

Policy for the granting of COVID-19 Additional Relief Fund Discretionary Non-Domestic Rate Relief Updated September 2022

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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 payable under the Council's COVID-19 Additional Relief Fund (CARF) scheme.
- 1.2 Central Government has provided the authority with funding to assist those ratepayers whose businesses have been (and continue to be) affected by the pandemic but that are ineligible for existing support linked to business rates.
- 1.3 The Government has not changed the legislation relating to the business rates reliefs available to properties. Instead, the Government will, in line with the eligibility criteria set out in this policy, reimburse local authorities where relief is granted using discretionary relief powers under section 47 of the Local Government Finance Act 1988.
- 1.4 Whilst funding is provided by Central Government, it is for the Council to decide its own local scheme and determine in each individual case whether to grant this particular relief.
- 1.5 Relief under the CARF scheme will only be available to reduce chargeable amounts in respect of the 2021/22 financial year.
- 1.6 This document outlines the following areas:
 - Details of the criteria for receiving Discretionary Reliefs under the COVID-19 Additional Relief Fund (CARF) scheme;
 - The Council's policy for the granting the relief;
 - General guidance on granting and administering the reliefs and awards;
 - Subsidy Controls applicable; and
 - The Council's Scheme of Delegation.
- 1.7 Where ratepayers apply for relief, they will be granted (or not granted) relief under the COVID-19 Additional Relief Fund (CARF) scheme in line with the following policy.

2.0 Discretionary Relief - Legislative Background

Introduction

- 2.1 The original purpose of discretionary relief was to provide assistance where the property does not qualify for mandatory relief, or to 'top' up cases where ratepayers already receive mandatory relief.
- 2.2 Over recent years and particularly since 2011, the discretionary relief provisions have been amended to allow authorities the flexibility to provide more assistance to businesses and organisations.
- 2.3 The range of bodies, which are eligible for discretionary rate relief, is wide and not all of the criteria laid down by the legislation will be applicable in each case.
- 2.4 The Council will expect all businesses to provide such information and evidence as required in order to determine whether relief should be awarded.
- 2.5 There is no statutory appeal process or Tribunal against any decision made by the Council although, as with any decision of a public authority, decisions can be reviewed by a Judicial Review.
- 2.6 The decision to grant or not to grant discretionary relief is a matter purely for the Council.

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

- 3.1 Whilst the Council has determined its own scheme, the Department for Levelling Up, Housing and Communities has stated that, in order for the Council to receive the allocated funding, it must:
 - (a) **not** award relief to ratepayers who for the same period of the relief either are or would have been eligible for the Expanded Retail Discount (covering Retail, Hospitality and Leisure), the Nursery Discount or the Airport and Ground Operations Support Scheme (AGOSS);
 - (b) **not** award relief to a hereditament for a period when it is unoccupied (other than hereditaments which have become closed temporarily due to the government's advice on COVID-19, which should be treated as occupied for the purposes of this relief); and
 - (c) direct their support towards ratepayers who have been adversely affected by the pandemic and have been unable to adequately adapt to that impact.
- 3.2 In line with section 47(8) of the Local Government Finance Act 1988, the Council must not grant any relief to itself or to either local or major precepting authorities.

- 3.3 The relief will be applied after mandatory reliefs and other discretionary reliefs funded by section 31 grants have been applied, excluding those where the Council has provided relief using its wider discretionary relief powers introduced by the Localism Act 2011 which are not funded by section 31 grants.
- 3.4 Where any reduction or remission is granted to a ratepayer under S49 Local Government Finance Act 1988 (where hardship is proven to the Council), then there will be no requirement to grant CARF Discretionary Rate Relief for that amount.
- 3.5 In certain cases, the order in which relief is granted is specified. Mandatory relief shall be granted in all cases where the relevant criteria are met irrespective of whether discretionary relief can be granted or not.

