



DERBY CITY COUNCIL NATIONAL NON-DOMESTIC RATES POLICY FOR THE AWARD OF DISCRETIONARY RATE RELIEF (DRR)

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May 2014	1.1	Approved	Revised to include new Discretionary Reliefs available to businesses from 1 April 2014
February 2015	1.2	Approved	Revised to include new Discretionary Relief available to businesses from 1 April 2015
February 2016	1.3	Approved	Revised to include Enterprise Zone, newly built unoccupied properties and changes to Retail Rate Relief
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May 2017	1.5	Approved	Tidied ready for next review. (No changes made to policy content).
14 August 2017	1.6	Draft	Revised to include Discretionary Reliefs announced in the Spring Budget 2017; other minor alterations.
17 August 2017	1.7	Draft	Update following EIA on 16 August 2017
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8 February 2018	2.2	Draft	Version finalised for COG
28 February 2018	2.3	Draft	Post-COG – updated one of the qualifying criteria & the maximum % award possible for 18/19 & 19/20
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2 June 2020	7.0	Final	Approved by Director of Financial Services
3 February 2021	7.1	Final	Change to state aid information and details of new discretionary rate reliefs available from 1 April 2021.
8 March 2021	7.2	Draft	Changes to sections 21 and 22 following further Government guidance received on 5 March 2021
10 March 2021	7.2	Final	Changes approved by Director of Finance following consultation with Cabinet Member for Finance and Procurement
3 February 2023	8.1	Draft	Updated to include new reliefs available from 1 April 2023.
09 March 2023	8.2	Final	Changes approved
26 April 2023	9.1	Draft	Changes made to approvals and delegations in sections 6,12,13 and 14 and cosmetic changes made in section 18.

Equality impact assessment record	
Date of assessment	16 August 2017
Summary of actions from EIA	Officers to attend appropriate Diversity Forum meetings in November 2017 to raise awareness of Policy

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1. Background

This Policy is written in line with the most recent guidance from Government and The Institute of Revenues Rating and Valuation (IRRV). It is effective for all awards of Discretionary Rate Relief (DRR) that take effect on or after 1 April 2022.

Section 47 of the Local Government Finance Act 1988 (as amended by Section 69 of the Localism Act 2011) empowers Local Authorities to grant DRR to ratepayers.

Awards of DRR can be made to various categories of ratepayer. These include:

- Charitable organisations;
- Organisations which are not established or conducted for profit whose main objectives are charitable and are either:
 - i. Established for philanthropic or religious purposes; or
 - ii. Concerned with education, social welfare, science, literature or the fine arts; or
 - iii. Occupying the property as a club or society.

Through various statements and budget announcements, the latest being on 17 November 2022, the Government have confirmed several other Discretionary Rate Reliefs currently operating including:

- Enterprise Zone Relief;
- Office Space Occupied by Local Newspapers Relief;
- Extension of Transitional Relief and Supporting Small Business Relief
- Supporting Small Business Relief;
- Retail, Hospitality and Leisure Relief;

The Council's approach for the granting of these Discretionary Rate Reliefs is set out later in this Policy document.

This Policy sets out the criteria under which DRR will normally be awarded. It does not remove Derby City Council's (DCC's) general power, under Section 47 of the Local Government Finance Act 1988, to reduce or remit the amount of Non-Domestic Rates payable. For the avoidance of doubt this general power will only be used in exceptional circumstances and providing DCC is satisfied that it would be reasonable for it to do so, having regard to the interests of persons liable to pay Council Tax set by DCC.

DRR cannot be awarded to a billing or precepting authority.

2. Purpose and Aim

The purpose of this Policy is to set out how Derby City Council (DCC) will operate its DRR Scheme and to indicate the factors that will be considered when deciding whether to make an award. We aim to treat all ratepayers equally when administering this Policy.

