



# **Policy for the granting of COVID-19 Additional Relief Fund Discretionary Non-Domestic Rate Relief**

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## **1.0 Purpose of the Policy**

- 1.1 The purpose of this policy is to define the basis on which relief will be provided under the Council's COVID-19 Additional Relief Fund (CARF) scheme.
- 1.2 Central Government has allocated 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.
- 1.3 The Government has not changed the legislation relating to the business rates reliefs. 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.
- 1.4 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.
- 1.5 Relief under the CARF scheme will only be available to reduce chargeable amounts in respect of the 2021/22 financial year.
- 1.6 This document outlines the following areas:
  - Details of the criteria for receiving Discretionary Reliefs under the COVID-19 Additional Relief Fund (CARF) scheme;
  - The Council's policy for granting the relief;
  - General guidance on granting and administering the reliefs and awards;
  - Subsidy Controls applicable; and
  - The Council's Scheme of Delegation.
- 1.7 Where ratepayers apply for relief they will be granted (or not granted) relief under the COVID-19 Additional Relief Fund (CARF) scheme in line with the following policy.

## **2.0 Discretionary Relief – Legislative Background**

### **Introduction**

- 2.1 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.
- 2.2 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.
- 2.3 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.
- 2.4 The Council will expect all businesses to provide such information and evidence as required in order to determine whether relief should be awarded.
- 2.5 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.
- 2.6 The decision to grant or not to grant discretionary relief is a matter purely for the Council.

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

- 3.1 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.

- 3.2 In line with section 47(8A) of the Local Government Finance Act 1988, the Council must not grant any relief to itself or to either local or precepting authorities.
- 3.3 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.
- 3.4 Where any reduction or remission is granted to a ratepayer under section 49 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.

#### **4.0 Discretionary Relief to be awarded under the COVID-19 Additional Relief Fund.**

- 4.1 Over the past few years, a number of initiatives (such as the COVID-19 Additional Relief Fund) have been introduced by Central Government but without specific legislative changes.
- 4.2 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.
- 4.3 In view of this, the Council has decided that where a ratepayer meets **all** of the relevant criteria, relief will be applied to the 2021/22 liability **after** any other reliefs and reductions have been applied.
- 4.4 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 hereditament is deemed by the Council to be occupied;
  - (c) the ratepayer confirms that they have been adversely affected by the pandemic and have been unable to adequately adapt to that impact;
  - (d) the ratepayer is able to confirm that they are outside Subsidy Control limits as defined within section 6; and
  - (e) the hereditament is not excluded under the section 5 below.
- 4.5 The government funding allocation has been calculated by reference to the rateable value and Valuation Office Agency (VOA) classifications of certain sections of the Rating List and Office for National Statistics (ONS) data setting out the corresponding average economic impacts of COVID-19. Awards from the funding

will therefore be based on the same elements and applied to all accounts deemed eligible by the Council.

- 4.6 A contingency from the allocation will be retained of £150,000 to provide for situations where an award of relief might be justifiable outside of the set determined in accordance with section 4.5 above, on an application basis, and for variations in award increasing relief determined in accordance with section 4.5 above.
- 4.7 The maximum individual relief will be capped at £250,000.
- 4.8 Ratepayers with a history of using minimum periods of occupation to achieve avoidance of rates through further periods of empty relief, and for efficiency of administration, those where the amount of relief on a bill would be less than £10 are to be excluded from receiving relief.
- 4.9 Further relief may be awarded to recipients at the direction of the Section 151 officer, as outlined in the scheme of delegation in section 9 of this policy, if funding remains available following awards from the contingency and any variations or revocations have been applied.
- 4.10 The total amount of relief available will be limited to the funded amount.

## 5.0 Basis for Award Amount

- 5.1 A full explanation of the government's methodology for calculating funding is set out in published guidance:

[COVID-19 Additional Relief Fund \(CARF\): local authority guidance - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/publications/covid-19-additional-relief-fund-carf-local-authority-guidance)

- 5.2 By way of illustration, an award might be calculated as follows:

- A hereditament with a VOA Special Category Code of 096 (Factories Workshops and Warehouses) is mapped to ONS Standard Industrial Code C, which has an Average Gross Value Added (GVA) Reduction of -9%.
- If the chargeable amount is £30,720 for the 2021/22 rates liability, and there is no disqualifying discount applicable, the basic reduction at -9% can be calculated as £2,764.80.
- However, this amount is then adjusted to take account of the ratio of the sum of all such eligible reductions to the total funding amount to be allocated. The total to be allocated will be net of the contingency and capped award amounts:  $\text{£2,753,444} - \text{£150,000} - \text{£250,000} = \text{£2,353,444}$ .
- If the total of eligible awards is £1,113,765.77 then multiplying £2,764.80 by the ratio factor of approximately 2.113 would mean relief of £5,842.16 could be applied.

