

Executive Report

Committee: Scrutiny Corporate and Resources

Meeting Date – 25 November 2024

Key Decision – Yes



Report Title

Chair of Committee: Cllr Liz Leyshon, Deputy Leader of the Council and Lead Member for Resources and Performance

Executive Member(s): Cllr Liz Leyshon, Deputy Leader of the Council and Lead Member for Resources and Performance

Local Member(s) and Division(s) affected: ALL

Executive Director: Maria G Christofi, Interim Chief Finance Officer (Section 151 Officer)

Executive Summary

A review of the Non-Domestic Rating Discretionary Rate Relief and Hardship policy to preclude Private Schools from being able to be awarded a relief is required following confirmation from Central Government that the removal of mandatory rates relief for Private Schools is to come into effect from 01 April 2025. The review is to ensure that the aims / objectives of the scheme are not adversely affected by this change in legislation and that any applications made continue to be made in the spirit of the intentions of the policy.

Current policy regarding Localism and Hardship Relief agreed by Full Council allows a discretionary payment of up to 100% per hereditament per annum to be made where specified criteria is met, 50 % of which is borne by Central Government, 50% of which is borne by the Local Authority. This policy is designed to assist those businesses in exceptional circumstances only.

A review is also required as Central Government:

1. Is continuing relief for the Retail, Hospitality and Leisure sectors for 2025/26 but reducing the relief from 75% to 40%.
2. Has confirmed the end of Local Newspaper Relief from 01 April 2025.

The Executive are recommended to amend the Non-Domestic Rating Discretionary Rate Relief and Hardship policy for 2025/26 to:

1. Preclude Private Schools not entitled to mandatory rates relief from claiming a discretionary rates relief, top-up or discount
2. Reduce the relief award offer to the Retail, Hospitality and Leisure sector from 75% to 40%
3. Remove the Local Newspaper Relief from the policy

Recommendations

The Executive agree and recommend to Full Council:

1. That the Non-Domestic Rating Discretionary Rate Relief and Hardship policy is amended to prevent Private Schools from applying for assistance in anticipation of the changes to the Local Government Finance Act 1988. The recommended wording is to be found in Appendix D of the policy and states:

‘The ratepayer must not fall within the definition of a Private School. For business rates purposes, ‘Private Schools’ are defined by HM Treasury as schools at which full time education is provided for pupils of compulsory school age where fees are payable.’

2. To delegate authority to the Council’s Section 151 Officer in consultation with the Monitoring Officer to make any additional amendments as necessary to ensure the wording aligns with that Act once such amendments come into force.

3. To reduce the relief percentage within the policy for Retail, Hospitality and Leisure sector for 2025/26 from 75% to 40% as a result of changes to Central Government policy.

4. To end Local Newspaper Relief in line with Central Government policy

Reasons for Proposals

Central Government is legislating for the removal of mandatory rate relief provision to Private Schools. The recommendation being made is as a response to this change in legislation to ensure that those schools affected do not restrict their loss of relief at a cost to the Local Authority and to ensure the policy remains compliant with its intentions.

Central Government is also legislating for relief given to the Retail, Hospitality and Leisure Sector to continue for 2025/26 but reducing the relief from 75% to 40%, which requires the policy to be amended to reflect this change.

Central Government is also legislating for ending Local Newspaper Relief for 2025/26 and this requires reflecting in the policy.

Report Author: Shaun Warren, Finance and Procurement, Revenues and Benefits
Contact Details: 01278 435447, shaun.warren@somerset.gov.uk

Main report and supporting information



Background and purpose of report

Business Rates for Private Schools

1. The powers relating to the granting of mandatory and discretionary relief are given to the Council under the Local Government Finance Act 1988.
2. Somerset Council adopted a Non-Domestic Rating Discretionary Rates Relief and Hardship Policy in November 2022. A link to the meeting documents can be found here: [Meeting of SCC County Council on Wednesday, 23rd November, 2022, 10.00 am - Modern Council \(somerset.gov.uk\)](#) See agenda item 6, Paper D.
3. This policy was further amended via an Urgent Decision report in February 2023 following Government introducing two further types of relief post November 2022 – The Retail, Hospitality & Leisure Relief and The Supporting Small Business Relief Scheme, both in effect from the financial year 2023/24. This decision can be found at **Appendix 2**.
4. Sections 43 and 45 of the Local Government Finance Act 1988 allows mandatory relief of 80% to be granted on premises where the ratepayer is a charity or trustees for a charity and the premises are wholly or mainly used for charitable purposes.
5. HM Treasury published a Technical Note on 29 July 2024 that gave details on the removal of mandatory charitable rates relief for Private Schools that hold a charitable status. This technical note can be viewed here: [29 07 24 - Technical Note - DIGITAL.pdf](#)
6. The Government confirmed in the Autumn statement of 30 October 2024 that they will be legislating the proposed policy change through a Local Government Finance Bill led by the Ministry of Housing, Communities and Local Government (MHCLG) which will amend the Local Government Finance Act 1988. Details can be found at [Autumn Budget 2024 – HC 295](#), page 130, paragraph 5.69.
7. The Government recognises though that some pupils have special education needs (SEN) that can only be met through attendance at a Private School. In the Autumn statement, the Government announced that Private Schools which are “wholly or mainly” concerned with providing full time education to pupils with an Education, Health and Care Plan (EHCP) will remain eligible for business rates charitable relief.
8. It will be down to the educational provider to evidence that they are ‘wholly or mainly’ concerned with providing full time education to pupils with an EHCP. To

assist with this, work will be carried out with the Education Services team to support applications for being classified under this criteria.