The details set out in Sections 3 to 14 of this Policy apply to all applications other than those made for Enterprise Zone Relief, Office Space Occupied by Local Newspapers Relief, Extension of Transitional Relief and Supporting Small Business Relief, Supporting Small Business Relief and Retail, Hospitality and Leisure Relief. These are set out in Sections 16 - 20 respectively of this Policy.

3. Priorities

DCC will make awards of DRR to ratepayers who meet the qualifying criteria as set out in this Policy. DCC will treat all applications on their individual merits, but will seek through the operation of this Policy to meet its priorities as set out in the Council Plan 2022 – 2025, which are:

- Green city - protecting and enhancing our environment
- Vibrant city - reimagining our city with culture at its heart
- City of growth - creating a modern smart city with jobs and skills for the future
- Resilient city - working with our communities to improve health, wealth, and opportunities.

Applications from organisations and businesses that can clearly demonstrate that the goods and/or services they provide are helping the Council meet its vision and deliver on its priorities are more likely to receive support than those that cannot or do not.

4. Applications

All applications for DRR shall be in writing (including e-mail) either on the relevant application form or in a written format, which provides the information required by the application form.

All applicants will need to submit a copy of the previous two years' audited accounts for the organisation together with a copy of their constitution/articles of association. New businesses that are unable to produce two years' accounts should be asked to provide business projections/financial forecasts.

DCC may also request any other reasonable evidence in support of the organisation's application.

If the ratepayer does not provide the required evidence, DCC reserves the right to either treat the application as withdrawn or to consider the application in the absence of the missing evidence. DCC may disregard any unsubstantiated statements or draw its own conclusions from other evidence available.

DCC may verify any information or evidence provided by the ratepayer by contacting third parties, other organisations and the ratepayer, subject to Data Protection rules.

5. Period of DRR Award

DCC will usually award DRR from the date on which the original application has been made. However, within statutory limits, DCC reserves the right to:

- a. Backdate the award to the start date of the current financial year;
- b. Backdate the award to the start of the previous financial year (providing the application was received by 30 September of the subsequent financial year);
- c. Within the overall limits for backdating awards, backdate the award to another specified date (for example, the start date of liability).

Awards for DRR will usually be open ended. However, DCC reserves the right to fix a date at which any award will end.

6. Consideration and authorisation of DRR

A member of the Business Rates team will consider the application and make a recommendation. This will be passed to a Head of Service or the Local Taxation Manager who will decide whether to grant DRR and at what percentage. Consideration will also be given to decide if an end date for the award is applicable.

In certain cases, before a recommendation is made, the accounts accompanying an application may be referred to the Accountancy Team at DCC for analysis. This will provide for an expert opinion on the organisation's financial position and their charitable or not-for-profit status.

Accounts may be referred to the Accountancy Team in the following circumstances:

- The latest set of accounts show a profit in excess of £50,000;
- The accounts show a profit and the latest set of accounts show an increase in profit of greater than 50% when compared to the previous year.

Following a referral, the Accountancy Team will provide a written opinion as to the organisation's charitable or not-for-profit status.

Appendix A lists the types of organisations that may qualify for DRR, criteria to be taken into account (as well as the general matters to be considered below) and recommended maximum percentage awards of Relief.

7. Financial matters to be considered when making DRR Awards

When considering applications for DRR emphasis will be placed upon the financial position of the organisation. This will be determined from the accounts provided. Relief will **not** be considered in the following circumstances:

- For charities, when the surplus of unrestricted funds shown in the latest set of accounts, is at least five times higher than the total Relief that could be awarded;
- For non-profit making organisations, when the Income and Expenditure surplus from the latest set of accounts is five times higher than the total Relief that could be awarded;
- Where the application is from a local branch of a national organisation and they can draw on the resources of the national organisation.

Each year DCC reserves the right to change the financial multiplier (currently x5) to ensure that the total amount of Relief awarded remains affordable.

