



Discretionary Business Rates Relief Policy

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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 3rd parties undertaking work on Copeland Borough Council premises.

Contributors

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Purpose

The purpose of this policy is to set out the circumstances in which the Council will exercise its discretion to grant Discretionary Business Rates Relief.

Policy Benefits

This policy has been written with due regard to Copeland Borough Council's Corporate Strategy 2020-2024:

'Making Copeland a better place to live, work and visit'

This Vision underpins 3 core ambitions – ensuring our communities thrive, maximising our opportunities for growth, and protecting and enhancing our environment.

The Council recognises the importance of supporting local businesses and organisations to promote the provision of local facilities, economic growth, employment and investment, and to improve prosperity and support disadvantaged communities across the borough.

Introduction

In accordance with the Local Government Finance Act 1988, the Council is empowered to award Discretionary Business Rates Relief.

In order to provide clear and transparent guidance regarding relief from business rates, and to ensure reliefs awarded under local decisions are done so fairly and consistently across the borough, Councils are expected to maintain a Discretionary Business Rates Relief scheme.

Councils have discretionary powers under Section 44a, 47 and 49 of the Local Government Finance Act 1988, as amended by Section 69 of the Localism Act 2011, to grant relief to businesses and certain organisations.

Where Central Government leads an initiative, Councils are reimbursed with a Section 31 grant. Examples of such initiatives are: 2017 Revaluation Relief scheme, Expanded Retail Discount, Nursery Discount, Newspaper Relief, Supporting Small Business Relief and Mandatory Rural Relief.

All other awards of Discretionary Business Rates relief are funded locally. Public funds however are not unlimited and a proportion of the costs of unfunded Discretionary Relief granted is borne by the council tax payers for the borough.

Following the introduction of Business Rates Retention in April 2013, the cost of awarding Discretionary Business Rates Relief is apportioned as follows:

50% funded by Central Government
40% funded by Copeland Borough Council
10% funded by Cumbria County Council

Scope

The scope of this policy covers the principal areas of Discretionary Business Rate Relief available to ratepayers within Copeland.

Definitions

Discretionary Rate Relief – Relief from Business Rates

Hereditament – Business Property

Ratepayer – Legal entity responsible for Business Rates

Roles and Responsibilities

Council Responsibilities

Where the Council receives an application for Discretionary Rate Relief, it will be considered in a professional and timely manner.

Where the government leads an initiative, relief will be applied automatically, if possible.

When making decisions regarding unfunded Discretionary Relief, the Council will ensure revenue spent will be repaid in economic and/or community benefit.

Ratepayer Responsibilities

For local discretionary relief, ratepayers are expected to complete the Business Rates – Discretionary Relief Application form, and submit this along with the

supported evidence requested. Ratepayers must also respond to additional requests from the council for further information to support their application.

Ratepayers must inform the council of any changes in circumstances which may affect eligibility for relief.

Policy Details including Procedures

Mandatory Relief

Section 43 and 45 of The Local Government Finance Act 1988 requires the Council to grant Mandatory Rate Relief of 80 per cent. The following categories of business rates payers are included:

- Charities where the property is wholly or mainly used for charitable purposes
- Registered Community Amateur Sports Clubs (CASCs) registered accordingly as such with HMRC
- Certain types of rural hereditaments are entitled to 100 per cent relief

Rural Rate Relief

With effect from 1 April 2017, Mandatory Rural Rate Relief was increased from 50 per cent relief to 100 per cent relief.

Eligible businesses qualify for relief if their business is in a rural area with a population below 3,000; they are the only village shop or post office, with a rateable value of up to £8,500, or the only public house or petrol station, with a rateable value of up to £12,500.

In addition, the Council may also grant up to 100 per cent unfunded Discretionary Relief to any rural business provided all of the following criteria are met:-

- The property is located in a rural settlement
- The Rateable Value of the property does not exceed £16,500
- The property is occupied by a business that benefits the local community
- It is reasonable for the Council to grant relief having regard to the interests of persons liable to pay the Council Tax.

Discretionary Rural Relief is not limited to any particular type of business. Applicants will be expected to demonstrate that their business is important to the maintenance of village life.

Discretionary Rate Relief Scheme

The provision to award Discretionary Rate Relief is contained in section 47 of the Local Government Finance Act 1988. Legislation requires Councils to maintain a Discretionary Rate Relief scheme to award up to 100 per cent business rates relief in respect of hereditaments occupied by certain organisations and/or for certain purposes.

