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

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

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

Reason for Increasing Amount of Relief:

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

Reason for Reducing Amount of Relief:

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

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

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

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

3.4 Claiming Mandatory and Discretionary Rate Relief

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

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

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

3.5 Period of Award

- 3.5.1 Entitlement to relief will be subject to a regular review or if there is a change in legislation that would affect its operation and considering council policies and priorities, any withdrawal or variation of relief is subject to one financial year's notice.

3.6 Notification of Award

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

3.7 Appeals

- 3.7.1 If you disagree with a decision made under this policy, you must write and tell Durham County Council why you think the decision is wrong and provide any additional information in support of the claim. An independent panel will look at the case.
- 3.7.2 The panel will check the discretionary rate relief application thoroughly and take account of any additional information in your appeal letter. The panel will decide whether the criteria have been properly applied. The panel will confirm the decision, change the decision to pay more discretionary rate relief or change the decision to pay less discretionary rate relief.
- 3.7.3 Durham County Council will write to tell you the outcome of the appeal. There is no further right of appeal against the decision of the panel. Any further appeal against this decision must be done through judicial review proceedings.

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

4.1 Legislation

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

4.2 Making an Application

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

4.3 The Decision-Making Process

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

4.4 Period of Section 44A Relief

- 4.4.1 Section 44A Relief will only be applied to a property that is partly occupied for a temporary period. The relief can only be awarded for a maximum of three months in cases of offices and shops, or six months in the case of industrial properties.

4.4.2 Section 44A Relief will end under the following circumstances:

- (a) At the end of a financial year, regardless of the date relief was applied;
- (b) Where all or part of the unoccupied area becomes occupied;
- (c) The person liable for Business Rates changes.

4.5 Calculation of Section 44A Relief

- 4.5.1 Where Durham County Council agrees to award a Section 44A Relief, notification will be sent to the Valuation Officer to seek a reduction in the rateable value.
- 4.5.2 The amount of relief is calculated on a statutory basis based on the rateable value of the empty portion of the property. The appropriate rateable value is provided to Durham County Council by the Valuation Office Agency.

5 Business Rates – Local Newspaper Relief

5.1 Legislation

- 5.1.1 This relief was introduced from 1 April 2017 for an initial two-year period but was extended to three years in the October 2018 budget and extended for an additional 5 years until 31 March 2025 in the March 2020 budget. Under Section 47 of the Local Government Finance Act 1988 the billing authority has discretionary powers to grant relief in the prescribed circumstances.

5.2 Properties that will Benefit from this Relief

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

5.3 Criteria used in the Decision-Making Process

- 5.3.1 Durham County Council will require a written application form.
- 5.3.2 The new local newspaper relief is granted as de minimis aid for State Aid purposes. There is currently a ceiling of 200,000 Euros of de minimis aid that can be granted over a three-year rolling period.
- 5.3.3 Durham County Council will notify the applicant of the decision in writing and where the relief is refused, an explanation of the reasons why will be given.

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

5.4 Period of Local Newspaper Relief

5.4.1 The relief is applicable from 1 April 2017 to 31 March 2025.

6 Business Rates – Supporting Small Businesses Relief

6.1 Legislation

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

6.2 Properties that will Benefit from this Relief

6.2.1 Those ratepayers who as a result of the change in their rateable value at Revaluation in 2017 are losing some or all their small business or rural rate relief and as a result are facing large increases in their bills.

6.2.2 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 cash value of £600 per year (£50 per month). This cash minimum ensures that those ratepayers currently paying nothing, or very small amounts are brought onto paying something; or,
- (b) the matching cap on increases for small properties in the transitional relief scheme.

6.3 Criteria used in the Decision-Making Process

6.3.1 Durham County Council will identify those businesses that meet the qualifying criteria and write to them and/or require a written application form.

6.3.2 The Supporting Small Businesses relief is subject to de minimis State Aid rules, therefore any applicant or business where the relief is applied to will be required to confirm that the award of this relief does not contravene State Aid rules. There is currently a ceiling of 200,000 Euros of de minimis aid that can be granted over a three-year rolling period.