9. Following notification of this change, work has been carried out by the Revenues service to identify the following:
 - The number of Private School hereditaments in Somerset affected as a result of the policy change
 - The collectable business rate charges in respect of affected Private School hereditaments in Somerset, both before and after the legislated changes
 - The amount of the chargeable balance in respect of affected Private School hereditaments in Somerset, both before and after the legislated changes
 - The Private School hereditaments, and how many of these provide support for students with an EHCP.
10. It was identified with the assistance of Somerset Council's Education Services that there are a maximum of 23 Private School hereditaments affected by the proposed changes, dependent on whether they are subsequently classed as 'wholly or mainly' providing full time education to pupils with an EHCP.
11. Although some of these Private Schools provide education to pupils with an EHCP, it is not known at this stage how many could be classified as "wholly or mainly" concerned with providing full time education to pupils with an EHCP. This is because this level of data is not held in the IT systems.
12. All identified Private Schools will be written to that are potentially affected by the mandatory rate relief changes to notify them of the effects of the changes and to invite them to make representation if they believe they should continue to receive mandatory rate relief in line with the new legislation. Cases will be processed on an individual basis where representation is made that they wholly or mainly provide full time education to pupils with an EHCP to establish if mandatory rate relief can continue to be granted or not.
13. There are a number of Independent and Non-Maintained schools (INMS) which are not subject to Business Rates and so have not been included as part of this report.
14. Of the total collectable charge collected, 50% is sent to Government, 49% is retained by Somerset Council, with the remaining 1% being given to the Fire Authority.
15. 50% of the new collectable income as a result of the removal of mandatory rates for Private Schools totals approximately £1.7m, which is an increase of approximately £1.36m collectable income. The amount retained by Somerset Council would equate to £1.68m, an increase of approximately £1.3m.

16. As a result of the removal of the mandatory rates relief for private school hereditaments, there is the potential for Private Schools to make an application for discretionary rates relief from the Council under Somerset Council's current Non-Domestic Rating Discretionary Rate Relief and Hardship Policy.
17. All non-mandatory reliefs under the policy must be applied for. None are automatically awarded. Details of how applications can be made can be found in the policy, **Appendix 1**, specifically on pages 7 and 8, section 5.
18. The policy had previously been written to exclude schools from all discretionary rates relief, except for under Appendix D of the policy – Discretionary Relief - Localism Act 2011. As such, the wording of Appendix D of the current policy allows for applications from all schools to be made.
19. Under the Discretionary Relief – Localism Act 2011, it is possible for the Council to award up to 100% relief in respect of any hereditament under a localised scheme. The relief awarded would initially last for a 12-month period, with reviews of the relief occurring every 12 months.
20. It is important to note that 50% of any relief awarded post 1 April 2023 under the Localism Act 2011 would be borne through the Council's own funds and so would be a cost to the Council. This is in line with the regulations of the Local Government Finance Act 1992.
21. Whilst there is no indication, nor is it expected, that affected Private Schools will apply for discretionary rates relief, the scheme as stated does currently allow for such applications to be made. The recommendation is to amend the policy to be clear that applications for discretionary rates relief from affected Private Schools cannot be made following the removal of mandatory rates relief from 01 April 2025.
22. If the policy is not amended, this may:
 - Increase unnecessary applications requiring a considerable amount of work by the Revenues team to process and decide the applications
 - Increase volumes of unnecessary work arising as a result of applications being declined e.g. appeals against decisions being made
 - Increase Council's expenditure should applications be accepted and paid

Retail, Hospitality and Leisure Sector Relief

23. In addition, and further to the policy change regarding mandatory rate relief for Private Schools, Central Government has legislated for reliefs to continue to be granted under this policy for the Retail, Hospitality and Leisure sector for 2025/26.
24. The relief awarded to the Retail, Hospitality and Leisure sector continues to be funded by Central Government. The Council is responsible only for

administering the reliefs and awarding them to qualifying businesses. There is no cost to the Council. For context, in 2024/25, Somerset Council has so far paid out approximately £22.7m through Retail, Hospitality and Leisure Sector Relief.

25. The cap for financial help for businesses in this area remains at £0.110m per business. However, the relief award is reduced from 75% to 40% following the Autumn Statement of 30 October 2024.

26. Those businesses already in receipt of a Retail, Hospitality and Leisure relief will not need to reapply for the relief in respect of 2025/26. The percentage of the award will automatically be amended on the IT systems and will be applied to the bill for 2025/26 for each qualifying business.

Local Newspaper Relief

27. Central Government has also confirmed the end of Local Newspaper Relief from 2025/26. This relief was previously fully funded by Central Government through a Section 31 grant and so was not a cost to the Council.

28. There are currently no Local Newspaper Reliefs paid by Somerset Council.

29. This relief has been removed from the Non-Domestic Rating Discretionary Rate Relief and Hardship Policy for 2025/26.

30. All of these changes have been reflected in the updated policy.

Links to Council Plan and Medium-Term Financial Plan

31. The Non-Domestic Rating Discretionary Rates Relief scheme provides key financial support to legislated organisations as well as those deemed to meet the required locally set criteria. This aligns with the Council's key priorities around being a healthy and caring, fairer and flourishing and resilient Somerset.

Other options considered

32. The alternative option considered was to make no change to the policy and for it to be carried forward into 2025/26 as was. However, given that the policy, if unchanged, worked against Government policy and would also potentially increase cost to the Council, this option was not considered suitable at this time.

Key considerations for the Council

Scrutiny comments / recommendations:

33. The Scrutiny Committee for Corporate and Resources was presented with this report for their meeting on 25 November 2024. Due to report timetables, it has not been possible to include their comments within this report. However, a verbal update will be presented at the Executive meeting on 02 December 2024.

Consultation and feedback

34. No formal consultation has been undertaken as there is not a legislative requirement to do so. The change being proposed is an extension of existing criteria within the policy and so it is not fundamentally new. However, the report was presented to the Scrutiny Committee for Corporate and Resources on 25 November 2024 for their consideration and feedback and, as stated in paragraph 33 of this report, this will be reported verbally to the Executive at the meeting of 02 December 2024.

35. The proposed change is also as a result of Government policy change, which is not due to come into effect until 01 April 2025.