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

- 4.1 Over the past few years, a number of schemes (such as the COVID-19 Additional Relief Fund) have been led by Central Government but without specific legislative changes.
- 4.2 The Council is keen to support such initiatives especially where they are designed to help local businesses and will look to maximise both the reliefs given as well as maximise any grants receivable.
- 4.3 In view of this, the Council has decided that relief under this scheme shall be awarded in two distinct ways as follows:
- (a) Part 1 – Formula Criteria Based Scheme; and
 - (b) Part 2 – Special Cases.

Part 1 - Formula Criteria Based Scheme

- 4.4 Where a ratepayer meets **all** of the relevant criteria, relief will be 53% (capped at a maximum of £35,000 per business) of the 2021/22 liability **after** any other reliefs and reductions have been applied.
- 4.5 The criteria for the COVID-19 Additional Relief Fund are as follows:
- (a) The ratepayer is not eligible (or would be eligible) for the Expanded Retail Discount (covering Retail, Hospitality and Leisure), the Nursery Discount or the Airport and Ground Operations Support Scheme (AGOSS) ;
 - (b) The ratepayer is not entitled to either Small business rate relief or rural rate relief;
 - (c) The ratepayer is not entitled to mandatory relief (80%) and discretionary top up of 20% which is funded through business rates retention ;
 - (d) The hereditament is treated as occupied on the Council's records on 15 December 2021 (the date of the Government announcement) ;

- (e) In accepting the award of relief and not subsequently contacting South Somerset District Council Revenues Team to opt out or declare themselves ineligible, the ratepayer confirms that they have been adversely impacted by the pandemic and have been unable to adequately adapt to that impact;
- (f) The ratepayer is not subject to subsidy controls; (see definition within section 6)
- (g) The hereditament is not excluded under local exclusions by business type or scat code or under the scat codes listed by the government under appendix D and F to the CARF guidance; and
- (h) The ratepayer must be in current occupation of the hereditament (including trading from the premises) for the period rate relief is sought within the 2021/22 financial year;
- (i) **Eligibility is determined based on the entry in the rating list as at on the day 15 December 2021 including the SCAT code that the Valuation Office Agency applied at that time as well as a manual exercise conducted by SSDC officers.**

Part 2 - Special Cases

- 4.6 Any ratepayer who wishes to qualify under the Special Cases part must:
- (a) Demonstrate to the Council, including providing evidence, that they have been adversely impacted by the pandemic and have been unable to adequately adapt to that impact; and
 - (b) Not be entitled to any relief under the Formula Criteria Based Scheme;
 - (c) Make a formal application for relief by emailing restartgrants@southsomerset.gov.uk and providing:
 - Most recent business rates bill
 - Business rates number
 - Description of business rates activity and how it has been adversely affected by Covid 19 for the required time period. (other supporting evidence such as bank statements may be requested);
 - (d) The ratepayer is not eligible (or would be eligible) for the Expanded Retail Discount (covering Retail, Hospitality and Leisure), the Nursery Discount or the Airport and Ground Operations Support Scheme (AGOSS);
 - (e) The ratepayer is not entitled to either Small Business Rate Relief or Rural Rate Relief;
 - (f) The ratepayer is not subject to Subsidy Controls;
 - (g) The ratepayer is not entitled to mandatory relief (80%) and discretionary top up of 20% which is funded through business rates retention;
 - (h) The ratepayer must be in current occupation of the hereditament (including trading from the premises) for the period rate relief is sought within the 2021/22 financial year;
 - (i) Where a business has been excluded due to the SCAT code under Part 1 of our scheme (the Formula Criteria Based Scheme), the Council will only consider these for a special case where there are clear grounds that the business activity together with the primary purpose of the hereditament means they

have been incorrectly classified

- 4.7 For special cases, any relief granted will be between 53% capped (capped at a maximum of £35,000 per business) of the 2021/22 liability **after** any other reliefs and reductions have been applied. The exact amount will be notified to the ratepayer by means of a revised demand notice
- 4.8 For the sake of clarity, it should be noted that any increased in Rateable Value for the 2021/22 period will not affect any award.
- 4.9 Where the ratepayer vacated the hereditament during the financial year 2021/22, the award will be apportioned on a pro-rata basis.
- 4.10 Special cases will be considered by the Council's Revenues Team in conjunction with the Council's Economic Development Team. Any appeals of decisions will be considered by the Principal Revenues Specialist and Lead Specialist Economic Development.