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

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

6.4 Period of Supporting Small Businesses Relief

6.4.1 Ratepayers will remain in the Supporting Small Businesses relief scheme for either five years or until they reach the level of charges they would have paid without the scheme.

6.4.2 A change of ratepayer will not affect the eligibility for the Supporting Small Businesses relief scheme.

6.4.3 Eligibility will be lost if the property becomes vacant or becomes occupied by a charity or Community Amateur Sports Club.

7 Business Rates – Expanded Retail Discount

7.1 Legislation

7.1.1 In the October 2018 budget, the government announced a Business Rates Retail Discount from 1 April 2019 for a two-year period. In the March 2020 budget in response to the coronavirus pandemic the government announced that it would increase the discount to 100% and extend it to include the leisure and hospitality properties. In the budget on 3 March 2021 the government confirmed that the Expanded Retail Discount would continue to apply in 2021/22 at 100% for three months from 1 April 2021 to 30 June 2021 and at 66% for the remaining period, from 1 July 2021 to 31 March 2022

7.1.2 Under Section 47 of the Local Government Finance Act 1988 the billing authority has discretionary powers to grant the relief in the prescribed circumstances.

7.1.3 A ratepayer may refuse the Expanded Retail Discount anytime up to 30 April 2022. The ratepayer cannot subsequently withdraw their refusal for all or part of the financial year. Hereditaments where the ratepayer has refused the relief are outside of the scheme and outside of the decision of which hereditaments qualify for the discount and are therefore ineligible for the relief.

7.2 Properties that will Benefit from this Relief

- 7.2.1 Occupied properties with a rateable value of less than £51,000 that are wholly or mainly being used as shops, restaurants, cafes, drinking establishments, cinemas and music venues. From 1 April 2020 the discount has been expanded to include occupied properties that are wholly or mainly used assembly, leisure, hotels, guest and boarding premises and self-catering accommodation. There will be no rateable value limit on the discount for 2020-2022.
- 7.2.2 The value of the discount for the financial year 2019/20 will be one third of the bill after mandatory reliefs and other discretionary relief have been applied. The value of the discount will increase to 100 per cent of the bill, after mandatory reliefs and other discretionary reliefs have been applied from 1 April 2021 to 30 June 2021. From 1 July 2021 to 31 March 2022 the value of the discount will be 66% of the bill after mandatory and other discretionary relief have been applied. The government have confirmed that there will be no cash cap on the relief received for the period from 1 April 2021 to 30 June 2021. From 1 July 2021, relief will be capped at £105,000 per business or £2 million per business where the business is in occupation of a property that was required, or would have been required, to close, based on the law and guidance applicable on 5 January 2021.
- 7.2.3 Ratepayers that occupy more than one property will be entitled to relief for each of their eligible properties subject to the cash caps

7.3 Criteria used in the Decision-Making Process

- 7.3.1 Durham County Council will identify those businesses that meet the qualifying criteria and write to them and / or require a written application form.
- 7.3.2 The Retail Discount for the period 1 April 2019 to 31 March 2020 is subject to de minimis State Aid rules, therefore any applicant or business where the relief is applied to will be required to confirm that the award of this relief does not contravene State Aid rules. There is currently a ceiling of 200,000 Euros of de minimis aid that can be granted over a three-year rolling period. Given the impact of Covid-19 in the sectors receiving the relief, the expanded retail discount for the period 1 April 2020 to 30 June 2021 is not a state aid. From 1 July 2021, relief will be capped at £105,000 per business or £2 million per business where the business is in occupation of a property that was required, or would have been required, to close, based on the law and guidance applicable on 5 January 2021.
- 7.3.3 Durham County Council will notify the applicant of the decision in writing and where the relief is refused, an explanation of the reasons why will be given.

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

7.4 Period of Retail Discount

7.4.1 The discount will only be applicable from 1 April 2019 to 31 March 2022

7.4.2 Eligibility will be lost if the property becomes vacant. Following the announcement on 23 March 2020 of measures to limit the spread of coronavirus, the Government confirmed that retail, leisure and hospitality properties that will have to close as a result of the measures will remain eligible for the discount.

