



National Non- Domestic Rates

Discretionary Rate Relief Policy

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1. Purpose

1.1 To set out the Council's policy for awarding Discretionary Rate Relief (DRR) Policy for Non Domestic Rates.

2. Introduction and Scope

2.1 DRR is granted in accordance with Section 43 and Section 44a of the Local Government Finance Act 1988 (LGFA 1988) and Section 47-49 of the LGFA 1988 as amended by the Localism Act 2011.

2.2 This policy document outlines the areas of local discretion and the Council's approach to the various awards. This approach has regard to the impact:

- Of granting DRR (including Section 44a Relief and Hardship Relief) on the Council's wider financial position and Council Tax payers;
- On the organisations and businesses that currently receive or may apply for relief in the future;

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

3. Charitable Relief (Charities)

- 3.1 A Mandatory Rate Relief of 80% is granted to charities in the following circumstances where the:
- Ratepayer of a property is a charity or the trustees of a charity; and
 - Property is wholly or mainly used for charitable purposes (including charity shops, where the goods sold are mainly donated and the proceeds are used for the purpose of the charity).
- 3.2 The Council does not have discretion regarding the award of Mandatory Rate Relief, however the Council must be satisfied that the statutory criteria has been met. For this purpose the Council will use guidance provided in both the LGFA 1988, and by reference to other enactments and case law.
- 3.3 The Council will refer to the Charity Register for evidence of charitable status however absence from the register does not mean an organisation has not been established for charitable purposes as certain organisations are exempt from registration under the Charities Act 1993.
- 3.4 In cases where a charity is in receipt of mandatory rate relief of 80%, the Council has discretion to grant up to 20% additional rate relief known as a DRR top up.
- 3.5 The Council will consider applications for a DRR top up from charities based on their own merits, on a case by case basis. However the principal consideration is that the relief is in the best interests of the residents and taxpayers of Burnley and produces a local benefit as the Council must contribute to the cost of each award.
- 3.6 A DRR top-up will generally be awarded to charities whose work is beneficial to the community at large, or who actively encourage membership from a full cross section of the community, or who provide facilities which directly or indirectly relieve the local authority of the need to do so.

4. Registered Community Amateur Sports Clubs (CASC) Relief

- 4.1 A mandatory rate relief of 80% is granted to registered community amateur sports clubs (CASCs). To qualify as a CASC, a sports club must fulfil all of the following criteria. It must be:
- Open to the whole community;
 - Run as an amateur club;
 - Non-profit making and
 - Aiming to provide facilities for, and encourage people to take part in, eligible sport.
- 4.2 In cases where a CASC is in receipt of Mandatory Rate Relief of 80%, the Council has discretion to grant up to 20% additional rate relief as a DRR top up.
- 4.3 A DRR top-up will generally be awarded to CASCs whose work is beneficial to the community at large, or who actively encourage membership from a full cross section of the community, or who provide facilities which directly or indirectly relieve the local authority of the need to do so.

5. Not for Profit Organisations

- 5.1 The Council has the power to grant DRR of up to 100% to non-profit making organisations. The main objectives of the organisation must be related to:
- Relief of poverty
 - Advancement of religion
 - Advancement of education
 - Social Welfare
 - Science
 - Literature
 - Fine arts
 - Recreation
 - Or be otherwise beneficial to the community

- 5.2 An organisation must be able to demonstrate how it:
- Meets local needs and benefits local people
 - Provides a valuable service to the community and
 - Is open to all sections of the community and does not discriminate against any section of the community
 - Is not conducted or established for the primary purpose of accruing profit.
- 5.3 DRR can vary between 1% and 100% for any organisation that does not qualify for mandatory relief.
- 5.4 DRR will not normally be considered for public sector or public sector type organisations such as government bodies / housing associations and the like.
- 5.5 Each application for DRR will be considered individually on its own merits but as a guideline, the following percentages will apply:
- 80% DRR to be granted to organisations that do not have charitable status but actively encourage membership from particular groups in the community, for example young people, women, older age groups, disabled people, ethnic minorities etc. or make facilities available to people or groups other than members, for example use by schools, casual public sessions etc.
 - 70% DRR to be granted to qualifying organisations that do not have charitable status but provide training or education for members or conduct schemes for particular groups to develop their skills
 - 70% DRR to be granted to qualifying organisations that do not have charitable status but whose main purpose is to provide sporting facilities of a physical nature excluding 'games room' type facilities, but which also have a social aspect with a licensed bar.