Discretionary Rate Relief

A further 20 per cent award to charities in receipt of 80 per cent Mandatory Relief, referred to as Discretionary “top-up”, can be awarded if the property is wholly and mainly used for charitable purposes.

The Council will consider applications for a 20 per cent “top-up” from the following:

Top –up Relief for Charities

Where the property is wholly and mainly used for charitable purposes, applications will be considered from registered charities.

Applications will be considered on their own merits, on a case by case basis. However, the following will be taken in to consideration when determining applications:

- Charities able to demonstrate financial hardship;
- Charities whose objectives support activities exclusively within Copeland with their main office/premises based in Copeland;
- Top-up relief to national charities including national charity shops and other organisations should not be granted.

The organisation must provide a copy of their constitution (memorandum and articles of association) and a copy of the last two years audited accounts.

Top-up Relief for Registered Community Amateur Sports Clubs (CASCs)

CASCs receive 80 per cent Mandatory Relief if they are registered accordingly as such with HMRC. To qualify the club must be set up with a formal constitution. The written constitution requires the club to meet certain conditions:

- Be open to the whole community;
- Be organised on an amateur basis;
- Have its main purpose for the provision of facilities for, and the promotion of participation in, one of more eligible sports;
- Not exceed the income limit;
- Meet the management condition;
- The club must demonstrate it is set up and provides facilities in an eligible area.

CASCs that qualify for the above Mandatory Relief can apply to the Council for a discretionary “top-up” for a maximum of 20 per cent relief. The Council will consider the following when determining applications:

- The contribution the organisation makes to Copeland Borough Council;
- Membership fees must be affordable and membership should be open to everyone. It is expected that the majority of members would be Copeland residents;
- Open membership should be encouraged by the organisation, and effort should be made to encourage membership from young people, disabled persons, minority groups, older age groups and unemployed people;
- If the building is accessible to disabled people, or if reasonable attempts are being made to make it accessible;
- If facilities are encouraged for non-members such as schools and casual public sessions. The wider use of facilities should be encouraged;
- If the organisation provides training and/or education for its members.

The organisation must provide a copy of their constitution (memorandum and articles of association) and a copy of the last two years audited accounts.

Discretionary Rate Relief for non-profit making organisations

Non-Profit organisations, who are not classified as charities or CASCs, can apply for Discretionary Rate Relief of up to 100 per cent. The property must be used for charitable purposes concerned with relief of poverty, advancement of education, social welfare, science, literature or fine arts; or is used wholly and mainly for recreation by a not for profit club or society.

Community Interest Companies (CICs) registered as such with the Office of the Regulator of CICs can apply for relief of up to 100 per cent.

In determining applications, the Council will consider the following:

- If the activities support at least one of the Council's ambitions contained within the Corporate Strategy:
www.copeland.gov.uk/attachments/corporate-strategy-2020-2024
- If activities are provided for the benefit of Copeland residents;
- If membership fees are affordable and if membership is open to everyone. It is expected that the majority of members would be Copeland residents;
- Open membership should be encouraged by the organisation, and effort should be made to encourage membership from young people, disabled persons, minority groups, older age groups and unemployed people;
- If facilities are encouraged for non-members such as schools and casual public sessions. The wider use of facilities should be encouraged;
- If the organisation provides training and/or education for its members

The organisation must provide a copy of their constitution (memorandum and articles of association) and a copy of the last two years audited accounts.

In determining applications for Discretionary Rate Relief "Top-up" from Charities, CASCs and Not for Profit Organisations, the Council may at its discretion:

- Grant relief up to a maximum of 100 per cent of the business rates due
- Grant relief for a sum less than 100 per cent of the business rates due
- Refuse the application for relief

Part-Occupation Relief

Section 44a of the Local Government Finance Act 1988 permits the Council to require the Valuation Officer to apportion the rateable value of a hereditament between the occupied and unoccupied parts, where it appears to the authority that part of the hereditament is unoccupied but will remain so for a short time. A short time in the main is considered to be no more than six months.

Relief will be 100 per cent of the rates attributable to the unoccupied part.

The Council will consider the following when determining applications:

- The circumstances surrounding the part-occupation
- The intention of the ratepayer to fully occupy or vacate the property
- Confirmation that the part occupation will be for a short time only
- The financial implications on council tax payers for granting relief

Relief will not be granted if the application for relief is granted after the property has become fully occupied or vacant.

Applications should be supported with a plan clearly identifying the occupied and unoccupied parts, along with evidence of the intention to re-occupy or vacate, and evidence part occupation is for a short time only.