Financial and Risk Implications

Financial

36. As shown in paragraphs 14 to 15 of this report, there will be additional income to be collected through Non-Domestic Rates as a result of mandatory rate relief being removed for affected private schools.

Risk

37. There is minimal risk as a result to the change of this policy as the changes follows Central Government policy and legislation.

38. A risk exists of a challenge from Private Schools regarding their inability to be able to apply for discretionary rates relief. However, in practice, no applications are currently in payment to any school and the recommended change to this policy is an extension of the criteria already found elsewhere within the policy.

Current Risk Score:

Likelihood	2	Impact	2	Risk Score	4
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Projected risk score if recommended actions are agreed and delivered:

Likelihood	1	Impact	2	Risk Score	2
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Legal and Procurement Implications

39. The recommendations made will meet the Council's legal obligations under Sections 47 and 49 of the Local Government Finance Act 1988.

HR / Workforce Implications

40. The policy change being recommended has no HR/Workforce implications. This is because it is a financial decision for applications received from outside organisations.

Equalities Implications

41. Consideration has been given to the obligations under the Public Sector Equality Duty in developing the proposed approach to Non-Domestic Rating Discretionary Rates Reliefs in the areas where the council has a discretion. Central Government have introduced exceptions to Private Schools which are “wholly or mainly” concerned with providing full time education to pupils with an Education, Health and Care Plan and so the change to this policy is expected to have no impact on this protected group. It has been assumed that Central Government has already carried out the relevant Equality Impact Assessments with. As the Central Government policy is being implemented with no local alteration, it has been confirmed that a local Equality Impact Assessment is not required.

Community Safety Implications

42. There is unlikely to be any effect to the safety in the community as a result of this policy change. This is due to the type of organisations that are affected by this policy change and their ability/resilience to cope with the changes being recommended.

Climate Change and Sustainability Implications

43. There are no climate change or sustainability implications as a result of the recommended change to the policy. This is because the recommended policy change is based on a change to qualifying criteria only.

44. No schools have previously applied for a Non-Domestic Rating Discretionary Rate Relief, and the recommended policy change is made to ensure that this remains to be the case.

Health and Safety Implications

45. The recommendations and policy (including localism) is designed to support local (Somerset Based) charities and non-profit making organisations. The recommendations being made does not change the risk to any person in any capacity as it is a qualifying criteria change and discount change only.

Health and Wellbeing Implications

46. The recommended policy changes are made to reflect the legislative changes being made by Central Government. As such, consideration to health and wellbeing has been considered by Central Government. when making their

legislative changes. Therefore, the recommended changes being made in this report follow Central Government’s considerations in this area.

Social Value

47. The recommendation and policy (including localism) are designed to support local (Somerset based) charities and non-profit making organisations.
48. The S49 Hardship policy is designed to assist ratepayers who are clearly suffering hardship.

Background Papers

49. [Meeting of SCC County Council on Wednesday, 23rd November, 2022, 10.00 am - Modern Council \(somerset.gov.uk\)](#) See agenda item 6, Paper D.
50. [Autumn Budget 2024 – HC 295](#)
51. [29 07 24 - Technical Note - DIGITAL.pdf](#)

Appendices

- Appendix 1 – Non-Domestic Rating Discretionary Rate Relief and Hardship Policy 2025/26
- Appendix 2 – Key Decision of Monday 20th February 2023, authorising the inclusion of Retail, Hospitality and Leisure relief in the Non-Domestic Rating Discretionary Rate Relief and Hardship Policy

Report assurance checklist ahead of report publication (for Audit, Executive, Full Council and Scrutiny Committees)

	Officer Name	Date Completed
Legal & Governance Implications	David Clark/Jill Byron	19/11/2024
Finance & Procurement	Nicola Hix	14/11/2024
Workforce (*)	Dawn Bettridge	N/A
Asset Management (*)	Simon Lewis	N/A
Executive Director	Maria G. Christofi	14/11/2024
Executive Lead Member	Cllr Liz Leyshon	14/11/2024
Consulted:	Councillor Name	
Local Division Members	List local members	N/A
Opposition Spokesperson(s)	Cllr Diogo Rodrigues	20/11/2024

Relevant Scrutiny Chair(s)	Cllr Bob Filmer	20/11/2024
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Note:

Directors may nominate additional officers to act on their behalf

(*) – these areas only need to be consulted on proposals if the proposals have workforce or asset management implications

Reports will not be published if assurance checklist has not been adequately completed – report author to liaise with Democratic Services well ahead of publication deadlines



**Somerset Council
Non Domestic Rating
Discretionary Rate Relief and Hardship Policy
2025/26**

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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. The policy includes all changes effective from 1st April 2025 and includes all new reliefs due to the revaluation of rateable values in April 2023, the Non Domestic Rating Act 2023 and the recent changes announced by Government in the 2024 Budget. The Council is keen to support businesses during the crisis, as far as possible.
- 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. Likewise, certain premises situated within a rural settlement area will be eligible for mandatory relief. 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 In addition to the above, Central Government is keen that in certain cases, assistance will be provided to businesses who have had increases in their rate liability due to the revaluation of premises in April 2023 or have been affected by the cost of living crisis. In these cases, and where the Council meets Central Government guidelines, grants are available under section 31 of the Local Government Act 2003.
- 1.4 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 the new reliefs, some guidance has been issued by Central Government outlining actions expected to be taken by local authorities. This policy includes Government guidance where appropriate but also looks to target discretionary relief in line with the Council's priorities.
- 1.5 This document outlines the following areas:
- Details of the criteria for receiving Discretionary Reliefs for all relevant areas;
 - The Council's policy for the granting of all types of Discretionary Reliefs;
 - Guidance on granting and administering the reliefs and awards; and
 - The Council's Scheme of Delegation.
- 1.6 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

¹ S43 & S45 Local Government Finance Act 1988

² S47 & S48 Local Government Finance Act 1988

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 been extended under the Local Government Act 2003 (effective from 1 April 2004) to registered Community Amateur Sports Clubs (CASCs). Full details of the mandatory provisions are given later within this policy.