6. Rural Rate Relief

- 6.1 Organisations or businesses which reside within a designated rural settlement (with a population of 3,000 or less) may be eligible for Discretionary Rural Rate Relief. Eligible organisations/businesses must be located in one of the settlements identified in the Council's rural settlement list, which is reviewed periodically
- 6.2 Current areas within the Burnley area designated as rural settlements are:
- Worsthorne with Hurstwood
 - Cliviger
 - Dunnockshaw
- 6.3 Discretionary Rural Rate Relief is open to any type of business within a classified rural settlement that satisfies the following criteria in that it is:
- The only qualifying village shop or post office with a rateable value of up to £8,500 and already in receipt of mandatory relief of 50%.
 - The only qualifying public house or petrol station with a rateable value of up to £12,500 and already in receipt of mandatory relief of 50%
 - Within the boundaries of a qualifying rural settlement.
- 6.4 The Council also has the discretion to remit all or part of rate bills on other property in a settlement on the rural settlement list if the rateable value is £16,500 or less and is used for a purpose that benefits the local community.
- 6.5 Rural rate relief was doubled to 100% in April 2017 with the intention to introduce legislation to make the award of the relief mandatory.
- 6.6 Until the necessary legislation is in place to award 100% Mandatory Rural Rate Relief the Council will use its discretionary powers to award 50% DRR to ensure 100% relief is awarded in total to eligible businesses. Central Government will fully reimburse the Council using a grant under Section 31 of the Local Government Act 2003. Awards will be granted for the period of one financial year at a time.

7. Localism Relief

- 7.1 The Council is able to grant Business Rates discounts entirely as it sees fit within the limits of the primary legislation and European rules on state aid. The Council will place particular focus on using these powers to support the regeneration objectives of the Council, encouraging new business and investment into the Burnley area.
- 7.2 Businesses seeking assistance will be required to submit an application form to the Economy and Growth Business Support Team detailing the rationale for seeking business rate relief and the business benefits it will bring.
- 7.3 The Council's Economy and Growth Team will review applications from businesses requesting DRR under these powers to determine if providing relief would support the economic objectives of the borough.
- 7.4 The decision to award localism relief will be made by the Council's Section 151 Officer.
- 7.5 Applicants will be also be signposted to the Council's Economy and Growth Team for support and for advice on other options available to the business prior to an award being considered.

8. Hardship Relief

- 8.1 The Council has the power to reduce or remit the Business Rates charged in certain circumstances where the business is having temporary financial difficulties. This is known as Hardship Relief.
- 8.2 Section 49 of the Local Government Finance Act 1988 provides the Council with the power to remit or reduce the payment of rates where it is satisfied that the ratepayer would sustain hardship if it did not do so, and where it is reasonable to do so having regard to the interests of Council Tax payers within the borough.
- 8.3 Each application for hardship relief will be considered individually on its own merits:
- When assessing whether the ratepayer would face hardship the Council will require a written request from the ratepayer to include the latest trading accounts and a projection of those accounts for a further two years. In the case of partnerships and sole traders the

Council may also require the personal financial details of relevant individuals to assist with any decision.

- The ratepayer must be able to demonstrate that he is offering a unique service to his locality, which would not be replaced were his business to close, and which is of specific benefit to Council Tax payers within the locality of the business.
- Alternatively, the business must offer a specific service to vulnerable groups or provide significant employment throughout the borough as a whole, which is of significant benefit to Council Tax payers in the borough as a whole.
- The award of relief must be capable of enabling the ratepayer to continue trading to the end of the financial year in which the relief is granted.

8.4 The decision to award hardship relief will be made by the Council's Section 151 Officer.

8.5 Relief may be granted at an appropriate amount up to 100% of the full charge.

8.6 An application form must be completed for this relief.

8.7 The start date of the relief shall not be earlier than the start of the financial year in which the application was made. Relief shall be awarded to the end of the financial year in which the application was made, with a new application being required from the ratepayer in respect of any hardship relief requested for subsequent financial years.

8.8 Hardship Relief is a temporary measure which should not be used to falsely sustain a failing business. Hardship Relief will be awarded where the applicant organisation is facing temporary financial difficulties and where the community would be significantly disadvantaged if the business were to close due to these temporary financial constraints.

