

# **DISCRETIONARY RATE RELIEF POLICY AREAS OF LOCAL DISCRETION 01.04.19**

April 2019

## Document Control

<b>Organisation</b>	Copeland Borough Council
<b>Title</b>	Business Rates Discretionary Rate Relief Policy – Areas of Local Discretion
<b>Version</b>	V2
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<b>Filename</b>	NDR DRR Local Discretion
<b>Owner</b>	Julie Betteridge
<b>Subject</b>	Business Rates Reliefs
<b>Protective Marking</b>	
<b>Review Date</b>	April 2020

### Revision History

Version Reviewed	Date Reviewed	Reviewed By	Description of Revision

### Document Approval

Version	Approved By	Date
	Human Resources	
	Corporate Leadership Team	
	Trade Union Consultation	
	Executive	
	Full Council	

### Document Distribution

This policy is to be distributed to all staff and elected members of Copeland Borough Council and placed on the Council’s Intranet Site. A copy must also be provided to contractors and 3<sup>rd</sup> parties undertaking work on Copeland Borough Council premises.

### Contributors

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Discretionary Rate Relief – Areas of Local Discretion

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## 1. Purpose

- 1.1 This policy document outlines the areas of local discretion, regarding relief from Business Rates, and the Councils approach to the various reliefs available.
- 1.2 This approach considers the impact on both the Councils wider financial position and Council Tax payers, as well as the organisations and businesses that may apply for discounts, and their roles in supporting the residents of the borough.
- 1.3 Where there is potential for multiple reliefs to be claimed, the Council will award relief in a way that minimises costs to Copeland residents.

## 2. Policy Benefits

- 2.1 Copeland Borough Council recognises that the voluntary and community sectors contribute effectively to the economy, health and well-being of the people who live in the area.
- 2.2 Under the amended provisions of the Local Government Finance Act 1988, the Authority is able to grant Discretionary Rate Relief (DRR) to any business ratepayer. This relief had previously only been available to organisations that were a charity, a community amateur sports club or a not-for-profit organisation.
- 2.2 This policy takes into account the original intention of the legislation, which was to support charities and non-profit making organisations in their work, which also helps to support the Council in meeting its corporate objectives.

## 3. Scope

- 3.1 The scope of this policy covers the principal areas of discretionary relief available to ratepayers within Copeland.

## 4. Definitions

### 4.1 Discretionary Rate Relief

The Local Government Finance Act 1988 requires the Council to maintain a Discretionary Relief Scheme and to award business rates relief of up to 100% to certain organisations who operate within specified criteria.

### 4.2 Discretionary Relief Top-up

For ratepayers who receive Mandatory Relief, which is 80% relief, the Council has discretion to top this relief up to 100% for Charitable Bodies and Community Amateur Sports Clubs (CASC's).

#### 4.3 Mandatory Relief

80% relief is granted to charities, where the ratepayer of a property is a charity or a trustee of a charity, and the property is wholly and mainly used for charitable purposes.

#### 4.4 Non-Profit Making Organisations

The Council has discretion to grant 'standard' discretionary relief of between 0-100% of the business rates due.

#### 4.5 Hereditament

Business Premises

## 5. Introduction

5.1 As part of its role in the administration of National Non-Domestic Rates (NNDR), commonly referred to as Business Rates, Copeland Borough Council has several areas where it can exercise its discretion to provide reductions to the amounts of business rates that are due to be paid.

5.2 From 1<sup>st</sup> April 2013, the Authority is responsible for funding 40% of any award of mandatory or discretionary rate relief granted, with Cumbria County Council funding 10% and the Government meeting the remaining 50%.

5.3 In addition, the Council also operates a number of schemes, which are funded by Government, and they are summarised at 7.3 below.

