

**Tamworth Borough Council
Policy for the granting of Discretionary
Non-Domestic Rate Relief**

Version Control

<i>Version</i>	<i>Version date</i>	<i>Revised by</i>	<i>Description</i>
1	July 2017	LM	Policy
2	July 2017	DA	Revisions
3	July 2017	LM	Revisions
4	August 2017	DA	Sign Off
5	September 2017	LM	Revisions MB
6	January 2019	LM	Update and Revision of Policy
7	February 2019	LM	Revisions MB
8	March 2019	LM	Revisions MB
9	May 2020	LM/DA	Revision of policy to include all updates including new COVID -19 reliefs
10	March / April 2023	LM/DA	Revision of policy to include all updates including all 2023 reliefs
11	January 2024	LM/DA	Changes to all reliefs for 2024, including the Non Domestic Rating Act 2023
12	January 2025	LM/DA	Changes to all reliefs for 2025, including new legislation.

Contents

1.0	Purpose of the Policy.....	4
2.0	Mandatory Relief - Legislative Background.....	4
3.0	Discretionary Relief – Legislative Background.....	5
4.0	Effect on the Council’s Finances.....	7
5.0	Discretionary Relief – Subsidy	8
6.0	Administration of Discretionary Relief.....	8
7.0	Scheme of Delegation.....	9
8.0	Reporting changes in circumstances.....	10
9.0	Fraud	11
	Appendix A	12
	Discretionary Relief – Mandatory Relief recipients	12
	Appendix B	17
	Discretionary Relief – Non-Profit Making Organisations including Recreation.	17
	Appendix C	21
	Discretionary Relief – Localism Act 2011	21
	Appendix D	24
	Supporting Small Businesses Relief.....	24
	Appendix E.....	28
	Retail, Hospitality and Leisure Relief.....	28
	Appendix F.....	35
	Section 44a – Partly Occupied Hereditaments.....	35
	Appendix G	37
	Section 49 – Hardship Relief.....	37
	General explanation	38

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.
- 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. 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 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 new reliefs, guidance has been issued by Central Government outlining actions expected to be taken by local authorities.
- 1.4 This document outlines the following areas:
- Details of the criteria for receiving Discretionary Reliefs for all relevant areas;
 - The Council's policy for granting of all types of Discretionary Reliefs;
 - Guidance on granting and administering the reliefs and reductions;
 - Governments requirements including provisions for Subsidy; and
 - The Council's Scheme of Delegation.
- 1.5 This document covers all aspects of discretionary rate relief (subject to changes in legislation). 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 mandatory¹ and discretionary relief are given to the Council under the Local Government Finance Act 1988². 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 recently been extended under the Local Government Act 2003 (effective from 1st April 2004) to registered Community Amateur Sports Clubs (CASCs).

¹ S43 & S45 Local Government Finance Act 1988

² S47 & S48 Local Government Finance Act 1988

- 2.2 The Council has discretion to grant relief of up to a further 20% for these cases under the discretionary provisions.

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 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 may be obliged to make a written application to the Council.
- 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 of the Council's area. There is no statutory appeal process against any decision made by the Council although as with any decision of a public authority, decisions can be reviewed by Judicial Review.
- 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 of recreation;
 - (c) Discretionary Relief - Granted under the Localism Act 2011 provisions;
 - (d) Supporting Small Businesses Relief (from 1st April 2023);
 - (e) Retail, Hospitality and Leisure Relief (from 1st April 2025);
 - (f) S44a Part Occupied Premises Relief; and
 - (g) S49 Hardship Relief.
- 3.7 The decision to grant or not to grant relief is a matter purely for the Council.