5.0 Excluded hereditaments

- 5.1 Businesses and hereditaments will be excluded from either part of the COVID-19 Additional Relief Fund scheme (Part 1) if they fall within either the local exclusions listed below or within the list of SCAT code exclusions shown in Appendix A.
- 5.2 The local exclusions are shown in the below. Businesses and hereditaments will be excluded from either part of the COVID-19 Additional Relief Fund scheme (Part 1) if they fall within either the local exclusions listed below or within the list of SCAT code exclusions shown in Appendix A. Please note, businesses included within the list below are still able to apply through the Special Cases scheme.

The local exclusions are shown in the below:

- Businesses deemed by South Somerset District Council to have been unaffected by COVID-19 or that would have been able to adapt their way of working, such as technology firms, web hosting, software providers and associated properties;
- Professional & Financial Services including Banks, ATM's, Accountants, Solicitors, Estate Agents, Independent Financial Advisors, and associated properties (predominantly office based businesses);
- Dormant companies, companies in proposal to strike off and/or in administration;
- Public funded bodies such as NHS, Fire, Police, Military, Government Agencies and associated properties;
- Doctors Surgeries and associated properties;
- Schools (Local Authority, Public & Independent) and associated properties;
- Colleges and associated properties;
- Car parks and parking spaces;

- Land used for storage, storage and premises, storage containers, store and premises, store room and premises and associated properties;
- Charities receiving 80% mandatory relief and/or discretionary top up relief
- Funeral parlours and associated properties;
- Vets Practices and associated properties; and
- Pharmaceuticals ;
- National businesses and chains (unless of significant local importance e.g., head office located in South Somerset);
- Waste services;
- Traffic management;
- Food production or handling businesses; and
- Removal companies

6.0 Subsidy Control

- 6.1 The Council's COVID-19 Additional Relief Fund (CARF) scheme is subject to the subsidies chapter within the UK-EU Trade and Cooperation Agreement (TCA). However, for CARF there is an exemption for subsidies under the value of approximately £2,243,000 per economic actor (broadly speaking, for example, a holding company and its subsidiaries).
- 6.2 This allowance comprises 325,000 Special Drawing Rights (at current exchange rates about £343,000) for Small Amounts of Financial Assistance and a further £1,900,000 for COVID-19 related subsidy.
- 6.3 Therefore, to be awarded CARF the ratepayer must not have claimed over the period 2019/20 to 2021/22 more than £2,243,000 from schemes which fell within the Small Amounts of Financial Assistance or COVID-19 related allowances.
- 6.4 Any COVID-19 business grants a ratepayer has received from local government generally and the 2019/20 Retail Relief should count towards this limit, but the ratepayer should not count any Extended Retail Discount they have received since 1 April 2020.
- 6.5 Further details of subsidy control can be found at: <https://www.gov.uk/government/publications/covid-19-additional-relief-fund-carf-local-authority-guidance>
- 6.6 The ratepayer will need to indicate to the Council:
- if they have not to date received any subsidy which fell within the Small Amounts of Financial Assistance or COVID-19 related allowances; or
 - if the ratepayer has received other such subsidies, they will be required to provide the name and total value of those subsidies.
- 6.7 A ratepayer must not accept funding from the CARF if they have already exceeded

the £2,243,000 allowance. However, the Council will still consider applications for support under the CARF scheme if they have reached this limit provided you can evidence that they:

- (a) Intend to use the support to fund uncovered fixed costs (costs not covered by profits for insurance etc) during the period of COVID-19. Economic actors may claim for up to 70% of their uncovered costs (although this 70% limit does not apply to small businesses with less than 50 employees and less than £9 million turnover where the limit is instead 90%); and
- (b) Have shown a decline in turnover of at least 30% within the April 2020 to March 2021 period, compared to the same 2019 to 2020 period.