8. Business Rates – Nursery Discount

8.1 Legislation

8.1.1 On 18 March 2020 as an extraordinary response to the coronavirus, the Government announced a business rates Nursery Discount for one year from 1 April 2020. At the budget on 3 March 2021 the government announced that the Nursery Discount would continue to apply at 100% for eligible properties for the first three months of 2021 from 1 April 2021 to 30 June 2021 and at 66% for the remaining period, from 1 July 2021 to 31 March 2022

8.1.2 Under Section 47 of the Local Government Finance Act 1988 the billing authority has discretionary powers to grant the relief in the prescribed circumstances.

8.1.3 A ratepayer may refuse the Nursery Discount anytime up to 30 April 2022. The ratepayer cannot subsequently withdraw their refusal for all or part of the financial year. Hereditaments where the ratepayer has refused the relief are outside of the scheme and outside of the decision of which hereditaments qualify for the discount and are therefore ineligible for the relief

8.2 Properties that will benefit from this discount

8.2.1 Properties that are occupied by providers of Ofsted's Early Years Register and wholly or mainly used for the provision of Early Years Foundation Stage

8.2.2 The value of the discount is 100% of the bill after mandatory reliefs and other discretionary reliefs funded by section 31 grants have been applied for the period 1 April 2020 to 30 June 2021. For the period 1 July 2021 to 31 March 2022 the discount will be 66% of the bill after mandatory and other discretionary relief have been applied. From 1 July 2021 the relief will be capped at £105,000 per business

8.2.3 Ratepayers that occupy more than one property will be entitled to relief for each of their eligible properties subject to the cash cap

8.3 Criteria used in the Decision-Making Process

8.3.1 Durham County Council will identify those businesses that meet the qualifying criteria and write to them and / or require a written application form.

8.3.2 Given the impact of COVID-19 in the sector receiving the discount the Government's assessment is that the nursery discount for the period 1 April 2020 to 30 June 21 is not a state aid. . From 1 July 2021 the relief will be capped at £105,000 per business

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

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

8.4 Period of Nursery Discount

8.4.1 The discount will only be applicable for the financial years 2020/21 and 2021/22`

8.4.2 Eligibility will be lost if the property becomes vacant. Properties which have closed temporarily due to the government's advice on COVID-19 will be treated as occupied for the purpose of this discount.

9. Business Rates – Retail, Hospitality and Leisure Relief Scheme

9.1 Legislation

9.1.1 At the Budget on 27 October 2021 the Chancellor announced the introduction of a Retail, Hospitality and Leisure Relief Scheme which will provide eligible, occupied, retail, hospitality, and leisure properties with a 50% relief up to a cash cap limit of £110,000 per business for 2022/23 only

9.1.2 Under Section 47 of the Local Government Finance Act 1988 the billing authority has discretionary powers to grant the relief in the prescribed circumstances.

- 9.1.3 A ratepayer may refuse the Retail, Hospitality and Leisure relief for each eligible property anytime up to 30 April 2023. The ratepayer cannot subsequently withdraw their refusal for all or part of the financial year. Hereditaments where the ratepayer has refused the relief are outside of the scheme and outside of the decision of which hereditaments qualify for the discount and are therefore ineligible for the relief
- 9.1.4 In line with the legal restrictions in section 47(8A) of the Local Government Finance Act 1988, billing authorities 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.

9.2 Properties that will Benefit from this Relief

- 9.2.1 Occupied properties that are wholly or mainly being used as shops, restaurants, cafes, drinking establishments, cinemas and music venues, premises used for assembly and leisure or hotels, guest and boarding premises and self-catering accommodation and are accessible to visiting members of the public
- 9.2.2 The value of the relief for the financial year 2022/23 will be 50% of the bill after mandatory reliefs and other discretionary relief funded by section 31 grants have been applied subject to a £110,000 cash cap per business.
- 9.2.3 Ratepayers that occupy more than one property will be entitled to relief for each of their eligible properties subject to the cash caps

9.3 Criteria used in the Decision-Making Process

- 9.3.1 Durham County Council will identify those businesses that meet the qualifying criteria and write to them and / or require a written application form.
- 9.3.2 The Retail, Hospitality, and Leisure Scheme is likely to amount to subsidy. Any relief provided under this scheme will need to comply with the UK's domestic and international subsidy control obligations. To the extent that a local authority 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 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.
- 9.3.3 Durham County Council will notify the applicant of the decision in writing and where the relief is refused, an explanation of the reasons why will be given.