In some cases the position of the accounts may not be clear, for example the accounts for a charity do not clearly show what funds are unrestricted. In such cases it may be possible to determine the financial position of the organisation by studying other parts of the accounts. If any doubts remain the case should be referred to the Accountancy team before recommending a decision.

8. Other matters to be considered when making DRR Awards

When deciding whether to make awards DCC will consider:

- Whether the application satisfies the legislative requirements and guidance.

DCC cannot award Relief to any organisation that does not meet the requirements of Section 47 of the Local Government Finance Act 1988 (as amended).

- Whether DCC's vision and priorities would be served by the award of Relief (see paragraph 3 of this Policy).

Relief is more likely to be awarded to organisations that can show they are helping DCC to achieve its ambitions.

- Whether the ratepayer is in direct competition with other ratepayers in the immediate vicinity.

DCC would not want to give any organisation a competitive advantage by the award of DRR.

- The specific benefit the ratepayer brings to the residents of Derby.

DCC wants to ensure that the award of DRR is to the benefit of the wider population of Derby. Any ratepayer whose customer base comes from largely outside the City's boundaries is unlikely to qualify for Relief, unless they can show a specific and unequivocal benefit to the residents of the City.

- The cost to the Council Tax payer. From 1 April 2023 the cost of granting any DRR is 49% (that is, 49 pence for every £ awarded).

- Whether the ratepayer is a local organisation or a local branch of a national organisation. DCC will consider the overall benefit to the Derby community. If the benefit of the DRR is kept locally, Relief is more likely to be awarded than if it goes to the national organisation based elsewhere.

Further, DCC will prioritise help to local organisations whose activities wholly benefit the citizens of Derby. DCC is unlikely to support DRR applications from national organisations or local branches of national organisations that can draw on the resources available to a national organisation.

If refusal to grant an award of DRR would lead to the organisation suffering financial hardship, DCC should consider other Reliefs available, for example Hardship Relief.

9. Applications from Sports Clubs

The Government issued guidance on the award of DRR for Sports Clubs in 2002. DCC has incorporated that guidance into this Policy document.

Following an application for DRR from a Sports Club, in addition to the factors indicated above we will also consider:

- Any restrictions on membership that may exist; DCC is more likely to award Relief where no restrictions exist. However it recognises that there may be legitimate restrictions based upon ability or safety factors (for instance a diving club is unlikely to accept someone as a member who cannot swim).
- The cost of membership. The cost of membership should not be used as a means to restrict membership.
- Whether the organisation actively promotes representation from under-represented groups in the community.
- Whether the facilities are available to users other than members (such as schools or casual use by the public) DCC is more likely to award Relief if there are no restrictions, but accepts that there may be valid safety reasons why restrictions should apply.
- What training facilities the club makes available to its members.
- Whether the organisation runs a bar or other ancillary activities, the existence of a bar will not preclude a club from DRR. However the existence of any bar will require DCC to further consider:
 - (i) What proportion of the club's members are active sporting members as opposed to 'social' members;
 - (ii) Whether the bar and ancillary activities are subsidising the club and if so to what extent;
 - (iii) The proportion of the club's expenses that are attributable to the bar and ancillary activities;
 - (iv) Whether the club's bar and ancillary activities are operating in direct competition with other commercial licensed premises in the area;
 - (v) Whether the bar and ancillary activities are linked to the main purpose of the organisation.
- Whether the membership of the club is drawn mainly from the City of Derby, or whether it attracts members from outside the City.

The cost of DRR is met in part by the Council Tax payers of the City. If the membership was drawn mainly from residents of neighbouring Local Authorities, it may be inappropriate for DCC to award DRR.

10. Change of Circumstances

Any ratepayer who is in receipt of an award of DRR has a duty to notify DCC of any change of circumstances that may affect their entitlement, within 21 days of the change.

If a ratepayer becomes liable for Business Rates at another property, they shall be required to make a new application for Relief on the new property.