Relief will end on the first day one or more of the following occurs:

- A change in the extent of partial occupation
- The ending of the rate period to which the apportionment relates
- The beginning of a new period under a new certificate
- The hereditament becoming completely occupied

Hardship Relief

Under section 49 of the Local Government Finance Act 1988, the Council has discretion to award up to 100 per cent relief in exceptional circumstances where it is satisfied that:

- The ratepayer would sustain hardship if the authority did not do so; and
- It is reasonable for the authority to do so, having regard to the interests of persons subject to its council tax.

Reduction or remission on the grounds of hardship should be the exception rather than the rule.

The main consideration for the council is the effect it will have on local council tax payers if there was a loss from a major employer in the area, or if the business was the only provider of an essential service in an area.

There is no statutory definition of hardship. Applications will be considered on their own merit, on a case by case basis. The principle consideration is that any relief is in the best interests of the council tax payers for Copeland.

Awards will be granted for periods for which there is clear evidence of hardship for the ratepayer concerned.

Local Business Rate Discount – Government Funded Temporary Reliefs

Following the Chancellor’s Budget announcements of 2016,2017,2018,2020 and 2021, the Government determined that Councils can use discretionary powers under section 47 of the Local Government Finance Act 1988 to provide reliefs to support national initiatives. The reliefs granted will be reimbursed in full by Government via a Section 31 grant.

Local Business Rate Discount – Council Determined Decisions - Unfunded

A local business rate discount can be considered in appropriate cases. Any decision will consider the interest of the council tax payers for Copeland, and the decision will support the strategic aims and objectives of the Council. Particular consideration will be given to how the granting of relief can support the creation and or safeguarding of jobs in Copeland.

Local Newspapers

£1,500 discount is available to office space occupied by local newspapers, up to one discount per newspaper title, and up to Subsidy limits, until 31 March 2025.

Expanded Retail Discount and Nursery Discount 2020-21 COVID19

In the Budget on the 11 March 2020, the Government announced relief of 100 per cent to eligible retail and nursery businesses from 1 April 2020 to 31 March 2021. This discount was for one year from 1 April 2020.

Further information regarding eligibility can be found here:

[Business rates: expanded retail discount - guidance - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/business-rates-expanded-retail-discount)

Expanded Retail Discount & Nursery Discount 2021-22 COVID19

In the Budget on 3 March 2021, following the 100 per cent discount that was applied during 2020-21, the Chancellor announced that 100 per cent relief will continue for the first three months of the financial year, which covers the period 1 April 2021 to 30 June 2021.

From 1 July 2021, a 66 per cent discount applies for the remainder of 2021-22 for eligible businesses.

The 66 per cent discount is subject to a 'cash cap'. This means a ratepayer may only receive up to the following cash caps of Expanded Retail Discount in 2021-22, ignoring any relief for the period before 1 July 2021:

- £2 million for ratepayers which were mandated by the Government to close their business on 5 January 2021;
- £105,000 for all other ratepayers

Businesses that receive less than £2 million in Government aid (for those forced to close) or less than £105k (for those not forced to close), between 1 July 2021 and 31 March 2022, are eligible for 66 per cent discount. Any business that received Government support exceeding these totals will not be eligible.

Eligible businesses are asked to complete a 'cash cap' declaration confirming they will not exceed the thresholds permitted.

For nurseries, the properties benefitting from the relief are those occupied by Ofsted's Early Years Register and wholly or mainly used for the provision of the Early Years Foundation Stage.

The Council will use its discretionary powers under section 47 of the Local Government Finance Act to provide this discount of 100 per cent for the first three months of the financial year, and 66 per cent discount for the remainder of the 2021-22 financial year.

Further information regarding eligibility can be found here:

[Business rates: expanded retail discount 2021 to 2022 - local authority guidance - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/business-rates-expanded-retail-discount-2021-to-2022-local-authority-guidance)

Relief for Public Toilets

Local authorities already have the power to award discretionary relief to privately run toilets.

At the Budget in 2018, the Chancellor announced a mandatory business rate relief Bill for publicly owned toilets. The Act received Royal Assent on 29 April 2021 and relief is provided retrospectively from 1 April 2020.

Properties that are publicly owned and consist wholly or mainly of public toilets in England and Wales will receive a 100 per cent relief from business rates.

Legislation to award 100 per cent relief was required, as under section 47 (8)(a) of the Local Government Finance Act 1988, a local authority is unable to award relief to itself, or any other organisation that has the powers to raise or precept for Council Tax.