6.8 The ratepayer may claim up to a further £10 million of additional allowance (on top of the £2,243,000) if they meet the above tests and they have not claimed any other support from the additional allowance up to an aggregate £10 million limit (such as from the COVID-19 business grants).

6.9 Government and the Council will not tolerate any business falsifying their records or providing false evidence to gain this relief including claiming support above these thresholds.

6.10 A ratepayer who falsely applies for any relief or provides false information or makes false representation in order to gain relief may be guilty of fraud under the Fraud Act 2006.

6.11 In accepting the award of relief and not subsequently contacting South Somerset District Council Revenues Team to opt out or declare themselves ineligible, the ratepayer confirms that they comply with subsidy legislation.

7.0 Effect on the Council's Finances

7.1 As Central Government leads this initiative, funding will be provided 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.

7.2 In order to guarantee funding, the Council will ensure that the criteria in this policy are met in full

8.0 Administration of Discretionary Relief

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

Applications and Evidence

- 8.2 Businesses that South Somerset District Council deem eligible will receive a letter informing them that an award will be made. **It is the responsibility of the business to notify South Somerset District Council should they wish to opt out.** The business will have two weeks to notify the Council. After this two week period, an award will be made to the businesses 2022/23 business rates account.
- 8.3 Where appropriate, ratepayers are required to provide such evidence necessary to allow the Council to make a decision. Where insufficient information is provided, then no relief will be granted. In some cases, it may be necessary for officers to visit premises and we would expect ratepayers claiming relief to facilitate this where necessary.
- 8.4 The Council will provide this service and provide guidance free of charge. Ratepayers are encouraged to approach the Council direct and NOT pay for such services through third parties. Applications will be accepted from ratepayers only.

Granting of relief

- 8.5 In all cases, the Council will notify the ratepayer of decisions made.
- 8.6 Where an application (if required) is successful, then the following will be notified;
- The amount of relief granted and the date from which it has been granted;
 - If relief has been granted for a specified period, the date on which it will end.
 - The new chargeable amount;
 - The details of any planned review dates and the notice that will be given in advance of a change to the level of relief granted; and
 - A requirement that the applicant should notify the Council of any change in circumstances that may affect entitlement to relief.
- 8.7 Awards will only be made for the 2021/22 financial year.

Variation of a decision

- 8.8 Variations in any decision will be notified to ratepayers as soon as practicable and will take effect as follows:
- Where the amount is to be increased due to a change in rate charge (excluding rateable value increases) or a change in the Council's decision which increases the award – this will apply from a date determined by the Council as appropriate;
 - Where the amount is to be reduced due to a reduction in the rate charge or liability including any reduction in rateable value, awarding of another relief or exemption this will apply from the date of the decrease in rate charge; and
 - Where the amount is to be reduced for any other reason, it will take effect from a date determined by the Council as appropriate;
- 8.9 A decision may be revoked at any time and a one-year period of notice will be given

and the change will take effect at the expiry of a financial year. However, the Council will terminate the relief at any time the ratepayer fails to meet **any** of the relevant eligibility criteria.

9.0 Scheme of Delegation

Granting, Varying, Reviewing and Revocation of Relief

- 9.1 All powers in relation to reliefs are given under the Local Government Finance Act 1988, the Local Government and Rating Act 1997, the Local Government Act 2003, and the Localism Act 2011. However section 223 of the Local Government Act 1992 allows for delegation of decisions by the Council to Cabinet, Committees, Sub- Committees or Officers.
- 9.2 In February 2022, the South Somerset District Council's District Executive Committee the use of the Councils local discretionary powers to award CARF relief retrospectively from 1 April 2021 to 31 March 2022. And to delegate final approval of the scheme adopted to the Director of Service Delivery and the Portfolio Holder for Finance.
- 9.3 Applications that are refused will, on request, be reconsidered if additional supporting information is provided or the refusal is subsequently considered to be based on a misinterpretation of the application.