11. Notification

DCC aims to inform ratepayers of the outcome of the application within 14 days of the decision.

DCC will notify:

- Business ratepayers whose application is unsuccessful giving full reasons why, including their right of appeal;
- Business ratepayers whose application is successful including the amount of Relief awarded and their revised liability.

12. Appeals

Appeals can be made in two circumstances:

- (i) In the light of additional evidence not submitted with the original application. Any such additional information must be in writing (including email) and will be passed to a Head of Service or the Local Taxation Manager for reconsideration;
- (ii) If new information is not available a ratepayer may still appeal against DCC's decision to refuse an award of DRR. These appeals must:

- Be in writing (including email); and
- Specify the reasons why the ratepayer feels the decision is incorrect; and
- Be made within **four weeks** of the ratepayer being notified of DCC's decision not to award DRR.

In (ii) the appeal will be referred to DCC's Section 151 Officer for a decision.

In both cases DCC aims to notify the ratepayer in writing of the outcome within 14 days. If the ratepayer remains dissatisfied then their right of appeal is by way of Judicial Review.

13. Reviewing Awards

DCC's renewal policy is underpinned by the principles of risk management. Therefore, whilst all awards will be renewed annually, the need to provide supporting documentation (for example, accounts) will depend upon the level of risk.

All organisations will be ranked **HIGH**, **MEDIUM** or **LOW** depending upon the perceived level of risk that their circumstances may change and therefore entitlement to DRR is no longer applicable. The risk categorisation will also be determined by the amount of contribution made by DCC. The final decision regarding ranking will rest with the Business Rates Team Leader (BRTL). The table below shows the type of organisation that will fit into each category. This is not an exhaustive list.

Risk Factor	Type of Organisation
High – Financial accounts to be provided yearly	Sports Clubs with bar facilities etc.
Medium – Financial accounts to be provided every two years	Village halls, Housing Associations
Low – Financial accounts to be provided every three years	Scout groups, play scheme/groups

All renewal applications will be passed to the BRTL for consideration. The BRTL will authorise the continuation of DRR for organisations with no change of circumstance. All applications from organisations which show a significant change in circumstances, for example, substantial increase in bar takings, will be referred to a Head of Service or the Local Taxation Manager for a decision.

14. Varying or Revoking Awards

Where a decision has been made to award DRR, and DCC wishes to vary or revoke that award, then in accordance with regulations at least one financial year's notice must be given.

However, when it is clear that the organisation is no longer non-profit making, a decision can be made to terminate the award with immediate effect. This decision will be made by the BRTL in consultation with a Head of Service or the Local Taxation Manager.

Where this happens, the organisation will be notified within 14 days of the new facts being brought to DCC's attention. The notification will include full reasons together with their right of appeal.

15. Subsidy Control

A subsidy is a measure which:

- (a) is given by a public authority.
- (b) makes a contribution (this could be a financial or an in kind contribution) to an enterprise, conferring an economic advantage that is not available on market terms.

(c) affects international trade.

For the reasons set out above discretionary rate relief given to a charity or non-profit making body is unlikely to be classed as a subsidy because the recipients are generally not in market competition with other businesses.

16. Enterprise Zone Relief

The Autumn Statement on 25 November 2015 confirmed Infinity Park Derby as an Enterprise Zone from 1 April 2016. Businesses basing themselves on Enterprise Zones can access a number of benefits including Business Rates Reliefs.

Business Rate Relief that is awarded to a business as a direct result of them basing themselves within an Enterprise Zone will be classed as DRR and therefore it is up to individual Councils to decide which businesses receive Relief.

To qualify for DRR businesses have to locate on Infinity Park (or other qualifying designated Enterprise Zones) by 31 March 2021. Those businesses that do may be eligible for DRR of up to 100% of the Business Rates payable, up to a limit of £55,000 a year and £275,000 over a five-year period.

