



Mid Devon District Council Policy for the granting of Discretionary Non- Domestic Rate Relief

Version Control

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1.0 Purpose of the Policy

- 1.1 The purpose of this policy is to determine the level of discretionary relief and related areas to be granted to certain defined ratepayers within the Council's area. The policy includes all changes effective from 1st April 2023 due to the revaluation of hereditaments.
- 1.2 The Local Government Finance Act 1988 and subsequent legislation requires the Council to grant mandatory relief for premises occupied by Charities and similar organisations that own or occupy them wholly or mainly for charitable purposes. Likewise, certain premises situated within a rural settlement area will be eligible for mandatory relief. Powers have also been granted under the Localism Act 2011, which allow for the granting of discretionary rate relief to any premises where the Council feels the granting of such relief would be of benefit to the local community.
- 1.3 In addition to the above, Central Government is keen that in certain cases, assistance should be provided to businesses who have had increases in their rate liability due to the revaluation of premises in April 2017. In these cases, and where the Council meets Central Government guidelines, grants are available under section 31 of the Local Government Act 2003.
- 1.4 Whilst the Council is obliged to grant relief to premises, which fall within the mandatory category, the Council also has powers to grant discretionary relief and reductions to ratepayers, subject to certain criteria being met. In the case of the new reliefs, some guidance has been issued by Central Government outlining actions expected to be taken by local authorities. This policy includes Government guidance where appropriate but also looks to target discretionary relief in line with the Council's priorities.
- 1.5 This document outlines the following areas:
 - Details of the criteria for receiving Discretionary Reliefs for all relevant areas;
 - The Council's policy for the granting of all types of Discretionary Reliefs;
 - Guidance on granting and administering the reliefs and awards;
 - Government's requirements including provisions for Subsidy; and
 - The Council's Scheme of Delegation.
- 1.6 Where organisations apply for relief they will be granted (or not granted) relief or reductions in line with the following policy.

2.0 Mandatory Relief - Legislative Background

Charity Relief

- 2.1 The powers relating to the granting of mandatory¹ and discretionary relief are given to the Council under the Local Government Finance Act 1988. Charities and Trustees for Charities are only liable to pay one fifth of the Non-Domestic Rates that would otherwise be payable where property is occupied and used wholly or mainly for charitable purposes. This amounts to mandatory relief of 80%. For the purposes of the Act, a charity is an organisation or trust established for charitable purposes, whether or not it is registered with the Charity Commission. The provision has been extended under the Local Government Act 2003 (effective from 1st April 2004) to registered Community Amateur Sports Clubs (CASCs). Full details of the mandatory provisions are given later within this policy.
- 2.2 In the case of charity shops, the premises must meet the criteria laid down by section 64 (10) of the Local Government Finance Act 1988 which states that the premises are to be treated as used for charitable purposes at any time it is wholly or mainly used for the sale of goods donated to the charity and the proceeds of goods (after any deductions for expenses) are applied for the purpose of the charity.
- 2.3 The Council has discretion to grant relief of up to a further 20% for these mandatory cases under its discretionary provisions.

Rural Rate Relief

- 2.4 From 1st April 1998, under powers originally granted to the Council by the Local Government and Rating Act 1993, certain types of business in rural settlements, with a population below 3000 may qualify for mandatory rate relief of 50 per cent. Businesses that qualify for this relief are the sole general store and the sole post office in the settlement, provided it has a Rateable Value of up to £8500; any food shop with a Rateable Value of up to £8500; and the sole pub and the sole petrol station in the settlement provided it has a Rateable Value of up to £12500.
- 2.5 From 1st April 2017 and each year thereafter, Central Government has indicated that it wants all authorities to give 100% relief to premises that receive mandatory rural rate relief. The legislation enabling this will not be forthcoming until later this year and therefore it has indicated that where the additional 50% is granted, a Section 31 grant will be made available to the Council. This is dealt with further within this policy and the Council will automatically grant the additional 50% discretionary relief where appropriate.
- 2.6 Where businesses in rural settlements have a Rateable Value of up to £16,500 and are not in receipt of mandatory relief, the Council may decide to give up to 100 per cent discretionary relief if it is satisfied that the business is of benefit to the community and having regard to the interests of its Council Taxpayers.