The Council's approach to granting Discretionary Relief

- 3.8 In deciding which organisations should receive discretionary Rate relief, the Council has taken into account the following factors and priorities:
- (a) The policy 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;
 - (b) Help and encourage business, charities, organisations, groups, and communities to become self-reliant;
 - (c) Awarding discretionary relief should not distort competition or significantly change the provision of services within Tamworth;
 - (d) Every business/ organisation should contribute something towards the provision of local services;
 - (e) The Council will consider whether the applicant organisation is receiving any form of financial assistance from the Council, other organisations, private companies, or commercial suppliers. Annual turnover, value of assets or unallocated reserves. Where an organisation has unallocated reserves greater in value than 12 months running costs, the organisation will be required to demonstrate the reasons for holding those reserves.
 - (f) Local organisations will be given priority over national organisations. The organisation will need to supply the Council with clear evidence of the amounts of monies raised and used / invested locally within Tamworth. This will be particularly important where the organisation is national in nature.
 - (g) To support appropriate organisations that deliver outcomes to the community which relate to the priorities of the Council. In particular, how the work of the organisation furthers the work of the Council to provide tangible benefits to the community;
 - (h) The Council will not normally provide relief where it already provides core funding or receives services under a contract arrangement; and
 - (i) 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 and in respect of the cost to local taxpayers.
- 3.9 Discretionary relief shall not be granted to any organisation that has a political affiliation.
- 3.10 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 Discretionary Rate Relief for that amount.

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 1st 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, the costs of the relief will be borne in accordance with the Business Rates Retention Scheme shown above. 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:

Appendix	Relief Type	Granted after 1st April 2025
	Charity Relief	
A	Discretionary relief granted to Mandatory Relief recipients.	40% borne by the Council
B	Non-profit Making Organisations including Sports Clubs and societies.	40% borne by the Council
	Localism	
C	Discretionary Relief granted to ratepayers generally and not covered by any other section	40% borne by the Council
	Supporting Small Business Relief	
D	Supporting Small Businesses Relief (from 1 April 2023 for a period of up to three years if conditions are met.	Section 31 Grant
	Retail, Hospitality and Leisure Relief	
E	Retail, Hospitality and Leisure Relief Scheme (from 1 April 2025 for a period of one year).	Section 31
	S44a Part Occupied Relief	
F	Discretionary relief where premises are part occupied and part unoccupied for a short term	40% borne by the Council
	S49 Hardship Relief	

Appendix	Relief Type	Granted after 1st April 2025
G	Granting relief where the ratepayer is suffering hardship	40% borne by the Council

5.0 Discretionary Relief - Subsidy

- 5.1 Discretionary relief is potentially subject to the Subsidy Control Act 2022. The purpose of the Subsidy Control Act 2022 is to implement a domestic subsidy control regime in the United Kingdom that reflects the UK's strategic interests and particular national circumstances, providing a legal framework within which public authorities make subsidy decisions.
- 5.2 To the extent that the Council is seeking to provide relief that falls below the Minimal Financial Assistance (MFA) thresholds, the Subsidy Control Act 2022 allows an economic actor (e.g., a holding company and its subsidiaries) to receive up to £315,000 in a three-year period (consisting of the 2023/24 year and the two previous financial years).
- 5.3 In those cases where it is clear to the Council that the ratepayer is likely to breach the MFA limit then the Council will withhold relief. Otherwise, the Council may include the relief in bills and ask the ratepayers, on a self-assessment basis, to inform the Council if they are in breach of the MFA limit.
- 5.4 MFA subsidies above £100,000 are subject to transparency requirements. This is not cumulated per beneficiary but applies per subsidy award. This means that for every individual subsidy provided of more than £100,000, the Council will include details of the subsidy on the subsidy control database.

6.0 Administration of Discretionary Relief

- 6.1 The following section outlines the procedures followed by officers in granting, amending, or cancelling discretionary relief and reduction.

Applications and Evidence

- 6.2 All reliefs (which are not Central Government funded) must be applied for. All reliefs may be requested by the ratepayer. Application forms are produced within the Council and issued to all ratepayers requesting the relief. The Council will specify how applications are to be received and this may vary from time to time. In certain cases, relief may be granted without the need for an application form under s47 Local government Finance Act 1988, as agreed with either the Executive Director Finance or the Head of Revenues and Benefits.

- 6.3 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. Normally 2 years audited accounts will usually be required to support any application.
- 6.4 Applications should initially be made to the Revenues Team and will be determined in accordance this policy.