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

9.4 Period of Retail, Hospitality and Leisure Relief

9.4.1 The relief will only be applicable from 1 April 2022 to 31 March 2023

9.4.2 Eligibility will be lost if the property becomes vacant.

9.4.3 Eligibility may will be lost if there is a change use of the property .

10. Business Rates – Extension of Transitional Relief and Supporting Small Business Relief for small and medium properties

10.1 Legislation

10.1.1 At the Budget on 27 October 2021 the government announced that it would extend the current transitional relief scheme and the supporting small business scheme for one year to the end of the current revaluation cycle. The scheme 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).

10.1.2 Under Section 47 of the Local Government Finance Act 1988 the billing authority has discretionary powers to grant the relief in the prescribed circumstances.

10.2 Properties that will Benefit from this Relief

10.2.1 Properties 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 should be based on the rateable value shown for 1 April 2017 or the substituted day in the cases of splits and mergers.

10.2.2 The transitional relief for the financial year 2022/23 will cap increases for small properties (with a rateable value of less than or equal to £20,000) at 15% and 25% for medium properties (up to and including £100,000 rateable value).

10.2.3 This policy does not apply to those in downward transition to lower bills – they will fall to their full bill on 1 April 2022.

10.2.4 The SSB relief for the financial year 2022/23 will cap in increases at 15% or a cash value increase of £600 if greater.

10.3 Criteria used in the Decision-Making Process

- 10.3.1 Durham County Council will identify those businesses that meet the qualifying criteria and write to them and / or require a written application form.
- 10.3.2 The extension of the transitional relief and Supporting Small Business (SSB) Relief Scheme is likely to amount to subsidy. Any relief provided under this scheme will need to comply with the UK's domestic and international subsidy control obligations. To the extent that a local authority 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 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.
- 10.3.3 Durham County Council will notify the applicant of the decision in writing and where the relief is refused, an explanation of the reasons why will be given.
- 10.3.4 Durham County Council will not consider applications where the customer has failed to provide information within the timescales provided to them and will notify the customer in writing that the application has been refused.

10.4 Period of Extension of Transitional Relief and supporting Small Business Relief for small and medium properties

- 10.4.1 The relief will only be applicable from 1 April 2022 to 31 March 2023
- 10.4.2 Eligibility may will be lost if the property's rateable value changes. This includes where the change in the rateable value is backdated.

11. Business Rates – COVID-19 Additional Relief Fund (CARF)

11.1 Legislation

- 11.1.1 On 25 March 2021 the Government announced a new COVID-19 Additional Relief Fund (CARF) of £1.5 billion. The fund will be available to support those businesses affected by the pandemic but that are ineligible for existing support linked to business rates. The relief is available to reduce the chargeable amounts in respect of 2021/22 only.

11.1.2 Billing authorities have been provided with a share of the funding to develop their scheme having regard to the guidance issued by the government on 15 December 2021.

11.1.3 In developing and implementing their schemes local authorities must:

- not award relief to ratepayers who for the same period of the relief either are or would have been eligible for the Extended Retail Discount (covering Retail, Hospitality and Leisure), the Nursery Discount or the Airport and Ground Operations Support Scheme (AGOSS),
- 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
- direct their support towards ratepayers who have been adversely affected by the pandemic and have been unable to adequately adapt to that impact.

11.1.4 In line with the legal restrictions in section 47(8A) of the Local Government Finance Act 1988, billing authorities 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.

11.1.5 Durham County Council have been allocated £8.4m

11.1.6 Under Section 47 of the Local Government Finance Act 1988 the billing authority has discretionary powers to grant the relief in the prescribed circumstances.