The area covered by Infinity Park Derby is set out on the map included at Appendix B of this Policy. Businesses within the area edged blue may be eligible to receive up to 100% DRR (within the area edged red businesses will be able to apply for enhanced capital allowances). It is important to note that businesses will not be able to receive both DRR and enhanced capital allowances.

As well as locating within the relevant area of the Enterprise Zone, businesses may need to demonstrate how their business supports the vision of Infinity Park Derby and will contribute towards growth in the D2N2 local economy. The decision to ask a business to demonstrate how they support the vision of Infinity Park will rest solely with Derby City Council.

Tests that may apply include but are not limited to demonstrating one or more of the following:

- Increase in workforce;
- Increase in productivity / output;
- Increase in turnover;
- Increase in innovation.

Subsidies

In accordance with section 15 discretionary rate relief awarded to businesses within an Enterprise Zone may be classed as a subsidy.

Under the Subsidy Control Act 2022 financial assistance of up to £315,000 in the elapsed part of the current year plus the two immediately preceding years will be classed as de minimis.

The onus of proof will lie with the business and they will be asked to make a declaration on subsidies when they apply for Enterprise Zone Relief.

In the event that an award of Enterprise Zone Relief is made before the business is asked to make a declaration, the award will be withdrawn if the declaration is not sent back to the Business Rates team within 28 days of it being requested.

Applying for Enterprise Zone Relief

Generally, applications for Enterprise Zone Relief will need to be in writing and on an approved application form. However, DCC reserves the right to determine an award for Enterprise Zone Relief in another way if it is deemed reasonable and more efficient to do so.

DCC may also request any other reasonable evidence in support of the organisation's application. If the ratepayer does not provide the required evidence, within 28 days, DCC reserves the right to either treat the application as withdrawn or to consider the application in the absence of the missing evidence. In doing so, DCC may disregard any unsubstantiated statements or draw its own conclusions from the evidence available.

DCC reserves the right, entirely at its discretion, to verify any information or evidence provided by the ratepayer by contacting third parties, other organisations and the ratepayer, subject to Data Protection.

Change of Circumstances

All ratepayers receiving Enterprise Zone Relief must notify DCC of any change of circumstances in line with Section 10 of this Policy.

Notification

DCC will notify ratepayers of the outcome of their Enterprise Zone Relief application in line with Section 11 of this Policy.

Appeals

Any appeals will be dealt with in line with Section 12 of this Policy.

Reviewing Awards

DCC reserves the right to ask any ratepayer to renew their application for Enterprise Zone Relief annually.

17. Office Space Occupied by Local Newspapers Relief

In the Written Ministerial Statement dated 27 January 2020 the Government confirmed their intention to continue to award up to £1,500 in Discretionary Rate Relief for office space occupied by local newspapers up to a maximum of one discount per local newspaper title and per hereditament until 31 March 2025.

The Relief is to be specifically for local newspapers and will only be considered for what is considered to be a “traditional local newspaper.” The Relief will not be available to magazines.

The hereditament must be occupied by a local newspaper and wholly or mainly used as office premises for journalists and reporters.

The amount of Relief is limited to a maximum of one discount per newspaper title (for example, per newspaper name) and per property.

Applying for Office Space Occupied by Local Newspapers Relief

This process is the same as set out for Enterprise Zone Relief, see Section 15 of this Policy.

Change of Circumstances

All ratepayers receiving Relief for an office space occupied by a local newspaper must notify DCC of any change of circumstances in line with Section 10 of this Policy.

Notification

DCC will notify ratepayers of the outcome of their Office Space Occupied By Local Newspapers Relief application in line with Section 11 of this Policy.

Appeals

Any appeals will be dealt with in line with Section 12 of this Policy.

Reviewing Awards

DCC reserves the right to ask any ratepayer to renew their application for Office Space Occupied by Local Newspapers Relief annually.