Granting of relief

- 6.5 In all cases, the Council will notify the ratepayer of decisions made.
- 6.6 Where an application is successful, the ratepayer will be notified. Where relief is not granted, then the following information is provided;
- An explanation of the decision within the context of the Council's statutory duty; and
 - An explanation of the appeal rights (see below).
- 6.7 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. Where the relief is fully Government funded, relief will be granted as long as the ratepayer is eligible.
- 6.8 A fresh application for discretionary relief may be necessary for each financial year **or** at such time-period as the Council determines.

Variation of a decision

- 6.9 Variations in any decision will be notified to ratepayers as soon as practicable and will take effect on a date determined by the Council.
- 6.10 A decision may be revoked at any time by the Council.

7.0 Scheme of Delegation

Granting, Varying, Reviewing and Revocation of Relief

- 7.1 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.

- 7.2 The Council's scheme of delegation allows for the Head of Revenues and Benefits 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 S151 Officer of the Council prior to final determination.
- 7.3 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

- 7.4 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

- 7.5 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 Head of Revenues and Benefits. Where a decision is revised then the ratepayer shall be informed. If the original decision is upheld the case will be considered by the S151 Officer.

8.0 Reporting changes in circumstances

- 8.1 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 and, in any event, not more than 21 days from the happening of the event. 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.
- 8.2 Where a change of circumstances is reported, the relief will, if appropriate be revised or cancelled. Where any award is to be reduced, the Council will look to recover the amount from the date the change of circumstances occurred.

9.0 Fraud

- 9.1 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 1st April 2004) to include registered³ 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 institution⁴ 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 litigation⁵, 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.

³ Registered with HMRC as a CASC

⁴ S67(10) Local Government Finance Act 1988

⁵ Income Tax Special Commissioners v Pemsell (1891)

A.6 The Council would 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. It will be an essential part of the process of the application for the Council to inspect any premises fully.

A.8 Guidance from the Department of Communities and Local Government (now the Ministry of Housing Communities and Local Government) 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 could be equally considered for discretionary rate relief.

Offices, administration, and similar premises

A.10 Premises used for administration of the Charity including:

- Offices
- Meeting Rooms
- 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.

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

- A.13 The Council will consider applications for a discretionary rate relief top up from charities based on their own merits, on a case-by-case basis.
- A.14 In determining the application, the following matters will be taken in to consideration:
1. How the charity supports and links into the Council's corporate vision and priorities;
 2. The purpose of the charity and the specific activity carried out within the premises for which the relief is requested;
 3. Where the organisation has a bar - the mere existence of a bar or retail outlet will not in itself be a reason for not granting relief, but the main purpose of the organisation will be examined and its ability to trade will be a consideration in determining any award granted; and
 4. Whether the charity operates at a local or national level and where appropriate, the local and national funding streams and financial position of the charity;
- A.15 The Council is keen to support businesses that have a critical role to play in the local economy and the achievement of the Council's Economic Strategy.
- A.16 In the case of registered Community Amateur Sports Clubs, the key criteria in determining the application will be:
1. The ratepayer occupies the whole hereditament;
 2. Relief cannot be granted in respect of premises that are occupied by the Council or any Town and Parish Council, although the latter could be a minority tenant of such premises;
 3. How the CASC supports and links into the Council's corporate vision and priorities;
 4. The membership and fee structure and whether the CASC is accessible to all residents, including whether there are concessions for certain groups, for example people on a low income or young people under 18;
 5. Membership numbers and the number and percentage of these members that are Tamworth residents;
 6. If the CASC has due regard to equality issues and if it actively encourages members from under-represented groups, for example black and minority ethnic residents, people over 50 and people with disabilities;
 7. Whether facilities are available to the wider community regardless of ability. We will also require additional financial information including; and
 8. If the CASC runs a bar or food provision, the level of income from this activity and how this money is used; and whether the CASC operates at a local or national level and where appropriate, the local and national funding streams and financial position of the CASC.
- A.17 Organisations already in receipt of mandatory relief such as;

- Charity Offices
- Community Centres, Village Halls
- Cultural Organisations
- General Welfare Groups
- Scouts, Guides, Youth Clubs,

currently receive an additional 20% discretionary relief (currently Classified by the Council as Group A recipients)⁶

- A.18 Any Community Amateur Sports Clubs (CASC) that apply are currently granted either 5% or 10% discretionary relief (currently Classified by the Council as Group B (i) recipients).
- A.19 Charity shops or educational establishments that receive mandatory relief, currently receive no additional assistance through the discretionary relief scheme (currently Classified by the Council as Group C recipients)
- A.20 A decision to award discretionary relief and how much relief is given is only applicable to the financial year for which the application is made.