- 2.2 In the case of charity shops, the premises must meet the criteria laid down by section 64 (10) of the Local Government Finance Act 1988 which states that the premises are to be treated as used for charitable purposes at any time it is wholly or mainly used for the sale of goods donated to the charity and the proceeds of goods (after any deductions for expenses) are applied for the purpose of the charity.
- 2.3 The Council has discretion to grant relief of up to a further 20% for these mandatory cases under its discretionary provisions.
- 2.4 From 1st April 2025, Central Government have determined that all Private Schools which would have previously been entitled to mandatory relief (either as a charity or charitable organisation), will **no longer be entitled to mandatory relief**. For the purposes of this change the definition of 'Private School' is an educational establishment that provides compulsory full time education where a fee is payable.
- 2.5 The Ministry of Housing, Communities and Local Government (MHCLG) will bring forward primary legislation to amend the Local Government Finance Act 1988 to end relief eligibility for private schools. This change is intended to take effect from April 2025, subject to Parliamentary process. Private schools which are 'wholly or mainly' concerned with providing full time education to pupils with an Education, Health and Care Plan will remain eligible for relief.

Rural Rate Relief

- 2.6 From 1 April 1998, under powers originally granted to the Council by the Local Government and Rating Act 1997³, certain types of business in rural settlements, with a population below 3000 may qualify for mandatory rate relief of 100% Businesses that qualify for this relief are the sole general store and the sole post office in the settlement, provided it has a Rateable Value of up to £8,500; any food shop with a Rateable Value of up to £8,500; and the sole pub and the sole petrol station in the settlement provided it has a Rateable Value of up to £12,500.
- 2.7 Where businesses in rural settlements have a Rateable Value of up to £16,500 **and** are not in receipt of mandatory relief, the Council may decide to give up to 100% discretionary relief if it is satisfied that the business is of benefit to the community and having regard to the interests of its Council Taxpayers.

³ LGFA 1988, s.47, as amended by Sch. 1 to the Local Government and Rating Act 1997

Public Lavatories

- 2.8 Where a hereditament is occupied and consists wholly or mainly as a public lavatory, 100% mandatory relief is available. This relief is only available with effect from 1 April 20 and was inserted by the Non-Domestic Rating (Public Lavatories) Act 2021.

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 more 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 are obliged to make a written application to the Council. The Council will expect all businesses to make applications in such a format as is required (which may vary from time to time) and for the business to provide such information and evidence as required in order to determine whether relief should be awarded.
- 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 within the authority’s area. There is no statutory appeal process or Tribunal against any decision made by the Council although, as with any decision of a public authority, decisions can be reviewed by Judicial Review. The authority will however, upon request, review decisions made. Details of the internal review process are given within this policy.
- 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 – Rural Rate Relief - premises not receiving mandatory relief but of benefit to the local community and less than £16,500 RV;
 - (d) Discretionary Relief – Granted under the Localism Act 2011 provisions;
 - (e) Supporting Small Businesses Relief (from 1st April 2023);
 - (f) Retail Hospitality & Leisure Relief (from 1st April 2025 for a period of one year);

- 3.7 In addition to the granting of discretionary relief, the Council's policy in respect of S49 Hardship is provided in Appendix H.

The Council's general approach to granting Discretionary Relief

- 3.8 In deciding which organisations should receive discretionary rate relief, the Council has considered the following factors and priorities:
- (a) Relief granted by the previous districts Councils;
 - (b) The policy should support business, charities, organisations, and groups that are wholly or mainly in the Somerset area (at least 51% based in Somerset and supporting Somerset residents, businesses, or other organisations);
 - (c) To help to retain services in rural areas;
 - (d) Help and encourage businesses, charities, organisations, groups, and communities to become self-reliant;
 - (e) Awarding discretionary relief should not distort competition; and
 - (f) Every business/ organisation should contribute something towards the provision of local services.
- 3.9 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.
- 3.10 In certain cases, the order in which relief is granted is specified. Mandatory relief shall be granted in all cases where the criteria is met irrespective of whether discretionary relief can be granted or not.

The Council's approach to granting Government led Discretionary Relief schemes.

- 3.11 Over the past few years, a number of schemes have been led by Central Government but without specific legislative changes. These are administered under S47 of the Local Government Finance Act 1988 and guidance is often provided. The Council is keen to support such initiatives especially where they are designed to help local businesses and will look to maximise both the reliefs given as well as maximise any grants receivable. However, the Council reserves the right to vary its approach where thought appropriate.

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 1 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 after 1 April 2019, the costs of the relief will be borne in accordance with the Business Rates Retention Scheme share namely 50% borne by Central Government, and 50% by Somerset Council. 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 1 st April 2025
	Charity Relief	
A	Discretionary relief granted to Mandatory Relief recipients.	50% borne by the Council
B	Non-profit Making Organisations including Sports Clubs and societies.	50% borne by the Council
	Rural Discretionary	
C	Discretionary Relief – Rural Rate Relief - premises not receiving mandatory relief but of benefit to the local community and less that £16,500 RV.	50% borne by the Council
	Localism	
D	Discretionary Relief granted to ratepayers generally and not covered by any other section.	50% borne by the Council
	Supporting Small Business Relief	
E	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	
F	Retail, Hospitality and Leisure Relief Scheme (from 1 April 2025 for a period of one year).	Section 31 Grant

5.0 Administration of Discretionary Relief

5.1 The following section outlines the procedures followed by officers in granting, amending, or cancelling discretionary relief and reduction. This is essentially laid down by legislation⁴

Applications and Evidence

5.2 All reliefs must be applied for. Application forms (where required) are available both in hard copy and electronic format. The relevant application forms are available from the Council. The Council will specify how applications are to be received and this may vary from time to time.