9. Section 44A Relief – Part Occupied Properties

9.1 Section 44a of the LGFA allows the Council to request that the Valuation Officer apportions the rateable value of a property between the parts that are occupied and those unoccupied if it appears to the authority that this situation will remain for a short period of time only.

- 9.2 The use of section 44a is a discretionary power conferred on the Council and does not alter the general rule that occupation of part of a property constitutes occupation of the whole of the property.
- 9.3 The application of section 44a is intended to apply to those properties where there are practical difficulties in either occupying the premises or vacating the premises. It is not intended that all properties which temporarily become partly unoccupied should have their liability reduced.
- 9.4 The period of Relief will not exceed either 3 or 6 months depending on the type of property the claim has been made for, in line with the current legislation for part occupied properties.
- 9.5 An application must be made whilst the property is in a state of part-occupation, so that the Council can inspect it and observe the current situation. The Council will not normally consider retrospective applications.
- 9.6 The decision to award part occupied relief will be made by the Council's Section 151 Officer.

10. Supporting Small Business Relief

- 10.1 The Supporting Small Business Relief scheme is available for ratepayers who are losing some or all of their small business rate relief as a result of a large rateable value increase following the 2017 revaluation. The scheme is available for 5 years from 1 April 2017.
- 10.2 The Supporting Small Business relief will ensure that the increase per year in the bills of these ratepayers is limited to the greater of:
- A percentage increase per annum of 5%, 7.5%, 10% and 15% in the financial years 2017/18 to 2021/22, all plus inflation. Unlike the transitional relief scheme, for the first year of the scheme the percentage increase is taken against the bill for 31 March 2017 after small business rates relief or
 - A cash value of £600 per year (£50 per month), this cash minimum increase ensures that those ratepayers who paid nothing or very small amounts in 2016/17 after small business rate relief start to pay something in 2017/18.
- 10.3 In the first year of the scheme (2017/18), all ratepayers losing some or all of the small business rate relief or rural rate relief saw the increase in

their bill capped at £600. The cash minimum increase is £600 per year thereafter.

- 10.4 The Council will identify and award relief to all qualifying hereditaments. No separate application is required.

11. Discretionary Revaluation Support Scheme

- 11.1 The Discretionary Revaluation Support Scheme will apply for the period 1 April 2017 to 31 March 2021 only.

- 11.2 To qualify for relief a ratepayer must be in occupation of a property with a rateable value of less than £200,000 and must meet the following criteria:

- The ratepayer must have been liable for rates and in continual occupation of the relevant property since before 1st April 2017.
- The property must be occupied.
- There has been an increase in liability before other reliefs are applied of more than 5% of the eligible occupied charge when compared to the 2016/17 Business Rates bill
- The award of relief must comply with EU law on State Aid. It is the responsibility of the Ratepayers to inform the Council if they have received State Aid that exceeds in total €200,000 over a three year period, including any other rates relief (other than exemptions, transitional or mandatory reliefs) being granted for premises other than the one to which the declaration relates, under the De Minimis Regulations EC 1407/2013.

- 11.3 The following businesses will not be eligible for the relief:

- Local Authority properties and the wider public sector and businesses that fall into the following categories:
- Financial services (e.g. banks, building societies, cash points, bureau de change, payday lenders, betting shops, pawn brokers)
- Other services (e.g. estate agents, letting agents, employment agencies)
- Medical services (e.g. vets, dentists, doctors, osteopaths, chiropractors)
- Professional services (e.g. solicitors, accountants, insurance agents/ financial advisers, tutors)
- Post office sorting office
- Betting shops

- Shisha Bars
 - Non trading rating assessments (e.g. Advertising rights, parking spaces,
 - Communication masts, Kiosks Car Parking Spaces)
 - Properties which were not on the rating list at 1 April 2017.
- (Relief will not apply where properties are entered into the list retrospectively).

11.4 The Council will identify and award relief to all qualifying hereditaments. No separate application is required.

12. Retail Discount

12.1 The Government announced in the Budget in October 2018 that it would provide a business rates Retail Discount scheme for occupied retail properties with a rateable value of less than £51,000 in each of the years 2019-20 and 2020-21. The value of discount will be one third of the bill, and will be applied after mandatory reliefs and other DRRs funded by section 31 grants have been applied. Where the Council applies a locally funded relief, for instance a localism relief under section 47, this must be applied after the Retail Discount.