Subsidies

All awards of local newspaper Relief must comply with the rules on subsidies. The rules are the same as for Enterprise Zone Relief and are set out in Section 16 of this Policy.

18. Extension of Transitional Relief and Supporting Small Business Relief

This relief is available for the 2022/23 financial year only.

At the Budget on 27 October 2021 the government announced that it would extend the current transitional relief scheme and the supporting small business scheme for one year to the end of the current revaluation cycle. The scheme will restrict increases in bills to 15% for businesses with small properties (up to and including £20,000 rateable value as shown in the local rating list at 1 April 2017) and 25% for medium properties (up to and including £100,000 rateable value as shown in the local rating list at 1 April 2017).

For Supporting Small Business (SSB) Relief, the scheme increases in business rates bills will be limited to 15% (or a cash value increase of £600 if greater).

Where a business ratepayer would have been in receipt of both transitional relief and SSB in respect of 2022/23 single award will be made resulting in a chargeable amount equivalent to that had the original transitional relief and SSB schemes continued.

Eligible properties will receive relief automatically and will not have to apply.

Change of Circumstances

All ratepayers receiving relief because of the Extension of Transitional Relief and Supporting Small Business Relief scheme must notify DCC of any change of circumstances in line with Section 10 of this Policy.

Notification

DCC will notify ratepayers of the outcome of their Extension of Transitional Relief and Supporting Small Business Relief application in line with Section 11 of this Policy.

Appeals

Any appeals will be dealt with in line with Section 12 of this Policy.

Subsidies

All awards of Extension of Transitional Relief and Supporting Small Business Relief must comply with the rules on subsidies. The current rules are the same as for Enterprise Zone Relief and are set out in Section 16 of this Policy.

19. Supporting Small Business Relief (SSBR)

The SSBR scheme will limit increases in bills for the 2023/24 financial year to £600 after transitional relief and small business rate relief (as applicable) have been applied. In effect, it compensates those small and medium businesses who are losing some or all of their entitlement to Small Business Rate Relief as a result of the 2023 revaluation.

Although the scheme will run for the financial years 2023/24 to 2025/26 the eligibility criteria set out below applies to awards for the 2023/24 financial year only.

Any business ratepayer receiving SSB in the 2022/23 financial year as a result of the Extension of Transitional Relief and Supporting Small Business Relief Scheme (see section 18 above) their eligibility for SSB will end on 31 March 2024 and SSB relief will be withdrawn on 31 March 2024 without further notice. All other eligible ratepayers remain in 2023 SSBR for either three years or until they reach the bill they would have paid without the scheme. A change of business ratepayers will not affect eligibility for the SSB scheme but eligibility will be lost if the property falls vacant or becomes occupied by a charity or Community Amateur Sports Club.

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.

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

Hereditaments which cease to be entitled to 2023 SSBR for a day cannot return to eligibility if their circumstances change from a later day. For example, if a property falls unoccupied it will not then be eligible for 2023 SSBR if it subsequently becomes occupied again.

Splits and Mergers

The discount will be applied on a daily basis. 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 discount on that day.

Entitlement and awarding SSBR

Ratepayers meeting the Scheme criteria will automatically qualify for SSBR and providing ratepayers continue to be entitled, awards will automatically continue from year to year. Entitlement to SSBR will be automatically calculated using DCC's software system.

Varying and revoking awards

The normal rules for varying and revoking awards, as set out in The Non-Domestic Rating (Discretionary Rating) Regulations 1989 (S.I. 1989/1059) and Section 14 of this Policy will not apply for SSBR. If, following a change of circumstances, any ratepayer is entitled to a different amount of SSBR or is no longer entitled; that change will take effect immediately and the notice period will not apply.

Relationship with other Reliefs

Hereditaments eligible for Charity or Community Amateur Sports Club Relief or hereditaments which are unoccupied are not eligible for SSBR.