5.4 The Councils approach to discounts announced in the Autumn Statement 2016 and the Spring Budget of 2017 are excluded from this document and are covered by a separate policy document – **Copeland Borough Council, Discretionary Discount Scheme 1.4.17 – 31.3.2021.**

5.4 The principal consideration when making an award is that any relief granted is in the best interests of the residents and taxpayers of Copeland and produces a local benefit.

## 6. Roles and Responsibilities

6.1 Copeland Borough Council will consider awarding reliefs from business rates under the following circumstances:

## 7. Details

### 7.0 Discretionary Rate Relief

7.1 The Local Government Finance Act 1988 requires the Council to maintain a Discretionary Relief Scheme to award Business Rates Relief of up to 100% to certain organisations who operate within specified criteria.

7.2 This includes:

- Charitable Bodies (who receive 80% Mandatory Relief) the Council has further discretion to 'top-up' this relief to 100% of the rates due.
- Registered Community Amateur Sports Clubs (CASC's) (who receive 80% Mandatory Relief). The Council has further discretion to 'top-up' this relief to 100% of the rates due.
- Non-profit making organisations. The Council has discretion to grant 'standard' discretionary relief of between 0 and 100% of the business rates due.
- Hardship Relief. Section 49 of the Local Government Finance Act 1988, allows the Council to exercise its discretion to provide either partial or full relief from Non-Domestic Rates in cases of hardship, where it would be reasonable to do so having due regard to the interests of council tax payers.
- Part Occupation Relief. Section 44(a) of the Local Government Finance Act 1988, allows the Council to exercise its discretion to grant relief on business premises that are partly occupied, as long as the situation is for a short time.

7.3 There are also a number of schemes administered by the Council, where any relief granted is wholly funded by central government subject to specific criteria. The Council will use its discretionary powers under Section 47 of the LGFA 1988, as amended, to grant relief. Central government will fully reimburse the Council using a grant under Section 31 of the Local Government Act 2003.

7.4 Most of these reliefs are covered in a separate policy document - **Copeland Borough Council, Discretionary Discount Scheme 1.4.17 – 31.3.2021**. However, for completeness a summary is detailed below:

- Supporting Small Business Relief Scheme. For ratepayers who lost some or all of their small business rate relief as a result of a rateable value increase following the 2017 Revaluation. This scheme is available for 4 years from 1.4.2017.
- Revaluation Relief Scheme. The government provided a £300m discretionary fund over 4 years from 1.4.2017 to support businesses that experienced a rateable value increase following the 2017 revaluation. Copeland Borough Council designed its own local scheme, which supported local businesses and the details of this scheme are covered in the separate policy document detailed above.
- Relief for Local Newspapers. The Council has discretion to award relief of £1,500 towards office space occupied by local newspapers, up to a maximum of one discount per local newspaper title and per hereditament, and up to state aid limits for two years from 1.04.2017.

- 100% business rates relief for new full-fibre infrastructure for a 5 year period from 1.4.2017. This is designed to increase the roll out to more homes and businesses.
- 100% business rates relief for all standalone public toilets from 1<sup>st</sup> April 2019.
- Business Rates Retail Scheme for 2019/20 and 2020/2021. For occupied hereditaments with a rateable value of less than 51,000RV, that are wholly and mainly being used as retail establishments.

## 8.0 Mandatory Relief

8.1 Mandatory Relief of 80% is granted to charities in the following circumstances. Where the:

- ratepayer of a property is a charity or the trustees of a charity; and
- the property is wholly and mainly used for charitable purposes (including charity shops, where the goods sold are mainly donated and the proceeds are used for the purpose of the charity).

8.2 There is no discretion in the award of Mandatory Relief, however the Council must be satisfied that the statutory criteria has been met. For this purpose the Council will use the guidance as set out in the Local Government Finance Act 1988, and by reference to other enactments and case law.

8.3 Registration under the Charities Act 1993 is conclusive evidence of charitable status and the Council will verify this with the Charity Commission for all applications. Absence from the register does not mean that an organisation is not established for charitable purposes, as certain organisations are exempt from registration. The Council will require additional evidence which confirms the exemption to support any application under these circumstances.