Request for review

- 9.4 Where the Council receives a request for review from the ratepayer regarding the granting, non-granting or the amount of any discretionary relief, the case will be reviewed by the Principal Revenues Specialist and Specialist Economic Development. Where a decision is revised then the ratepayer shall be informed, likewise if the original decision is upheld.
- 9.5 Where the ratepayer is still aggrieved, the decision of the Principal Revenues Specialist and Specialist Economic Development, the case will be considered in conjunction with Acting Director Place and Recovery whose decision on behalf of the Council will be final.
- 9.6 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.

10.0 Reporting changes in circumstances

- 10.1 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.

- 10.2** Where a change of circumstances is reported which would cease or revise eligibility, 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.

11.0 Fraud

- 11.1** 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
Hereditaments excluded from the scheme (defined by Special Category Code)

Special Category Description	
003	Advertising Right
010	Ambulance Stations
018	ATMS
021	Banks/Financial Sector
034	Bullion/Money Stores
039	Car Parks
040	Car Parks Open
043	Car Spaces
053	Cemeteries
065	Colleges
066	Communication Stations
088	District Heating Undertakings
101	Fire Stations
111	Funeral Parlours
113	Garages Transport and Commercial
127	Treatment of Minerals
134	Hospitals and NHS Clinics
135	Hospitals and Clinics Private
149	Landfill Gas Generator Sites
150	Landfill Sites
159	Local Authority Schools
171	Mineral producing
175	Mineral producing hard rock
176	Mineral Inert
179	Mineral Putrescible
180	Mineral Sand
215	Police Stations
220	Prison Service
221	Extraction of mineral
223	Public and Independent Schools
246	Sewage Works
298	Waste Recycling Plants
299	Waste Transfer Stations
414	Courts
419	Land Used for Display
420	Lifeboat Stations
436	Surgeries clinics Health
437	Surgeries Clinics Health
999	First Aid & Air quality
4	Agricultural Showgrounds (National Scheme)
8	Airport Let Outs
11	Amusement Arcades

Special Category Description	
12	Amusement Parks
14	Arenas
19	Auction Rooms
22	Beach Huts
24	Betting Offices
25	Bingo Halls (National Scheme)
26	Bird Sanctuaries
28	Bowling Alleys
29	Bowling Centres (Indoor)
30	Bowling Greens (Outdoor)
38	Car Auction Buildings/Sites
42	Car Showrooms
44	Car Supermarkets
45	Car Washes (Stand Alone)
46	Car/Caravan Sales/Display/Hiring Sites
47	Caravan Parks (Leisure) (National Scheme)
48	Caravan Sites and Pitches (National Scheme)
49	Casinos and Gambling Clubs
54	Chalet Parks (National Scheme)
56	Cinemas (National Scheme)
60	Clubhouses
61	Clubs and Institutions
62	Coaching Inns
70	Concert Halls (National Scheme)
74	Conference and Exhibition Centres
75	Conference Centres in Country Houses
77	Country House Hotels
81	Cricket Centres
82	Cricket Grounds (County)
83	Cricket Grounds/Pitches (Non-County)
84	Dance Schools and Centres
85	Day Nurseries/Play Schools
86	Departmental and Walk Round Stores (Large)
91	Drive-In Restaurants
92	Drive-Thru Restaurants
97	Factory Shops
98	Farm Shops
99	Field Study Activity and Adventure Centres
104	Food Courts
106	Convenience Stores
107	Football Grounds
108	Football Pitches
109	Football Stadia
114	Garden Centres