11.2 Properties that will Benefit from this Relief

11.2.1 Ratepayers which had fallen outside the scope of the Government's Extended Retail Discount and Nursery Discount national schemes but have been adversely affected by the pandemic. The ratepayer must have been in occupation on 1st April 2021 and continue to be in occupation (hereditaments which were closed temporarily due to the government's advice on COVID-19, will be treated as occupied for the purposes of this relief),

11.2.2 The following sectors will be excluded from the scheme, banks, building societies, ATM's, communication masts, NHS properties including doctors surgeries, government offices, delivery lockers

11.2.3 The value of the relief for the financial year 2021/22 will be linked to the rateable value of the hereditament and will be applied after mandatory reliefs and other discretionary reliefs funded by section 31 grants have been applied

- For hereditaments with a rateable value of £20,000 or less 50% of the chargeable amount
- For hereditaments with a rateable value of £20,001 - £100,000 30% of the chargeable amount
- For hereditaments with a rateable value of over £100,000 20% with a cap of £30,000

11.2.4 Durham County Council reserves the right to withdraw the scheme or vary the terms of the scheme at any time, and without notice, should it be necessary to do so to ensure we spend the full funding allocation but that we do not exceed this so far as possible, recognising that any overspend will fall on the Council to fund

11.3 Criteria used in the Decision-Making Process

11.3.1 Durham County Council will identify those businesses that meet the qualifying criteria and write to them and / or require a written application form.

11.3.2 The Covid-19 Additional Relief Fund (CARF) is likely to amount to subsidy. Any relief provided under this scheme will need to comply with the UK's domestic and international subsidy control obligations. To the extent that a local authority 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 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 (such as the Retail Relief in 2019/20), or under the EU State aid de minimis limit, in the last three years, should be counted.

Where the Small Amounts of Financial Assistance Allowance has been reached, additional relief may be awarded in compliance with the principles set out in Article 366 of the TCA and in compliance with Article 364.3 of the TCA. For the purposes of this scheme, the COVID-19 Additional Relief Fund Allowance, permits an economic actor to receive additional relief of up to a further £1,900,000 for COVID-19 related losses.

This may be combined with the Small Amounts of Financial Assistance Allowance to permit an economic actor to receive up to £2,243,000 from the CARF Scheme (or less if they have already used some of their Small Amounts of Financial Assistance limit or claimed other COVID-19 related subsidies). It should be noted that Extended Retail Discount granted in either 2020/21 or 2021/22 does not count towards these allowances, but

BEIS business grants (throughout the 3 years) and any other subsidies claimed under the Small Amounts of Financial Assistance limit (such as the Retail Relief in 2019/20), or under the EU State aid de minimis limit, in the last three years, should be counted.

If an economic actor has reached the £2,243,000 limit set out above, then it may still be able to receive up to a further £10 million as a COVID-19 Additional Relief Fund Further Allowance under the CARF Scheme, if it satisfies the following conditions: a. the relief relates to uncovered fixed costs (i.e. costs not covered by profits or insurance etc) during the period of COVID-19 (commencing 1 March 2020). An economic actor may benefit from relief up to 70% of their uncovered costs (although this 70% limit does not apply to small businesses with fewer than 50 employees and less than £9 million turnover where the limit is instead 90%), and b. the enterprise has shown a decline in turnover during the eligible period of at least 30% compared to the same period in 2019

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

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

11.4 Period of COVID-19 Additional Relief Fund

11.4.1 The relief will only be applicable from 1 April 2021 to 31 March 2022 and will be applied retrospectively.

11.4.2 Any credit resulting from the award of the relief will be carried forward to 2022/23 unless the ratepayer requests a refund.

11.4.3 Eligibility will be lost following a change in ratepayer or if the property becomes vacant.

11.4.4 If the rateable value of the property decreases the amount of relief awarded will be recalculated. There will be no change to the amount of relief awarded should there be an increase in rateable value.

12 Hardship Relief for Business Rates

12.1 Legislation

12.1.1 The provisions are set out in Section 49 of the Local Government Finance Act 1988. Councils have the power to reduce or remit the business rate charge where it considers that 'hardship' would otherwise be caused to the ratepayer.