8.4 The Council takes rate-avoidance seriously, and in cases where charitable bodies claim to be operating from a hereditament and the Council is unable to confirm rateable occupation, we will require further evidence to confirm occupation.

8.5 Where a charity is in receipt of 80% Mandatory Relief, the Council does have discretion to top-up this relief by granting up to 20% rate relief. The Council will consider applications for this top-up from charities based on their own merits, on a case by case basis. The principle consideration is that the relief is in the best interests of the residents and taxpayers of Copeland and produces a local benefit as the Council must contribute to the cost of each award. As such, top-up will only be awarded to the following type of registered charities:

- Scouts, guides, cadets and other clubs for young people;
- Community schemes providing support for those over the age of retirement;
- Organisations providing support in the form of advice, training for employment and counselling;

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- Organisations that provide services that address the consequences of ill-health and disability;
  - Charitable sports clubs;
  - Locally based leisure and cultural organisations;
  - Armed forces veteran associations;
  - Locally based charities;
  - Locally based charity shops.
- 8.6 Application forms can be obtained by contacting the Revenues Team (01946 598300) and selecting the option for business rates.
- 8.7 Applications for Discretionary Relief ‘top-up’ must be supported by, and include:
- The organisation’s main purpose and objectives, as set out in, for example, a written constitution, a memorandum of association, or membership rules;
  - A full set of audited accounts relating to the two years preceding the date of application. If unavailable, projected figures should be provided;
  - Details of how the organisation meets the criteria set out in this policy.
- 8.8 In determining the application, the following matters will be taken into consideration:
- how the organisation supports Copeland Borough Council in meeting its corporate objectives:  
  
‘Making Copeland a better place to live, work and visit, underpinning 3 core values – working with partners, being cost effective and treating everyone equally, fairly and with respect’
  - the purpose of the charity and the specific activity carried out within the building for which the relief is requested;
  - 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.
- 8.9 Registered Social Landlords, universities, further education establishments and independent schools are excluded from receiving discretionary rate relief.
- 8.10 If an organisation in receipt of Discretionary Rate Relief top-up ceases to meet the criteria outlined in this policy, it will cease to receive relief.
- 8.11 If the Council is required to alter the amount of relief awarded it will provide organisations with twelve months written notice.
- 8.12 The Council delegates the decision making power for Discretionary Rate Relief awards to an initial recommendation made by the Revenues Team Leader, followed by authorisation which is provided by the Section 151 Officer.
- 8.13 Applicants will be informed in writing of the outcome as soon as possible.

- 8.14 The granting of relief will be reviewed annually and those in receipt of relief may be asked to supply or confirm relevant information for the purpose of the review.
- 8.15 The Council recognises that there will be occasions when the applicant body does not appear to satisfy the criteria generally applied but where the Council may choose to award the relief. The Council has the ability to depart from its general policy if it sees fit to do so, taking into account the facts of each case and the interests of residents and Council Taxpayers.

## 9.0 Registered Community Amateur Sports Clubs (CASC's)

- 9.1 Mandatory Relief of 80% is granted to registered community amateur sports clubs (CASC's). To qualify as a CASC, a sports club must fulfil all of the following criteria:
- it must be open to the whole community;
  - run as an amateur club
  - be a non-profit making organisation; and
  - aim to provide facilities for, and encourage people to take part in, eligible sport.
- 9.2 In cases where a CASC is in receipt of Mandatory Rate Relief of 80%, the Council has discretion to grant up to 20% additional rate relief as a 'top-up'.
- 9.3 The Council will consider applications for Discretionary Rate Relief Top-up from CASC's based on their own merits. The principal consideration is that any relief is in the best interests of the residents and taxpayers of Copeland and produces a local benefit, as the Council must contribute to the cost of each award.
- 9.4 Application forms can be obtained by contacting the Revenues Team (01946 598300) and selecting the option for business rates.
- 9.5 Applications for relief must be supported by, and include:
- The organisation's main purpose and objectives, as set out in, for example, a written constitution, a memorandum of association, or membership rules;
  - A full set of audited accounts relating to the two years preceding the date of application. If unavailable, projected figures should be provided;
  - Details of how the organisation meets the criteria set out in this policy.
- 9.6 In determining the application, the following matters will be taken into consideration:
- how the organisation supports Copeland Borough Council in meeting its corporate objectives:  
  