5.3 Organisations are required to provide a completed application form plus any such evidence, documents, accounts (normally the last two years), financial statements etc. necessary to allow the Council to make a decision. Where insufficient information is provided, then no relief

⁴ The Non-Domestic Rating (Discretionary Relief) Regulations 1989

will be granted. In some cases, it may be necessary for officers to visit premises and we would expect organisations claiming relief to facilitate this where necessary.

- 5.4 Applications should initially be made to the Revenues and Benefits Service and will be determined in accordance with this policy.
- 5.5 **The Council will provide this service and provide guidance free of charge. Ratepayers are encouraged to approach the Council direct and NOT pay for such services through third parties. Applications will be accepted from ratepayers only.**

Granting of relief

- 5.6 In all cases, the Council will notify the ratepayer of decisions made.
- 5.7 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).
- 5.8 Discretionary relief is to be granted from the beginning of the financial year in which the decision is made or when liability begins whichever is the later. Where the relief is fully Government funded, relief will be granted as long as the ratepayer is eligible.
- 5.9 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

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

6.0 Scheme of Delegation

Granting, Varying, Reviewing and Revocation of Relief

- 6.1 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.
- 6.2 The Council's S151 Officer in conjunction with the relevant Lead Member are delegated powers to vary the amount (percentage) and / or the maximum relief cap limit, if necessary, in line with changes in the rating list, rateable values and legislation generally.
- 6.3 The Council's scheme of delegation allows for the Revenues and Benefits Service to award, revise or revoke any discretionary relief applications. However, any application which is

considered to be of a significant nature or subject to review, will be subject to consultation with the Council's S151 Officer, relevant service director or service manager.

- 6.4 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

- 6.5 The policy for granting relief will be reviewed periodically 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

- 6.6 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 Revenues and Benefits Service. Where a decision is revised then the ratepayer shall be informed, likewise if the original decision is upheld.
- 6.7 Where the ratepayer wishes to appeal the decision, the case will be considered by the Council's Section 151 Officer, relevant service director or service manager whose decision on behalf of the Council will be final.
- 6.8 Ultimately the formal appeal process for the ratepayer is Judicial Review although the Council will endeavour to explain any decision fully and openly with the ratepayer.

7.0 Reporting changes in circumstances

- 7.1 Where any award is granted to a ratepayer, the Council will require any changes in circumstances which may affect the relief, to be reported as soon as possible or in any event within 21 days of the change. This will be important where the change would result in the amount of the award being reduced or cancelled e.g., where the premises comes unoccupied or is used for a purpose other than that determined by the Council as eligible for relief.
- 7.2 Where a change of circumstances is reported, the relief will, if appropriate, be revised or cancelled as appropriate. Where any award is to be reduced, the Council will look to recover the amount from the date the change of circumstances occurred.

8.0 Fraud

- 8.1 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 1 April 2004) to include registered⁵ 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 institution⁶ 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 litigation⁷, 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.
- A.6 The Council will consider charitable organisations, registered or not, for mandatory relief.

⁵ Registered with HMRC as a CASC

⁶ S67(10) Local Government Finance Act 1988

⁷ Income Tax Special Commissioners v Pemsell (1891)

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. In some cases, it will be necessary for the Council to inspect any premises fully.
- A.8 Guidance from the (then) Department of Communities and Local Government (DCLG) (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 may be equally considered for discretionary rate relief.

Offices, administration, and similar premises

- A.10 Premises used for administration of the Charity include:
- Offices;
 - Meeting Rooms; and
 - 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.

Granting of Mandatory Relief - the Council’s Policy

- A.13 Where the criteria for awarding mandatory relief are met, the rate charges shall be calculated in accordance with the legislation reducing the liability of ratepayers for each day that the criteria are met.

Charity Relief – Mandatory Relief recipients, the Council’s Policy for granting discretionary relief.

- A.14 The Council has resolved to grant the following discretionary relief where the applicants already receive mandatory charity relief:

Relief Type	Maximum possible relief	Proposed relief & qualifying criteria
Mandatory Recipients – ‘Top Up’ (Discretionary) Excluding CASCs (Business Rates)	20%	20% for all local (wholly or mainly Somerset Based) Charities Subject to a cap per hereditament of £10,000.
Mandatory Recipients – ‘Top Up’ (Discretionary) CASCs (Business Rates)	20%	20% for all local (wholly or mainly Somerset Based) CASCs Subject to a cap per hereditament of £10,000.
Rural Rate Relief – Discretionary Only (small number of cases that fall within the criteria)	100%	75% for all local (wholly or mainly Somerset Based) rural businesses. Subject to a cap per hereditament of £10,000.
<ul style="list-style-type: none"> • Somerset based’ means organisations which are wholly or mainly based in Somerset and are wholly or mainly for the benefit of the Somerset area i.e. at least 51% of the organisation is located within Somerset and at least 51% of the benefits, support, objectives etc. of the organisation are delivered within and for the Somerset area; and • CASC means Community Amateur Sports Club as defined by HMRC. • Schools (except for Somerset based play groups, pre-schools, and child nurseries) will be specifically excluded from receiving relief. 		

A.15 The policy targets support at Somerset based organisations only, as defined above.

A.16 Schools (except for Somerset based play groups, pre-schools, and child nurseries) will be specifically excluded from receiving relief.

A.17 It should be noted that with effect from 1 April 2025, private schools will no longer be entitled to mandatory relief and therefore would not qualify under this section for any discretionary relief. For the purposes of this change the definition of 'Private School' is as defined by HM Treasury as 'schools at which full time education is provided for pupils of compulsory school age where a fee(s) is payable. Delegated authority is given to the Council's Section 151 Officer in consultation with the Monitoring Officer to make such amendments as are necessary to ensure the wording of this policy aligns with the provision of the Act once those amendments are in force.

A.18 In all cases the total amount of discretionary relief awarded will be limited to a maximum of £10,000 per hereditament per annum. The amount of relief awarded will be calculated on a daily basis for the period concerned. Where the cap applies to the property and the relief awarded is for a period of less than a year the amount awarded will be in proportion to the amount of the £10,000 cap applicable for the number of days for which the relief is awarded.