Hardship relief for non-domestic property is intended to provide short term assistance to a business suffering unexpected hardship, financial, or otherwise, arising as a result of exceptional circumstances or short term crisis beyond the business' control and outside of the normal risks associated with running a business of that type, to the extent that the viability of the business would be threatened if an award were not made. As the Hardship Relief scheme covers unforeseen events, it is not possible to offer precise definitions. However, a 'crisis' would have to result in a serious loss of trade or have a major effect on the services that can be provided.

- 12.1.2 'Exceptional circumstances' will usually be circumstances that came from outside the business or organisation and are beyond the normal risks faced by businesses and cannot be foreseen or avoided. The effect of strikes within a business or organisation, increased running costs and increased competition would not be considered as 'exceptional circumstances' as they are normal business risks.

12.2 Criteria Used in the Decision-Making Process

- 12.2.1 Applications to reduce or remit the business rate charge will only be considered where the council is satisfied that the ratepayer would otherwise sustain hardship if no award was made and that it is reasonable to grant relief having regard to the interest of council tax payers who are affected by decisions under this section. This is because 50% of the cost of exercising this power must be funded by the Council through general fund expenditure.

- 12.2.2 Applications for hardship will be examined on a case-by-case basis and each application will be assessed on its individual merits. Other issues or requirements will also be considered in relation to the application as they arise including:

- (a) all applications should be made in writing from the ratepayer, their advocate/appointee or a recognised third party acting on their behalf, preferably using the relevant form, and should contain the necessary information to substantiate the request;
- (b) all applications are only intended as short-term assistance and will not extend beyond the current financial year, and should not be considered as a way of reducing Business Rate Liability indefinitely;
- (c) government guidance advises that remission of Business Rates on the grounds of hardship should be the exception rather than the rule;
- (d) the financial interests of the council taxpayers will not be the sole overriding factor e.g. impact on employment and amenities provision will also be considered. The test of 'hardship' is not confined strictly to financial hardship - all relevant factors affecting the ability of a business to meet its liability for rates are considered where readily available. Where the granting of relief will have an adverse effect on the

financial interests of the council tax payers, relief may still be granted if the case for relief on balance outweighs the costs to taxpayers;

- (e) the potential amount of any relief may in some cases constitute state aid and therefore adherence to EU regulations must be followed;
- (f) the test of hardship will include an assessment of the ratepayer's individual accounts to verify that the payment of rates would cause hardship;
- (g) the assessment of the accounts will identify the cause of the business failings and a simple accounting calculation will be carried out as follows:
 - % of Rates to Sales;
 - % of Rates to Gross Profit;
 - % of Rates to Expenditure;
 - Ratio of Current Assets to Current Liabilities;
 - Ratio of Current Assets Less Stock to Current Liabilities.
- (h) relief will normally only be awarded retrospectively. However, where you can show that the circumstances will remain the same for a period up to the end of the current financial year relief may be awarded for the remainder of the year;
- (i) it is unlikely that Hardship Relief would be granted in respect of an empty property or where there is little expectation of economic survival;
- (j) it is expected that businesses should have taken prompt action to mitigate any factors giving rise to hardship. Examples of mitigating actions may include seeking business advice, discounts and promotions, reviewing pricing, extending the range of stock or services, negotiating with creditors etc. Applications may be declined in circumstances where the business is unable to demonstrate that it is taking reasonable steps to alleviate the hardship.

12.3 Period of Hardship Relief

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

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

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

12.4 Examples of Appropriate Circumstances

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

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

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

12.5 Claiming a Reduction due to Hardship

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

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

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

12.6 The Decision Making Process

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

- Initial applications will be considered by Assessment & Awards Team Leader (Business Rates). These will include review sheet, with findings and financial implications and initial recommendations.
- Recommendations will then be forwarded to Assistant Assessments & Awards Manager via the Assessment & Awards Team Leader (Business Rates).
- These will then be forwarded to Head of Finance and Transactional Services for approval / refusal.
- Once a decision has been approved the ratepayer will be advised in writing of the decision.

12.7 Review of Decision

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

12.7.2 Red-determination requests will be considered as follows:

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