Special Category Description	
116	Go Kart Rinks
117	Golf Courses
118	Golf Driving Ranges
121	Greyhound Racetracks
122	Guest and Boarding Houses
125	Health Farms
128	Heritage Railways
130	Holiday Centres
131	Holiday Homes (Self Catering)
132	Horse Racecourses
136	Hostels
137	Hotels (3 Star and Under)
138	Hotels (4 Star and Above) and Chain Op. 3 Star (National Scheme)
139	Hypermarkets/Superstores (over 2500m2)
140	Ice Rinks
145	Lakes With Water Sport Facilities
152	Large Food Stores (750 - 2500m2)
154	Large Shops (750 - 1850m2)
155	Large Shops (Over 1850m2)
160	Lodges (National Scheme)
161	Lorry Parks
164	Marinas (National Scheme)
165	Markets (Other Than Livestock)
188	Model Villages
191	Motor Racetracks
195	Museums and Art Galleries (Contractors)
196	Museums and Art Galleries (Non-Contractors)
199	Night Clubs and Discotheques
208	Pavilions
209	Petrol Filling Stations (National Scheme)
210	Pharmacies
211	Photographic Booths
213	Pleasure Piers
214	Point to Point and Eventing Courses
216	Polo Grounds
225	Public Halls
226	Public Houses/Pub Restaurants (National Scheme)
227	Public Houses/Pub Restaurants (Inc. Lodge) (National Scheme)
229	Racing Stables (National Scheme)
234	Restaurants
235	Retail Warehouses and Food stores
236	Riding Schools and Livery Stables (National Scheme)
237	Rifle and Weapons Ranges
238	Roadside Restaurants (National Scheme)

Special Category Description	
239	Roller Skating Rinks
240	Royal Palaces
241	Rugby League Grounds
242	Rugby Union Grounds
243	Sales Kiosks
249	Shops
250	Showhouses (National Scheme)
251	Showrooms
252	Ski Centres
253	Snooker Halls/Clubs
254	Speedway Racetracks
256	Sporting Rights
257	Sports and Leisure Centres (LA) (Dry Only) (National Scheme)
258	Sports and Leisure Centres (LA) (Wet and Dry) (National Scheme)
259	Sports and Leisure Centres (Private)(Dry Only)
260	Sports and Leisure Centres (Private)(Wet and Dry)
261	Sports Grounds
262	Sports Stadia
263	Squash Courts
264	Stables and Loose Boxes
265	Stately Homes and Historic Houses (National Scheme)
266	Station Let Outs
272	Swimming Pools (Local Authority)
273	Swimming Pools (Private)
277	Tennis Centres
278	Tennis Courts/Clubs
279	Theatres (National Scheme)
280	Theme Parks
281	Timeshare Complexes (National Scheme)
283	Totalisators On Horse Racecourses
284	Tourist Attractions
293	Village Halls Scout Huts Cadet Huts etc
296	War Games Courses/Misc. Ag. Use
303	Bars (valued on floorspace)
304	Zoos and Safari Parks
403	Aquaria
405	Boathouses
409	Cafes
410	Changing Rooms
416	Gymnasia/Fitness Suites
417	Hairdressing/Beauty Salons
421	Miniature Railways
425	Pharmacies Within/Adjacent to Surgery/Health Centre
426	Pitch and Putt/Putting Greens

Special Category Description	
431	Religious Retreats/Study Centres (Residential)
432	Sales Offices
442	Takeaway Food Outlet (Predominantly Off Premises)
500	Cafes/Restaurants Within/Part of Specialist Property
503	Gymnasia/Fitness Suites Within/Part of Specialist Property
504	Kiosks Within/Part of Specialist Property
505	Nurseries/Creches Within/Part of Specialist Property
507	Salons/Clinics Within/Part of Specialist Property
508	Shops Within/Part of Specialist Property
509	Sports and Leisure Centres Within/Part of Specialist Property
710	Residual Malls
722	Serviced Apartments
738	Builders Merchant
739	Soccer Centres
757	Plant Nurseries
993	Leisure Miscellaneous
094	Electricity Undertakings (Non-Statutory)
115	Gas Processing Plants
212	Pipelines
275	Telecommunications Cable Networks (National Scheme)
276	Telecommunications Switching Centres
300	Water Undertakings (Non-Statutory)
726	Telecommunications Large Broadcast Sites
729	Renewable Generators – Mixed Technologies
741	Independent Gas Transporter
742	Independent Distribution Network Operator
743	Renewable Power Generator - Photovoltaic
744	Renewable Power Generator - Wind
745	Renewable Power Generator - Other
746	Renewable Power Generator - Hydro
747	Fossil Fuel Power Station
748	Nuclear Power Station