⁶ Discretionary rate relief application and guidelines for qualifying organisations 2011 onwards – Cabinet 16th March 2011.

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 legislation⁷ 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.⁸

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% mandatory 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

⁷ S47 Local Government Finance Act 1988

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.

Definition of Recreation

- B.7 Recreation is clearly defined by the Sports Council as any in the following document;
<https://www.sportengland.org/media/10266/uk-recognised-ngbs-and-sport-list-april-2016.pdf>

Access to clubs

- B.8 Guidance issued by the DCLG (now the MHCLG) 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 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, LGBT groups' 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 Applications will be considered from non-profit making organisations, which can demonstrate the following:
- (a) That the activities of the organisation are consistent with the Council's core values and priorities;
 - (b) That they are non-profit making associations, groups, clubs which are accessible to all potential users, possess a representative management group and are clearly accountable to users, beneficiaries and members (e.g., evidence of constitution, GM, membership and/or participation are required);
 - (c) That the membership comprises mainly residents of Tamworth or that activities are of direct benefit to residents of Tamworth;
- B.16 When making decisions on the applicability of awarding discretionary rate relief the Council takes into consideration the ability of the applicant to:
- generate funds from its activities (e.g., bar trading); and
 - utilise its current assets to obtain funds/funding.
- B.17 Currently these organisations fall within Group B (ii) of the Council's policy and receive either 25% or 50% depending on individual circumstances. A decision to award discretionary relief and how much relief is given is only applicable to the financial year for which the application is made.
- B.18 In view of the changes in legislation from 1st April 2025 which removes certain private schools from receiving mandatory relief, the Council has decided that those establishments will **not** be granted any discretionary relief.
- B.19 For the purposes of this change the definition of 'Private School' is an educational establishment that provides compulsory full time education where a fee or other consideration is payable.

Appendix C

Discretionary Relief - Localism Act 2011

Discretionary Relief – Localism Act 2011

General explanation

- C.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 Tax payers of its area.
- C.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 Tax payers.

Discretionary Relief – Localism – the Council’s Policy

- C.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.
- C.4 Details of any other business owned by the ratepayer will be considered. This will indicate if the owner could rely on the income of another branch of business. It will also indicate if the profits of one business could be invested in the applicant business to aid survival.
- C.5 Any ratepayer applying for discretionary rate relief under these provisions and who does not meet the criteria for existing relief (charities or non-profit making organisations) 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 Relief);
 - (b) The ratepayer **must not** be an organisation that could receive relief as a non-profit making organisation or as a sports club or similar;
 - (c) The ratepayer **must** occupy the premises (no discretionary rate relief will be granted for unoccupied premises);
 - (d) The premises and organisation **must** be of *significant* benefit to residents of Tamworth;
 - (e) The premises and organisation **must not** be in receipt of a Central Government fully funded discretionary relief scheme;
 - (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 Tamworth; **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; **and**
- (i) The ratepayer **must** show that the activities of the organisation are consistent with the Council's core values and priorities.

- C.6 Where a ratepayer can demonstrate that **all** the above criteria are met, relief will be considered for initially a short period.
- C.7 In view of the changes in legislation from 1st April 2025 which removes certain private schools from receiving mandatory relief , the Council has decided that those establishments will **not** be granted any discretionary relief.
- C.8 For the purposes of this change the definition of 'Private School' is an educational establishment that provides compulsory full time education where a fee or other consideration is payable.

Appendix D

Supporting Small Businesses Relief

General Explanation

- D.1 For the financial years 2023/24 to 2025/26, the Government will, in line with the eligibility criteria set out below, reimburse the Council if it uses its discretionary relief powers under section 47 of the Local Government Finance Act 1988 (as amended), to grant 2023 Supporting Small Business relief.
- D.2 It will be for the Council, which administers the 2023 Supporting Small Business (2023 SSB) relief, to adopt a local scheme and determine in each individual case when, having regard to this guidance, to grant relief under section 47.
- D.3 Central government will reimburse the Council and major precepting authorities for the actual cost to them under the rates retention scheme of the 2023 Supporting Small Business relief that falls within the definitions in this policy.