'Making Copeland a better place to live, work and visit, underpinning 3 core values – working with partners, being cost effective and treating everyone equally, fairly and with respect'

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- A club should have an open access policy. If the club discriminates by only accepting certain types of members, rather than seeking to promote the development of sport, then it does not fulfil the requirements.
  - The extent to which the facilities provided reduce the demand for Council services or produce savings to the Council.
  - Membership must be open to everyone, regardless of race, ethnic origin, sex, marital or parental status, sexual orientation, disability, age, religious affiliation or political belief.
  - If the organisation applying for relief requires membership or an entry fee, the Council will consider whether:
    - a) The subscription fee is set at a level which is not prohibitively high and considered affordable by most sections of the community
    - b) Whether fee reductions are offered to certain groups such as, for example, over 65's or youths.
    - c) Membership is encouraged from groups who face social barriers, such as, for example, young people not in employment, education or training, people above working age or people with a disability.
    - d) Facilities are made available to people other than members
  - Sports clubs which run a bar are unlikely to be awarded relief if their main purpose is the sale of food and drink. If the sale of food and drink aids the overall operation and development of the organisation, this would be permissible as long as the objectives of the organisation meet the eligibility criteria as defined in this policy. If the bar makes a profit, the Council would want to see that this profit is being reinvested to support the organisation in achieving its objectives. Financial information will be required to evidence any profit and its use.
- 9.7 The Council delegates the decision making power for Discretionary Rate Relief awards to an initial recommendation made by the Revenues Team Leader, followed by authorisation which is provided by the Section 151 Officer.
- 9.8 Applicants will be informed in writing of the outcome as soon as possible.
- 9.9 The granting of relief will be reviewed annually and those in receipt of relief may be asked to supply or confirm relevant information for the purpose of the review.
- 9.10 The Council recognises that there will be occasions when the applicant body does not appear to satisfy the criteria generally applied but where the Council may choose to award the relief. The Council has the ability to depart from its general policy if it sees fit to do so, taking into account the facts of each case and the interests of residents and Council Taxpayers.

## 10.0 Non-Profit Making Organisations Including Community Interest Companies (CIC's)

- 10.1 The Council has the power to grant Discretionary Rate Relief of up to 100% for the rates due to non-profit making organisations. The main objectives of the organisation must be related to:
- Relief of poverty
  - Advancement of religion
  - Advancement of education
  - Social welfare
  - Science
  - Literature
  - Fine arts
  - Recreation
- 10.2 An organisation must demonstrate how it meets local needs and benefits local people, provides a valuable service to the community and is open to all sections of the community without discriminating against any section of the community.
- 10.3 The organisation must not be conducted or established for the primary purpose of accruing profit.
- 10.4 Applications will be considered from non-profit making organisations based on their own merits. The principal consideration is that any relief is in the best interests of the residents and Council taxpayers of Copeland and produces a local benefit as the Council must contribute to the cost of each award.
- 10.5 If the organisation applying for relief requires membership or an entry fee, the Council will consider whether:
- e) The subscription fee is set at a level which is not prohibitively high and considered affordable by most sections of the community
  - f) Whether fee reductions are offered to certain groups such as, for example, over 65's or youths.
  - g) Membership is encouraged from groups who face social barriers, such as, for example, young people not in employment, education or training, people above working age or people with a disability.
  - h) Facilities are made available to people other than members
- 10.6 Application forms can be obtained by contacting the Revenues Team (01946 598300) and selecting the option for business rates.
- 10.7 Applications for relief must be supported by, and include:
- The organisation's main purpose and objectives, as set out in, for example, a written constitution, a memorandum of association, or membership rules;