If a ratepayer's bill has been calculated using SSBR then no further award of Small Business Rate Relief or Section 44A Relief will be made.

Any award of SSBR will cease if the amount charged using SSBR is the same or more than it would be if SSBR was not awarded.

SSBR will be applied before any other Discretionary Rate Relief.

Change of Circumstances

All ratepayers receiving SSBR must notify DCC of any change of circumstances in line with Section 10 of this Policy.

Notification

DCC will notify ratepayers of entitlement to SSBR through the issue of an annual or revised Business Rates bill.

Appeals

Any appeals will be dealt with in line with Section 12 of this Policy.

Reviewing Awards

DCC reserves the right to ask any ratepayer to renew their application for SSBR annually.

Subsidies

All awards of SSBR must comply with the rules on subsidies (see Section 16 of this Policy). As entitlement to SSBR is automatic, the onus of proof that subsidy rules are being complied with will lie wholly with the ratepayer.

20. Retail, Hospitality and Leisure Relief Scheme

For the 2022/23 financial year eligible businesses will be entitled to 50% business rates relief up to a cash cap limit of £110,000 per business.

For the 2023/24 financial year eligible businesses will be entitled to 75% business rates relief up to a cash cap limit of £110,000 per business.

Under the Council's Policy any ratepayer can choose to refuse this relief for any eligible hereditament.

For the 2022/23 financial year the ratepayer may refuse the discount for each eligible hereditament anytime up to 30 April 2023.

For the 2023/24 financial year the ratepayer may refuse the discount for each eligible hereditament anytime up to 30 April 2024.

The ratepayer cannot withdraw their refusal for either all or part of the financial year.

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.

For either the 2022/23 or 2023/24 financial year an eligible property is one where;

- The property is occupied;
- The property is wholly or mainly being used:
 - (a) As a shop, restaurant, cafe, drinking establishment, cinema or live music venue;
 - (b) For assembly and leisure; or
 - (c) As a hotel, guest and boarding premise or self-catering accommodation.

For the purposes of awarding Relief this Policy considers shops, restaurants, cafes, drinking establishments, cinemas and live music venues to mean:

(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;
- Bars.

(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. Although we would expect this would be clear in most circumstances, where there is doubt, the Council will refer to the guidance found in Chapter 16 of the statutory guidance issued in April 2018 under Section 182 of the Licensing Act 2003, when making a decision.

For the purposes of awarding Relief, this Policy considers assembly and leisure to mean:

(i) 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.

(ii) Hereditaments that are being used for the assembly of visiting members of the public:

- Public halls;
- Clubhouses, clubs and institutions.

For the purposes of awarding Relief, this Policy considers hotels, guest and boarding premises and self-catering accommodation to mean:

(i) 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.

General information

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. For the avoidance of doubt, hereditaments which have closed temporarily due to the Government's advice on Covid-19 will be treated as occupied for the purposes of this Relief.

Retail premises that are not included in the above list may still be considered for Retail Discount. In such cases Derby City Council will decide what level of proof and in what format that proof is required to determine whether or not Discount is payable.

Discount is not available under this Policy for the following types of uses:

(i) 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, 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,);
- Post office sorting offices.

(ii) Hereditaments that are not reasonably accessible to visiting members of the public

The Cash Cap

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

The cash cap applies for each individual financial year.

Where a ratepayer has a qualifying connection with another ratepayer then those ratepayers should 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.

If it is clear that the ratepayer is likely to breach the cash caps then the Council reserves the right to automatically withhold the relief. If it is not clear the Council may

decide to include the discount in bills and ask the ratepayers, on a self-assessment basis, to inform the authority if they are in breach of the cash caps.

Entitlement and awarding Discount

Entitlement to Retail, Hospitality and Leisure Relief will be automatically calculated using DCC's software system. The eligibility for the discount and the discount itself will be assessed and calculated on a daily basis. It will be calculated ignoring any prior year adjustments in liabilities which fall to be liable on the day.