Who is eligible for the 2023 Supporting Small Business Relief (2023 SSB) and how much relief will be available?

- D.4 2023 SSBR 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, Rural Rate Relief or 2017 SSBR and, as a result, are facing large increases in their bills.
- D.5 Charities and Community Amateur Sports Clubs, who are already entitled to mandatory 80% relief, are not eligible for 2023 SSBR.
- D.6 To support these ratepayers, 2023 SSBR will ensure that the increase in the bills of these ratepayers is limited to a cash value of £600 per year. This cash maximum increase ensures that ratepayers do not face large bill increases in 2023/24 after transitional relief and small business rate relief (as applicable) have been applied. In order to simplify the scheme, the 2023 SSBR will not include minimum percentage bill increases (unlike the 2017 scheme).
- D.7 Those on 2023 SSBR whose 2023 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 2023 SSBR.
- D.8 The 2017 SSBR scheme was provided to support small and medium ratepayers who had seen large increases in their bills at the 2017 revaluation. They have, therefore, had 6 years of support to allow them to adjust to their full 2017 bills. Therefore, for those ratepayers receiving 2017 SSB relief in 2022/23, any eligibility for 2023 SSBR will end on 31 March 2024.

- D.9 The Council will ensure this eligibility criteria is clear in the scheme approved and that relief for these ratepayers is awarded for one year only so that the relief can then be withdrawn on 31 March 2024 without further notice.
- D.10 A change of ratepayers will not affect eligibility for the Supporting Small Business scheme but eligibility will be lost if the property falls vacant or becomes occupied by a charity or Community Amateur Sports Club.
- D.11 There is no second property test for eligibility for the 2023 SSBR scheme. However, those ratepayers who during 2022/23 lost entitlement to Small Business Rate Relief (because they failed the second property test) but have, under the rules for Small Business Rate Relief, been given a 12 month period of grace before their relief ended - can continue on the 2023 SSBR scheme for the remainder of their 12 month period of grace.

Sequence of reliefs

- D.12 Hereditaments eligible for charity or Community Amateur Sports Club relief or hereditaments which are unoccupied are not eligible for 2023 SSBR. For the avoidance of doubt, small business rate relief or rural rate relief will not be applied to further reduce the bill found under 2023 SSBR (to avoid the double counting of relief).
- D.13 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 2023 SSBR.
- D.14 All other discretionary reliefs, including those funded by section 31 grants, will be considered after the application of 2023 SSBR.

Subsidy control

- D.15 The 2023 SSBR is likely to amount to a subsidy. Therefore, any relief provided by the Council under this scheme will need to comply with the UK's domestic and international subsidy control obligations.
- D.16 To the extent that the Council is seeking to provide relief that falls below the Minimal Financial Assistance (MFA) thresholds, the Subsidy Control Act allows an economic actor (e.g., a holding company and its subsidiaries) to receive up to £315,000 in a three-year period (consisting of the 2025/26 year and the two previous financial years).
- D.17 In those cases where it is clear to the Council that the ratepayer is likely to breach the MFA limit then the Council will withhold the relief. Otherwise, the Council may include the relief in bills

and ask the ratepayers, on a self-assessment basis, to inform the Council if they are in breach of the MFA limit.

- D.18 MFA subsidies above £100,000 are subject to transparency requirements. This is not cumulated per beneficiary but applies per subsidy award. This means that for every individual subsidy provided of more than £100,000, the Council will include details of the subsidy on the subsidy control database.

Recalculations of reliefs

- D.19 As with other reliefs, the amount of SSBR 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.
- D.20 Therefore, when making an award for SSBR, the Council will ensure the conditions of the award that the relief are subject to the property's continuing eligibility. If the use of the property changes so that it is no longer eligible, the relevant chargeable amount must be recalculated to reflect that fact.
- D.21 The Council will also ensure that the scheme provides that eligibility for those ratepayers previously in the 2017 SSBR scheme in 2022/23 are eligible for one year of relief only and that the relief will then be withdrawn from those ratepayers on 31 March 2024 without further notice.