## **6.0 Subsidy Control**

- 6.1 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, exemption exists for subsidies under the value of approximately £2,243,000 per economic actor (broadly speaking, for example, a holding company and its subsidiaries).
- 6.2 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 Additional Relief Fund Allowance.
- 6.3 Therefore, to be eligible the ratepayer must not have received or be due to receive subsidy under Additional Relief Fund Allowance 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.
- 6.4 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.
- 6.5 Ratepayers awarded relief without having applied will be required to notify the Council if subsidy limits mean that they are ineligible for the award, or if thresholds are reached that mean the Council is required to declare the relief on the BEIS (government) transparency database that is maintained to meet obligations under Article 369 of the Trade and Cooperation Agreement (TCA).
- 6.6 Ratepayers applying for relief will need to include details of EU State Aid and subsidy received or due by or to the relevant economic actor so that eligibility can be assessed and declaration made, if appropriate.
- 6.7 A ratepayer is not eligible for CARF if the relevant economic actor has exceeded the £2,243,000 allowance, unless it can be evidenced that they:
  - (a) Intend to use the support to fund uncovered fixed costs (costs not covered by profits or 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.
- 6.8 The maximum uncovered fixed costs subsidy permitted through the COVID-19 Additional Relief Fund Further Allowance for each actor is £10 million, and CARF eligibility will be restricted accordingly.

- 6.9 Government and the Council will not tolerate any business falsifying their records or failing to provide the correct information and evidence to allow ineligibility to be identified, including where subsidy thresholds are exceeded.
- 6.10 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.

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

- 7.1 As Central Government's initiative, funding will be provided through section 31 of the Local Government Act 2003. Funding is dependent on the Council's scheme complying with guidance.
- 7.2 In order to guarantee funding, the Council will ensure that the criteria in this policy are met in full.

## **8.0 Administration of Discretionary Relief**

- 8.1 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>1</sup>

### **Applications and Evidence**

- 8.2 The Council will specify how (and if) applications are to be made and received. This may vary from time to time.
- 8.3 Where appropriate, ratepayers are required to provide such evidence 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 ratepayers claiming relief to facilitate this where necessary.
- 8.4 **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. Applications will be accepted from ratepayers only.**

### **Granting of relief**

- 8.5 In all cases, the Council will notify the ratepayer of decisions made.

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<sup>1</sup> The Non-Domestic Rating (Discretionary Relief) Regulations 1989

- 8.6 Where CARF relief is awarded, then the following will be notified in writing:
- The amount of relief granted and the date from which it has been granted;
  - That relief has been granted for a specified period, and the date it will end if this is before 31 March 2022.
  - The new chargeable amount;
  - The award is conditional on all scheme eligibility criteria remaining fulfilled and the chargeable amount on which it is based not changing;
  - A requirement that the relief recipient notify the Council if they are unable to agree that they have been adversely affected by the pandemic and have been unable to adequately adapt to that impact, or that their subsidy position needs to be considered, so that the award can be revoked or varied as appropriate; and
  - A requirement that the relief recipient should notify the Council of any change in circumstances that may affect entitlement to relief.
- 8.7 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).
- 8.8 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. Given the timing of this relief, awards will only be made for the 2021/22 financial year.

## Variation of a decision

- 8.9 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; and
  - Where the amount is to be reduced, this will apply from the date of the decrease in rate charge.
- 8.10 A decision may be revoked at any time and otherwise substituted within six months of the end of the financial year with an award to reflect a revised basis for it.

## **9.0 Scheme of Delegation**

- 9.1 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.
- 9.2 The Council's scheme of delegation allows for the Head of Resident and Business Support to award, revise or revoke any discretionary relief applications.
- 9.3 The policy for granting relief will be reviewed by the Section 151 Officer as required and in accordance with delegated authority granted to him. At such time, a revised policy will be determined, if appropriate.

## **10.0 Review**

- 10.1 Applications that are refused will, upon request, be reconsidered if additional supporting information is provided within 7 days of the refusal, and such decision will be final.
- 10.2 Once a final decision is made, further recourse will be by Judicial Review, although the Council will endeavour to explain to the ratepayer a decision fully and openly.

## **11.0 Reporting changes in circumstances**

- 11.1 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 or in any event within 21 days of the change. This will be important where the change would result in the amount of the award being reduced or cancelled e.g. where the premises becomes unoccupied or is used for a purpose other than that determined by the Council as eligible for relief.

## **12.0 Fraud**

- 12.1 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, prosecution will be considered under the Fraud Act 2006.