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- A full set of audited accounts relating to the two years preceding the date of application. If unavailable, projected figures should be provided;
  - Details of how the organisation meets the criteria set out in this policy.
- 10.8 The Council delegates the decision making power for Discretionary Rate Relief awards to an initial recommendation made by the Revenues Team Leader, followed by authorisation which is provided by the Section 151 Officer.
- 10.9 Applicants will be informed in writing of the outcome as soon as possible.
- 10.10 The granting of relief will be reviewed annually and those in receipt of relief may be asked to supply or confirm relevant information for the purpose of the review.
- 10.11 The Council recognises that there will be occasions when the applicant body does not appear to satisfy the criteria generally applied but where the Council may choose to award the relief. The Council has the ability to depart from its general policy if it sees fit to do so, taking into account the facts of each case and the interests of residents and Council Taxpayers.

### 11.0 Hardship Relief

- 11.1 The Council has the power under Section 49 of the Local Government Finance Act 1988 to reduce or remit the Non-Domestic Rates charged in certain circumstances where the organisation is enduring temporary financial difficulties.
- 11.2 The Council may grant Discretionary Hardship Relief if it is satisfied that:
- The ratepayer would sustain financial hardship if the Council did not do so, and,
  - It is reasonable for the Council to grant relief, with regard to the interests of its residents and Council Taxpayers.
- 11.3 Discretionary Hardship Relief is a temporary measure which should not be used to artificially sustain a failing business. It is designed to support businesses facing temporary financial difficulties and where the community would be significantly disadvantaged if the business were to close due to these temporary financial constraints.
- 11.4 Application forms can be obtained by contacting the Revenues Team (01946 598300) and selecting the option for business rates.
- 11.5 Applications must be supported with a full set of audited accounts relating to the two years preceding the date of application.
- 11.6 The Council delegates the decision making power for Discretionary Rate Relief awards to an initial recommendation made by the Revenues Team Leader, followed by authorisation which is provided by the Section 151 Officer.

- 11.7 Applicants will be informed in writing of the outcome as soon as possible.
- 11.8 The granting of relief will be reviewed annually and those in receipt of relief may be asked to supply or confirm relevant information for the purpose of the review.
- 11.9 The Council recognises that there will be occasions when the applicant body does not appear to satisfy the criteria generally applied but where the Council may choose to award the relief. The Council has the ability to depart from its general policy if it sees fit to do so, taking into account the facts of each case and the interests of residents and Council Taxpayers.

## **12.0 Part Occupation Relief – Section 44 (a)**

- 12.1 Section 44(a) of the Local Government Finance Act 1988 enables the Council to grant relief on business premises that are partly occupied, as long as the situation is for a short time.
- 12.2 The length of this period is at the Councils discretion but awards would not normally continue beyond the end of the financial year.
- 12.3 The situation must be happening at the present time and retrospective awards will not be considered.
- 12.4 Application forms can be obtained by contacting the Revenues Team (01946 598300) and selecting the option for business rates.
- 12.5 Applications must be made in writing and supported by, and include:
- A plan of the property clearly marking the occupied and unoccupied parts;
  - The reasons why the property is unoccupied;
  - A plan determining how the unoccupied part will be brought back into use and within what timescales.
- 12.6 The Council delegates the decision making power for Part Occupied Relief awards to an initial recommendation made by the Revenues Team Leader, followed by authorisation which is provided by the Section 151 Officer.
- 12.7 Applicants will be informed in writing of the outcome as soon as possible.

## **13.0 Relief for Standalone Public Toilets**

- 13.1 The government announced in the Budget on 29<sup>th</sup> October 2018 that it will provide Business Rates Relief for standalone public toilets.
- 13.2 The relief will be granted without the need for an application.