Supporting Small Businesses Relief - the Council's policy for granting discretionary relief.

- D.22 The Council has decided to grant relief strictly in accordance with Central Government guidelines.

Appendix E

Retail, Hospitality and Leisure Relief

General Explanation

- E.1 The 2025/26 Retail, Hospitality and Leisure Business Rates Relief scheme will provide eligible, occupied, retail, hospitality, and leisure properties with a 40% relief, up to a cash cap limit of £110,000 per business.

How will the relief be provided?

- E.2 As this is a temporary measure for 2025/26, Government is not changing the legislation relating to the reliefs available to properties. Instead, 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 (as amended) to grant relief. It will be for the Council to adopt a local scheme and determine in each individual case when, having regard to this guidance, to grant relief under section 47.
- E.3 Government will fully reimburse the Council and major precepting authorities for their loss of income under the rates retention scheme as a result of awarding the relief that falls within the definitions in this guidance, using a grant under section 31 of the Local Government Act 2003.
- E.4 The government expects the Council to apply and grant relief to qualifying ratepayers from the start of the 2025/26 billing year.

Which properties will benefit from relief?

- E.5 Hereditaments which benefit from the relief will be those which for a chargeable day in 2025/26:
- meet the eligibility criteria; and
 - 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 2025. The ratepayer cannot subsequently withdraw their refusal for either all or part of the financial year.

- E.6 The Council has decided that, for the purposes of section 47 of the 1988 Act, hereditaments where the ratepayer has refused the relief are outside of the scheme and outside of the scope of the decision of which hereditaments qualify for the discount and are therefore ineligible for the relief.
- E.7 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 or precepting authorities.

How much relief will be available?

- E.8 Subject to the £110,000 cash cap per business, the total amount of government-funded relief available for each property for 2023/24 under this scheme is for chargeable days from 1 April 2025 to 31 March 2025, 40% of the chargeable amount.
- E.9 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 its wider discretionary relief powers introduced by the Localism Act 2011, which are not funded by section 31 grants. However, the former categories of discretionary relief available prior to the Localism Act 2011 (i.e., charitable relief etc.) will be applied first in the sequence of discretionary reliefs and, therefore, before Retail, Hospitality and Leisure relief. Authorities may use their discretionary powers to, at cost to themselves, offer further discounts outside this scheme or additional relief to hereditaments within the scheme. However, where the Council applies a locally funded relief under section 47, this will be applied after the Retail, Hospitality and Leisure relief.
- E.10 The ordering **will** be applied in following sequence:
- Transitional Relief
 - Mandatory Reliefs (as determined in legislation)
 - S.47 Discretionary Relief in the following order:
 - (i) 2023 Supporting Small Business (SSB);
 - (ii) Former categories of discretionary relief available prior to the Localism Act 2011 (i.e., charitable, CASC, rural top up, and not for profit) will be applied first in the sequence of discretionary reliefs, after SSB;
 - (iii) Other discretionary (centrally funded);
 - (iv) 2025/26 Retail Hospitality and Leisure relief scheme; and
 - (v) Other locally funded schemes (such as section 49 hardship).
- E.11 Subject to the cash cap, the eligibility for the discount and the relief itself will be assessed and calculated on a daily basis. The following formula will be used to determine the amount of relief to be granted for a chargeable day for a particular hereditament in the financial year 2025/26;:
- Amount of relief to be granted = $V \times 0.40$ 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 in line with the above.
- E.12 This will be calculated ignoring any prior year adjustments in liabilities which fall to be liable on the day.
- E.13 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

- E.14 Under the cash cap, no ratepayer can in any circumstances exceed the £110,000 cash cap across all of their hereditaments in England.
- E.15 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.
- E.16 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.
- E.17 To the extent that the Council is seeking to provide relief that falls below the Minimal Financial Assistance (MFA) thresholds, the Subsidy Control Act allows an economic actor (e.g., a holding company and its subsidiaries) to receive up to £315,000 in a 3-year period (consisting of the 2023/24 year and the 2 previous financial years)..
- E.18 In those cases, where it is clear to the Council that the ratepayer is likely to breach the cash cap or the MFA limit, then the Council will automatically withhold the relief.
- E.19 MFA subsidies above £100,000 are subject to transparency requirements. This is not cumulated per beneficiary but applies per subsidy award. This means that for every individual subsidy provided of more than £100,000, the Council will include details of the subsidy on the subsidy control database.