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 legislation⁸ 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 city, 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.

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% 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 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 England as anything that meets the the Council of Europe's European Sports Charter 1993 definition of sport which is:

⁸ S47 Local Government Finance Act 1988

"Sport means all forms of physical activity which, through casual or organised participation, aim at expressing or improving physical fitness and mental well-being, forming social relationships or obtaining results in competition at all levels."

Access to clubs

- B.8 Guidance issued by the Government 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' 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, membership and/or participation are required); and
- (c) That the membership comprises mainly residents of Somerset or that activities are of direct benefit to residents of the Somerset Council area.

B.16 The current policy is as follows:

Relief Type	Maximum possible relief	Proposed relief & qualifying criteria
Discretionary Relief – Non Profit Making organisations. (Business Rates Retention)	100%	75% for all local (wholly or mainly Somerset Based) organisations. Subject to a cap per hereditament of £10,000. No awards of discretionary relief will be made to schools (except for Somerset based play groups, pre-schools, and child nurseries) under this section.
Discretionary Relief – Non Profit Making Recreation Clubs (Business Rates Retention)	100%	75% for all local (wholly or mainly Somerset Based) recreation clubs. Subject to a cap per hereditament of £10,000. All clubs are encouraged to claim CASC status.
<ul style="list-style-type: none"> • Somerset based' means organisations which are wholly or mainly based in Somerset and are wholly or mainly for the benefit of the Somerset area i.e. at least 51% of the organisation is located within Somerset and at least 51% of the benefits, support, objectives etc. of the organisation are delivered within and for the Somerset area; and • CASC means Community Amateur Sports Club as defined by HMRC. 		

B.17 The policy targets support at Somerset based organisations only, as defined above.

B.18 Schools (except for Somerset based play groups, pre-schools, and child nurseries) will be specifically excluded from receiving relief. This will also include Private Schools who formally received mandatory relief prior to 1 April 2025.

B.19 In all cases the total amount of discretionary relief awarded will be limited to a maximum of £10,000 per hereditament per annum. The amount of relief awarded will be calculated on a daily basis for the period concerned. Where the cap applies to the property and the relief awarded is for a period of less than a year the amount awarded will be in proportion to the amount of the £10,000 cap applicable for the number of days for which the relief is awarded.

Appendix C
Discretionary Relief – Premises within Rural Settlements

Discretionary Relief – Premises within Rural Settlements

- C.1 The Local Government and Rating Act 1997 allows discretionary relief of up to 100% to be granted where the rateable value is £16,500 or less and:
- (a) Property is used for purposes which are of benefit to the local community; and
 - (b) It would be reasonable for the billing authority to award relief, having regards to the Council's Council Taxpayers.
- C.2 As with most discretionary relief, part of the cost, is met by Central Government and the balance from local sources.
- C.3 The main criteria for granting discretionary relief in respect of rural rate relief is that premises are used to benefit the local community.

Benefit to the local community.

- C.4 Whilst each application for the relief will be considered on its own merits, there are certain factors which weigh heavily in the decision-making process. It is this Council's belief that the spirit of the legislation is to assist businesses and amenities, which contribute significantly to the quality of life of the people who have their main home in the Rural Settlement.
- C.5 To be successful for consideration, a business must show that its existence is a significant benefit to the local community with the majority of local residents directly benefiting from services or facilities provided by that business

Rural Rate Relief – the Council's Policy for granting discretionary relief.

- C.6 The Council will also consider applications for a discretionary rural rate relief from all ratepayers, not entitled to mandatory relief up to the levels in the table below.
- C.7 In determining the application the following matters will be taken into consideration:
- The granting of any discretionary relief will be essential in ensuring the viability of any business within the rural settlement;
 - The granting of any discretionary relief is proportionate given the level of any business rates charged compared with the overall turnover of the business;
 - The granting of any discretionary relief will assist the business in continuing to be viable and / or prevent the business from failing;
 - The business is considered by the Council to be essential to the community and that any reduction or withdrawal of the business will have a serious detrimental effect on the rural settlement;
 - The granting of any discretionary relief is reasonable having regard to the effect on taxpayers of the Council.
- C.8 Where all of the above criteria are met the Council will grant the following relief:

Relief Type	Maximum possible relief	Proposed relief & qualifying criteria
Rural Rate Relief – Discretionary Only (small number of cases that fall within the criteria)	100%	75% for all local (wholly or mainly Somerset Based) rural businesses.
<ul style="list-style-type: none"> Somerset based' means organisations which are wholly or mainly based in Somerset and are wholly or mainly for the benefit of the Somerset area i.e. at least 51% of the organisation is located within Somerset and at least 51% of the benefits, support, objectives etc. of the organisation are delivered within and for the Somerset area. 		

C.9 The policy targets support at Somerset based organisations only, as defined above.

C.10 Schools (except for Somerset based play groups, pre-schools, and child nurseries) will be specifically excluded from receiving relief.

C.11 In all cases the total amount of discretionary relief awarded will be limited to a maximum of £10,000 per hereditament per annum. The amount of relief awarded will be calculated on a daily basis for the period concerned. Where the cap applies to the property and the relief awarded is for a period of less than a year the amount awarded will be in proportion to the amount of the £10,000 cap applicable for the number of days for which the relief is awarded.

Appendix D
Discretionary Relief – Localism Act 2011

Discretionary Relief – Localism Act 2011

General explanation

- D.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 of **up to 100%** in **any** circumstances where it feels fit having regards to the effect on the Council Taxpayers of its area.
- D.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 Taxpayers. An example where the Council has granted relief in the past are where premises were affected by flooding.