13.3 The authority will be fully reimbursed for the costs of granting this relief under a grant paid under Section 31.

## 14.0 Business Rates Retail Relief Scheme

14.1 The government announced in the Budget on 29 October 2018 that it will provide a business rates retail discount scheme for occupied retail properties with a rateable value of less than 51,000RV in each of the years 2019-20 and 2020-21.

14.2 The value of discount is one third of the bill and must be applied after mandatory reliefs and other discretionary reliefs funded by Section 31 grants have been applied.

14.3 The criteria for the relief has been outlined by the government as follows:

14.4 Properties that will benefit from the relief will be occupied hereditaments with a rateable value of less than 51,000RV, that are wholly and mainly being used as shops, restaurants, cafes and drinking establishments. Government guidance on this is:

**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)
- Charity shops
- Opticians
- Post offices
- Furniture shops / display rooms (carpet shops, double glazing)
- Car and caravan showrooms
- Second hand car lots
- Markets
- Petrol stations
- Garden centres
- Art galleries (where art is for sale or 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)
- Shoe repairs and key cutting
- Travel agents
- Ticket offices e.g for theatre
- Dry cleaners
- Launderettes
- PC and 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
- Bars

14.5 To qualify for the relief the hereditament should be wholly used or mainly being used as a shop, restaurant, café or drinking establishment. 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.

14.6 The following hereditaments will be excluded and not considered for the relief:

- Financial services (e.g banks, building societies, cash points, bureaux de change, payday lenders, betting shops, pawn brokers)
- Other services (e.g estate agents, letting agents, employment agencies)
- Medical services (e.g vets, dentists, doctors, osteopaths, chiropractors)
- Professional services (e.g solicitors, accountants, insurance agents/financial advisers, tutors)
- Post office sorting offices

14.7 The list set out above is not intended to be exhaustive. However, it is provided by government as a guide to the types of uses that are considered for this purpose to be retail.

14.8 The Council will determine on a case by case basis whether particular businesses not listed are broadly similar in nature to those above and, if so, to consider them to be retail. Conversely, properties that were not broadly similar in nature to those listed above will not be considered to be retail.

14.9 Retail relief will be awarded under Section 47 of the Local Government Finance Act 1988.

## **15.0 Appeals**

15.1 There is no statutory right of appeal regarding Discretionary Rate Relief decisions, however, the Council will review decisions if requested to do so by the ratepayer.

- 15.2 Such requests should include the reasons for requesting the review and evidence in support of that request.
- 15.3 Such requests should be made within one calendar month of the date the original decision was issued.
- 15.4 The review will be carried out by officers of the Council who did not make the original decision.

## **16.0 Interest of Members and Officers**

- 16.1 Members and officers who have an interest in any aspect of an application for relief must not participate in any decision making process and must declare their interest.

## **17.0 European Union State Aid**

- 17.1 EU State Aid rules generally prohibit government subsidies to businesses. Providing Discretionary Rate Relief to ratepayers can in some cases can be deemed to be State Aid.
- 17.2 There is, however, a general exception to the rule where the aid is below a 'de minimis' level. The De Minimis Regulations allow an undertaking to currently receive up to €200,000 of De Minimis aid in a three year period (consisting of the current financial year and the two previous financial years). The De Minimis Regulation and limit is subject to update and changes in legislation.
- 17.3 To administer De Minimis it is necessary for the Council to establish that the award of aid will not result in the undertaking having received more than €200,000 of De Minimis Aid. The Council will ensure compliance and will consider each case based on the circumstances considering fully the EU State Aid rules.
- 17.4 All businesses making an application for relief under Sections 44(a) 47 and 49 of the Local Government Finance Act 1988, will be required to make a declaration if they have or are receiving EU State Aid.

## **18. Policy Review**

- 11.1 This policy will be reviewed on an annual basis or sooner if there is a change in legislation that would affect its operation.