12.2 Properties that will benefit from the relief will be occupied hereditaments with a rateable value of less than £51,000, that are wholly or mainly being used as shops, restaurants, cafes and drinking establishments. Shops, restaurants, cafes and drinking establishments are considered to mean:

1. 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)

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

- Hair and beauty services (such as: hair dressers, 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

3. Hereditaments that are being used for the sale of food and/ or drink to visiting members of the public:

- Restaurants
- Takeaways
- Sandwich shops
- Coffee shops
- Pubs
- Bars

12.3 The list below sets out the types of uses that the Council does not consider to be retail use for the purpose of this relief. The Council will determine whether particular properties are broadly similar in nature to those below and, if so, to consider them not eligible for the relief under their local scheme.

- Hereditaments that are being used for the provision of the following services to visiting members of the public:
- Financial services (e.g. banks, building societies, cash points, bureaux de change, payday lenders, betting shops, pawn brokers)
- Other services (e.g. estate agents, letting agents, employment agencies)
- Medical services (e.g. vets, dentists, doctors, osteopaths, chiropractors)
- Professional services (e.g. solicitors, accountants, insurance agents/ financial advisers, tutors)

- Post office sorting offices
- 12.4 Cinemas, theatres and museums are outside the scope of the scheme, as are nightclubs and music venues. Hereditaments used for sport or physical recreation (e.g. gyms) are also outside the scope of the discount.
- 12.5 Where there is doubt, the Council will exercise its discretion to determine if the business fits the scope of retail discount as set out by the government.
- 12.6 The Council will identify and award relief to all qualifying hereditaments. No separate application is required.

13. Applying for Relief

- 13.1 Applicants should submit applications for DRR online at <https://www.burnley.gov.uk/business/business-rates>
- 13.2 All applications for DRR top up must include:
- The organisation's main purposes and objectives
 - A memorandum of association, or set of membership rules
 - A full set of audited accounts relating to the two years preceding the date of application. Where audited accounts are not available, projected figures should be provided instead. (It is recommended that applicant organisations submit audited accounts dating back further than two years, if such information is available.)
 - Details of how the organisation meets the criteria outlined in these guidelines.
- 13.3 Localism Relief – In the first instance these applications should come via the Council's Economy and Growth Team and where applications seek rate relief in respect of new business set up, information provided should also include business plans and other information that demonstrate the regeneration or economic benefit to Burnley.
- 13.4 Section 44A relief - The following information will be required to support written requests for Section 44a relief:
- A plan of the property showing the dimensions of the occupied and unoccupied area of suitable quality to enable the Valuation Office Agency to apportion the rateable value of the property between the occupied and unoccupied areas. Applications will not be considered until such time as the plan is provided;

- The period to which the application relates;
- Contact details in order to inspect the site where necessary.

- 13.5 If an application for DRR is received without the necessary supporting information, it will result in a delay in the processing of the application. In the event that supporting information is not provided within one month of the initial application, the application will be considered ineligible and closed.
- 13.6 The Council will inform applicants in writing of any decision. This letter will also confirm the period for which relief has been awarded and that a revised bill will be issued.
- 13.7 Unsuccessful applicants will be notified by letter and provided instructions on how they can appeal the decision.
- 13.8 The granting of relief will be reviewed annually and those in receipt of DRR will be asked to supply or confirm relevant information for the purpose of the review.
- 13.9 The Council has the ability to depart from its general policy as to granting relief if it sees fit to do so, taking into account the facts of each case and the interests of residents and Council Taxpayer

14. The decision making process

- 14.1 The Council delegates the decision making power for DRR awards to the Section 151 Officer.
- 14.2 As the reliefs outlined are discretionary awards there is no statutory right of appeal against any decisions that are made. An organisation can, however, appeal in writing to the Council within one month of the original decision to request a review.
- 14.3 Appeals will be reviewed by the Executive Member for Resources and Performance Management.
- 14.4 The reviewer will determine the appeal within 15 working days, and the outcome will be notified to the applicant in writing.
- 14.5 If an appeal is unsuccessful then judicial review is the only way in which a billing authority, under its power to award DRR, may be challenged.