Discretionary Relief – Localism – the Council’s Policy

- D.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.
- D.4 The Council will consider any application for discretionary rate relief under these provisions against the following criteria and the amount of relief granted will be dependent on the overall level of compliance. (The Council reserves the right to vary the factors 1. and 3. below in exceptional circumstances where the occupation of the hereditament is of significant importance to the residents of Somerset);

Factor	Explanation	Compliant	
1	The ratepayer must not be entitled to mandatory rate relief (Charity or Rural Rate Relief)	Yes	No
2.	The ratepayer must not be entitled to Central Government funded discretionary reliefs (S31 funded)		
3.	The ratepayer must not be an organisation that could receive relief as a non-profit making organisation or as a sports club or similar		
4.	The ratepayer must occupy the premises (no discretionary rate relief will be granted for unoccupied premises)		
5.	The premises and organisation must be of <i>significant</i> benefit to residents of the Council’s area		
6.	The premises and organisation must relieve the Council of providing similar facilities		
7.	The ratepayer must ; (i) Provide facilities to certain priority groups determined by the Council such as elderly, disabled, minority groups, disadvantaged groups; or (ii) Provide <i>significant</i> employment or employment opportunities to residents of the Council; or		

Factor	Explanation	Compliant	
	(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		
8.	The ratepayer must demonstrate that assistance (provided by the discretionary rate relief) will be for a <i>short time only</i> and that any business / operation is financially viable in the medium and long term		
9.	The ratepayer must show that the activities of the organisation are consistent with the Council's core values and priorities		
10.	The ratepayer must not fall within the definition of a Private School For the purposes of this change the definition of 'Private School' is as defined by HM Treasury as 'schools at which full time education is provided for pupils of compulsory school age where fees are payable.'		

D.5 Any relief granted will initially be considered for initially a short period (12 months maximum).

Appendix E
Supporting Small Businesses Relief

General Explanation

- E.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.
- E.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.
- E.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?

- E.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.
- E.5 Charities and Community Amateur Sports Clubs, who are already entitled to mandatory 80% relief, are not eligible for 2023 SSBR.
- E.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).
- E.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.
- E.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 .
- E.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.
- E.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.
- E.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

- E.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).
- E.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.
- E.14 All other discretionary reliefs, including those funded by section 31 grants, will be considered after the application of 2023 SSBR.

Subsidy control

- E.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.
- E.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 2023/24 year and the two previous financial years). MFA subsidies cumulate with each other and with other subsidies that fall within the category of 'Minimal or SPEI financial assistance'. BEIS COVID-19 business grants and any other subsidies claimed under the Small Amounts of Financial Assistance limit of the Trade and Cooperation Agreement should be counted under the £315,000 allowance.
- E.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.
- E.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

- E.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.
- E.20 Under regulations made under section 47 of the Local Government Finance Act 1988 authorities must give at least 12 months' notice of a revocation or variation of a rate relief scheme the effect of which would be to increase rate bills. Such a revocation or variation can only take effect at the end of a financial year (other than to comply with international agreements). But within these regulations, the Council may still make decisions which are conditional upon eligibility criteria. If a change in circumstances renders a property ineligible, the relevant bill can be amended in the year to reflect the loss of the relief.
- E.21 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.
- E.22 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.

- E.23 The Council has decided to grant relief strictly in accordance with Central Government guidelines.

Appendix F
Retail, Hospitality and Leisure Relief

General Explanation

- F.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?

- F.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.
- F.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.
- F.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?

- F.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.

- F.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.
- F.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?

- F.8 Subject to the £110,000 cash cap per business, the total amount of government-funded relief available for each property for 2025/26 under this scheme is for chargeable days from 1 April 2025 to 31 March 2026, 40% of the chargeable amount.

- F.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.
- F.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).
- F.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.
- F.12 This will be calculated ignoring any prior year adjustments in liabilities which fall to be liable on the day.

The Cash Cap and Subsidy Control

- F.13 Under the cash cap, no ratepayer can in any circumstances exceed the £110,000 cash cap across all of their hereditaments in England.
- F.14 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.

- F.15 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.
- F.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 3-year period (consisting of the 2023/24 year and the 2 previous financial years). MFA subsidies cumulate with each other and with other subsidies that fall within the category of 'Minimal or SPEI financial assistance'. Expanded Retail Discount granted in 2021/22 does not count towards the £315,000 allowance but BEIS COVID-19 business grants and any other subsidies claimed under the Small Amounts of Financial Assistance limit of the Trade and Cooperation Agreement will be counted.
- F.17 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.
- F.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.

Splits, mergers, and changes to existing hereditaments

- F.19 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

- F.20 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.
- F.21 Under regulations made under section 47 of the Local Government Finance Act 1988 the Council must give at least 12 months' notice of a revocation or variation of a rate relief scheme the effect of which would be to increase rate bills. Such a revocation or variation can only take effect at the end of a financial year (other than to comply with international agreements). But within these regulations, the Council may still make decisions to ensure the scheme is administered in accordance with the extant rules. If a change in circumstances renders a property ineligible, the relevant bill can be amended in the year to reflect the loss of the relief.

Eligibility for the Retail, Hospitality and Leisure Relief Scheme

- F.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

F.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.

F.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:

- F.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.

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

Appendix G

The Council's policy in respect of S49 of the Local Government Finance Act 1988

General Explanation

G.1 The Council is able to exercise its discretion under Section 49 of the Local Government Finance Act 1988 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 taxpayers in general.

Discretionary Relief – Hardship – the Council’s Policy

G.2 The Council will accept applications for hardship relief from individuals and organisations based on their own merits on a case-by-case basis. The Revenues and Benefits Service will consider applications. Application forms are available from the Council.

G.3. A successful applicant will need to demonstrate that each of the following three conditions has been met:

- (a) that the business is suffering hardship;
- (b) that the business is viable and that the granting of relief will help to ensure the future of the business; and
- (c) that the business benefits the local community and its failure will be of significant impact to the local economy.