Supporting Small Businesses

This is a scheme for ratepayers who are losing some or all of their small business rate relief as a result of a large rateable value increase following the 2017 revaluation. The scheme is available for 5 years from 1 April 2017.

The Supporting Small Businesses relief will ensure that the increase per year in the bills of these ratepayers is limited to the greater of:

- a) An annual percentage increase 5%, 7.5%, 10%, 15% and 15% in the financial years 2017/18 to 2021/22, all plus inflation. Unlike the transitional relief scheme, for the first year of the scheme the percentage increase is taken against the bill for 31 March 2017 after small business rate relief, or
- b) A cash value of £600 per year (£50 per month). This cash minimum increase ensures that those ratepayers paying nothing or very small amounts in 2016/17 after small business rate relief are brought into paying something.

In the first year of the scheme (2017/18), this means all ratepayers losing some or all of their small business rate relief or rural rate relief will see the increase in their bill capped at £600. The cash minimum increase is £600 per year thereafter.

Application, Decision and Period of Award

Awards provided through government led initiatives will be provided without the need for an application. Under such circumstances, the council will award the appropriate relief automatically, where possible.

For unfunded local discretionary awards, applications for Discretionary Business Rates Relief should be requested by emailing business.rates@copeland.gov.uk or calling 01946 598300.

Applications resulting in awards of £50,000 or less will be considered by the Revenues and Benefits Manager and the Director of Financial Resources. The final decision rests with the Director of Financial Resources. Applications resulting in a cost greater than £50,000 will be reported to the Executive and referred to Full Council for a decision.

In order to provide some financial stability to the organisation requesting relief, awards will be provided for a maximum of three years. The notification letter issued will provide at least one year's notice of any withdrawal or variation of relief.

Appeals

The Local Government Finance Act provides no statutory right of appeal against the Council's guidance and use of discretionary powers. The only statutory avenue open to challenge the content of the guidance is through judicial review, where the High Court would be asked to consider if the billing authority has acted within its powers.

A request for a review of the original decision made by the Director of Financial Resources can be made to Copeland Borough Council; it must be submitted in writing within one calendar month to Revenues and Benefits, Appeals and Quality Team, and state the reasons for the appeal. Additional information and evidence should be attached to the appeal for consideration.

The Appeals and Quality Teams decision is final and any dispute to this decision should be challenged by judicial review.

State Aid – Subsidy Allowance

Prior to 1 January 2021, awards of discretionary rate relief were considered likely to amount to State Aid as defined by the European Union. The EU required that all State Aid (including Discretionary Rate Relief) complied with the De Minimis Regulations EC 1407/2013. The regulations allowed an undertaking to receive up to €200,000 aid over a rolling three year period. A Temporary framework was introduced as part of COVID-19 and a revised threshold of €800,000 was introduced.

From 1 January 2021, the UK left the EU and is no longer subject to the De Minimis Regulations. However, the Government has introduced its own rules regarding state subsidies. Discretionary Rate Relief is considered a subsidy under the rules, but the matters that must be considered all relate to the effect of the subsidy on international trade.

Regarding Expanded Retail Discount and Nursery Discount, the government's assessment is that, given the impact of COVID-19 on the sectors receiving the relief, the discount is not a state aid.

Interest of Members and Officers

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.

Restrictions to Discretionary Rate Relief

In line with the restrictions of section 47(8)(a) of the Local Government Finance Act 1988, billing authorities may not grant discretionary business rates relief to themselves or any other organisation that has the powers to raise or precept for Council Tax.

Fraud

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

Monitoring of Policy Adherence

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

References

[Read the Community Amateur Sports Clubs: detailed guidance notes - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/publications/community-amateur-sports-clubs-detailed-guidance-notes)

[Local Government Finance Act 1988 \(legislation.gov.uk\)](https://www.legislation.gov.uk/ukpga/1988/42)

[Business rates: expanded retail discount - guidance - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/publications/business-rates-expanded-retail-discount-guidance)

<https://www.gov.uk/government/publications/business-rates-expanded-retail-discount-2021-to-2022-local-authority-guidance>

[LGF Bill Factsheet - Public Toilets.pdf \(publishing.service.gov.uk\)](https://www.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/94842/LGF_Bill_Factsheet_-_Public_Toilets.pdf)

[4/2021: legislation and 2021/22 business rates reliefs - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/publications/4-2021-legislation-and-2021-22-business-rates-reliefs)