Splits, mergers, and changes to existing hereditaments

- E.20 The relief will be applied on a day-to-day basis using the formula set out above. A new hereditament created as a result of a split or merger during the financial year, or where there is a change of use, will be considered afresh for the relief on that day.

Recalculations of relief

E.21 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

E.22 The Council uses the following definitions to establish eligibility for the relief:

Hereditaments that meet the eligibility for Retail, Hospitality and Leisure scheme will be occupied hereditaments which meet all of the following conditions for the chargeable day:

- 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

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
- 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
- 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
- Bar

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) 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.

vi. 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
- Casinos, gambling clubs and bingo halls

vii. Hereditaments that are being used for the assembly of visiting members of the public.

- Public halls
- Clubhouses, clubs, and institutions

viii. 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
- Caravan parks and sites

E.23 To qualify for the relief the hereditament should be wholly or mainly being used for the above qualifying purposes. In a similar way to other reliefs (such as charity relief), 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.

E.24 The list set out above is not intended to be exhaustive as it would be impossible to list the many and varied uses that exist within the qualifying purposes.

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

E.25 The list below sets out the types of uses that the government does not consider to be an eligible use for the purpose of this discount. Again, it is for the Council to determine for themselves whether particular properties are broadly similar in nature to those below and, if so, to consider them **not** eligible for the discount under their local scheme:

- 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.

Retail Hospitality and Leisure Relief - the Council's policy for granting discretionary relief.

E.26 The Council has decided to grant relief strictly in accordance with Central Government guidelines.

Appendix F

Section 44a - Partly Occupied Hereditaments

Section 44a - Partly Occupied Hereditaments

General explanation

- F.1 A ratepayer is liable for the full non-domestic rate whether a property is wholly occupied or only partly occupied. Where a property is partly occupied for a **short term**, the local authority has discretion in certain cases to award relief in respect of the unoccupied part.

How will the relief be provided?

- F.2 The Council will consider written (including email) applications. The ratepayer will need to provide the following:
- a. A detailed plan of the premises clearly identifying the occupied and unoccupied areas;
 - b. Access to the premises so that they can be inspected fully by the Council's representative;
 - c. Details of how long the premises are likely to be temporarily unoccupied;
 - d. Details of any future plans to occupy the premises; and
 - e. Full contact details of the ratepayer and any agent they have representing them.

Section 44a Partly Occupied Hereditaments - the Council's Policy

- F.3 The Council will also consider applications for S44a from all ratepayers, whose premises meet the criteria. Each case will be considered on its own merits on a case-by-case basis. The Head of Revenues and Benefits will consider applications.
- F.4 In determining the application the following matters will be taken in to consideration:
- a. Whether the premises will be unoccupied for a short term;
 - b. The reasons for the temporary un-occupation;
 - c. Whether it would be more appropriate for the ratepayer to apply to the Valuation Officer Agency to have the premises reassessed; and
 - d. Whether it is reasonable to grant the relief;
- F.5 The Council will grant any relief based on the Valuation Office Agency's certificate (as required by the legislation). The Head of Revenues and Benefits will determine the period of any relief and it will be for a short term only. **It should be noted that applications will not be considered for retrospective periods after which full occupation has taken place.**

Appendix G

Section 49 - Hardship Relief

Section 49 – Hardship Relief

General explanation

G.1 The Council is able to exercise its discretion under Section 49 of the Local Government Finance Act 1998 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

G.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 Head of Revenues and Benefits will consider applications.

G.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;
- Cash flow forecast for a minimum of the next twelve months must be provided together with a comprehensive Business Plan incorporating a brief history of the business;
- 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;
- Details of any grants or subsidies either from central or local government over the previous three years;
- 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;
- Applications will only be considered where signed by the ratepayer, or, where an

organisation is the ratepayer, an appropriately authorised representative of the organisation; and

- The ratepayer will provide additional information as deemed necessary by the Council to be essential in order for a fair evaluation of the application.