Ratepayers that occupy more than one property will be entitled to Relief for each of their eligible properties, up to the overall cash cap limit.

Splits, mergers and changes to existing hereditaments

The discount will be applied on a day to day basis. 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 discount on that day.

Varying and revoking awards

The normal rules for varying and revoking awards, as set out in The Non-Domestic Rating (Discretionary Rating) Regulations 1989 (S.I. 1989/1059) and Section 14 of this Policy will not apply for Retail, Hospitality and Leisure Relief. If, following a change of circumstances, any ratepayer is entitled to a different amount of Retail Discount / Expanded Retail Discount or is no longer entitled; that change will take effect immediately and the notice period will not apply.

Relationships with other Reliefs

Retail, Hospitality and Leisure Relief will be applied after mandatory reliefs and other discretionary reliefs funded by section 31 grants have been applied, but before those where Derby City Council has used its wider discretionary relief powers introduced by the Localism Act 2011, which are not funded by section 31 grants. Former categories of discretionary relief available prior to the Localism Act 2011 (i.e. charitable/CASC/rural etc. top up and not for profit) will be applied before Retail, Hospitality and Leisure relief.

Change of Circumstances

All ratepayers receiving Retail, Hospitality and Leisure Relief must notify DCC of any change of circumstances in line with Section 10 of this Policy.

Notification

DCC will notify ratepayers of entitlement to Retail, Hospitality and Leisure Relief through the issue of an annual or revised Business Rates bill.

Appeals

Any appeals will be dealt with in line with Section 12 of this Policy.

Reviewing Awards

DCC reserves the right to ask any ratepayer to renew their application for Retail, Hospitality and Leisure Relief at any time during the period for which the discount has been granted.

Subsidies

All awards of Retail, Hospitality and Leisure Relief must comply with the rules on subsidies (see Section 16 of this Policy). As entitlement to Retail, Hospitality and Leisure Relief is automatic for eligible businesses, then the onus of proof that subsidy rules are being complied with will lie wholly with the ratepayer.

Appendix A

Type of Organisation	Mandatory Relief	Criteria	Recommended maximum yearly award of Discretionary Relief
Registered Charities	80%	Local organisations that are open to all sections of the community, providing support, guidance, ie play schemes, training, youth groups.	Up to 20%
Registered Charities	80%	National organisations with local offices who benefit the Derby area, but also other parts of the country/world.	Up to 20%
Charity Shops	80%	Consideration must be made in these cases that a competitive advantage in the marketplace is not given if further Relief is granted.	Up to 10%
Non-profit making organisations	No	Local organisations that recognise diversity and benefit the residents of Derby.	Up to 100%
Social and Working Men's Clubs	No	Local or national affiliation, access and membership requirements, and social (bar) facilities and financial status are to be considered.	Up to 100%
Sports Clubs	No	Refer to 'Applications from Sports Clubs' in guidance notes.	Up to 100%
Miscellaneous Organisations	No	Purpose, funding, access and membership, social (bar facilities) and relevant financial status are to be considered	Up to 100%

Enterprise Zone Relief	No	Businesses basing themselves in an Enterprise Zone by 31 Mar 2021.	Up to 100%
Office Space Occupied By Local Newspapers Relief	No	For office space occupied by a local newspaper. Maximum of one discount per local newspaper title	Up to £1,500
Extension of Transitional Relief and Supporting Small Business Relief	No	See section 18	See section 18
Supporting Small Business Relief	No	See section 19	See section 19
Retail, Hospitality and Leisure Relief	No	See section 20	For 2022/23 up to 50% subject to cash cap limit of £110,000 For 2023/24 up to 75% subject to a cash cap limit of £110,000

Infinity Park Derby Extension – the Enterprise Zone in Derby.

Plan referred to showing Business Rates Discount and Enhanced Capital Allowances areas confirmed in Autumn Statement 2015.