G.4 Prior to any reduction in rate liability being applied, the business is expected to have taken appropriate action to mitigate or alleviate their hardship by:

- taking independent professional business advice;
- reviewing their pricing structure or its approach to income generation;
- where allowed by law, re-negotiating with creditors, including any financial institutions; service providers and the landlord regarding rent (the Council is mindful of insolvency statute that may limit this);
- having a business plan in place to address the hardship.

Applications and Decision Making

G.5 Hardship relief is intended to provide short term assistance to a ratepayer suffering unexpected hardship, financial difficulty, or otherwise, arising because of exceptional circumstances or short-term crisis beyond the business’ control and outside of the normal risks associated with running a business of that type, to the extent that the viability of the business would be threatened if an award were not made or where such a failure may significantly affect the local economy or employment.

G.6 As the definition covers unforeseen events, it is not possible to offer precise definitions. However, a 'crisis' would have to result in a serious loss of trade, employment or have a major effect on the services that can be provided.

H.7 'Exceptional circumstances' will usually be circumstances that came from outside the business or organisation and are beyond the normal risks faced by businesses and cannot be foreseen or avoided. The effect of strikes within a business or organisation, increased day to day running costs and increased competition would not be considered as 'exceptional circumstances' as they are normal business risks.

- G.8 Applications to reduce or remit the non-domestic rate charge will only be considered where the Council is satisfied that the ratepayer would otherwise sustain hardship if no award was made and that it is reasonable to grant relief having regard to the interest of Council Taxpayers who are affected by decisions under this section.
- G.9 Applications for hardship will be examined on a case-by-case basis by the Revenues and Benefits Service. Each application will be assessed on its individual merits. Other issues or requirements will also be considered in relation to the application as they arise including:
- All applications should be made in writing from the ratepayer, their advocate/appointee or a recognised third party acting on their behalf, preferably using the relevant form, and should contain the necessary information to substantiate the request;
 - All applications are only intended as short-term assistance and will not extend beyond the current financial year, and should not be considered as a way of reducing rate liability indefinitely;
 - The financial interests of the Council Taxpayers will not be the sole overriding factor e.g., the impact on employment and amenities provision will also be considered;
 - The test of 'hardship' is not confined strictly to financial hardship - all relevant factors affecting the ability of a business to meet its liability for rates are considered where readily available. Where the granting of relief will have an adverse effect on the financial interests of the council taxpayers, relief may still be granted if the case for relief on balance outweighs the costs to taxpayers;
 - The test of hardship will include an assessment of the ratepayer's individual accounts to verify that the payment of rates would cause hardship; and
 - How the reduction in rate liability may be affected by the Subsidy Control rules.
- G.10 Upon receipt of a written application, all supporting information must be included for consideration.
- G.11 Once a decision has been approved the ratepayer will be advised in writing of the decision.

Review of Decision

- G.12 Under S49 of the Local Government Finance Act 1988, there is no general right of appeal against the Council's use of discretionary powers. However, on individual applications, the Council will accept a request from a ratepayer for a re-determination of its decision. The Council will consider whether the ratepayer has provided any additional information that will justify a change to its original decision.
- G.13 The Council will notify the ratepayer of its decision within 21 days of receiving a request for a redetermination. This decision shall be final.
- G.14 Should the ratepayer feel aggrieved by the way the Council has considered any application; the matter will be dealt with in accordance with the Council's complaints procedure.

Award of Relief and Period of the award

- G.15 Relief will normally only be awarded retrospectively. However, where the ratepayer can show that the circumstances will remain the same for a period up to the end of the current financial year, relief may be award for the remainder of the year.
- G.16 Hardship Relief will **not** be granted in respect of an unoccupied premises or where there is little or no expectation of economic survival.
- G.17 In all cases, it is expected that businesses should have taken prompt action to mitigate any factors giving rise to hardship. Examples of mitigating actions may include seeking business advice; discounts and promotions; reviewing pricing; extending the range of stock or services; and negotiating with creditors etc. Applications may be declined in circumstances where the business is unable to demonstrate that it is taking reasonable steps to alleviate the hardship.
- G.18 In all cases relief will end in the following circumstances:
- At the end of a financial year;
 - A change of ratepayer;
 - The property becomes unoccupied, partly unoccupied or is used for a different purpose;
 - The ratepayer enters any form of insolvency; or
 - The ratepayer's financial circumstances significantly change.
- G.19 The ratepayer must inform the Council if their circumstances change within a period of 21 days from the date of change.
- G.20 The Council will review cases periodically where awards are made to confirm hardship persists.
- G.21 The Council will not accept deliberate manipulation of this policy or fraud. Any person caught falsifying information to gain a discretionary award will face prosecution and any amount awarded will be removed from the non-domestic rate account.

KEY DECISION RECORD

Date of decision: 20 February 2023

Date of publication of decision: 20 February 2023

Date decision comes into force: 20 February 2023

1. Lead Member Key Decision

The Deputy Leader of the Council and Lead Member for Finance and Human

Resources agreed:

- to the incorporation of the new Retail, Hospitality and Leisure and Supporting Small Business Relief scheme for 2023/24 into the Non Domestic Rating Discretionary Rate Relief and Hardship Policy, in the updated policy document is attached at Appendix 1 of the report

Note: The Leader of the Council and the Chair of Scrutiny Policies and Place Committee has agreed the use of special urgency to consider the above recommendations and the use of urgency to enable the immediate implementation of the decision

Signed by the Deputy Leader of the Council and Lead Member for Finance and Human Resources:



SOMERSET COUNTY COUNCIL
EXECUTIVE ARRANGEMENTS MEMBER / OFFICER DECISION RECORD

2. Reason for Decision(s)

As set out in the Officer's report

3. Reason(s) for Urgency (where applicable)

It would be impracticable to defer this decision

4. Details of any alternative options considered and rejected

As set out in the attached report

5. Any relevant Personal Interest that the Lead Member may have under the Council's Code of Conduct for members

None

6. Details of any conflict(s) of interest declared by a Lead Member consulted about the proposals and any dispensation from Chief Executive

None

7. Other background information considered by the Lead Member before making this decision

None