¹ S43 & S45 Local Government Finance Act 1988

² S47 & S48 Local Government Finance Act 1988

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

3.0 Discretionary Relief – Legislative Background

Introduction

- 3.1 The original purpose of discretionary relief was to provide assistance where the property does not qualify for mandatory relief, or to ‘top’ up cases where ratepayers already receive mandatory relief.
- 3.2 Over recent years and particularly since 2011, the discretionary relief provisions have been amended to allow authorities the flexibility to provide more assistance to businesses and organisations.
- 3.3 The range of bodies, which are eligible for discretionary rate relief, is wide and not all of the criteria laid down by the legislation will be applicable in each case.
- 3.4 Unlike mandatory relief, ratepayers are obliged to apply to the Council. The Council will expect all businesses to make applications in such a format as is required (which may vary from time to time) and for the business to provide such information and evidence as required in order to determine whether relief should be awarded.
- 3.5 The Council is obliged to carefully consider every application on its merits, taking into account the contribution that the organisation makes to the amenities within the authority’s area. There is no statutory appeal process or Tribunal against any decision made by the Council although, as with any decision of a public authority, decisions can be reviewed by Judicial Review. The authority will however, upon request, review decisions made.
- 3.6 Granting of the relief falls broadly into the following categories:
- (a) Discretionary Relief – Charities who already receive mandatory relief;
 - (b) Discretionary Relief – Premises occupied by organisations not established or conducted for profit whose main objects are charitable or are otherwise philanthropic or religious or concerned with education, social welfare, science, literature or the fine arts or premises occupied by organisations not established or conducted for profit and wholly or mainly used for purposes of recreation;
 - (c) Discretionary Relief – Rural Rate Relief - premises that already receive mandatory relief;
 - (d) Discretionary Relief – Rural Rate Relief - premises not receiving mandatory relief but of benefit to the local community and less than £16,500 RV;
 - (e) Discretionary Relief – Granted under the Localism Act 2011 provisions;
 - (f) Local Newspaper Relief (until 1st April 2025);
 - (g) Supporting Small Businesses Relief (from 1st April 2023);
 - (h) Retail Hospitality & Leisure Relief (from 1st April 2023 for a period of one year);
 - (i) Heat Network Relief (from 1st April 2023 for one year);
 - (j) S49 Relief
 - (k) S44a Part Occupied Relief
- 3.7 The decision to grant or not to grant discretionary relief is a matter purely for the Council.

The Council's general approach to granting Discretionary Relief

- 3.8 In deciding which organisations should receive discretionary rate relief, the Council has considered the following factors and priorities:
- (a) The awarding of relief will be in line with the Council's vision and values - The organisation will need to demonstrate how its use of business property contribute to the Council's priorities.
 - (b) Be equitable and balance the wider interests of the community with the resources made available by the Council Taxpayer;
 - (c) Be clear and transparent;
 - (d) Set out, as far as possible, objective criteria rather than subjective judgements for the award of Discretionary Relief;
 - (e) Local organisations will be given priority over national organisations;
- 3.9 Where any reduction or remission is granted to a ratepayer under S49 Local Government Finance Act 1988 where hardship is proven to the Council, then this will be provided **after** applying any Government funded relief, where possible and subject to the requirements of individual reliefs.
- 3.10 In certain cases, the order in which relief is granted is specified. Mandatory relief shall be granted in all cases where the criteria is met irrespective of whether discretionary relief can be granted or not.

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

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

4.0 Effect on the Council's Finances

- 4.1 The granting of discretionary relief will, in the main, involve a cost to the Council. Since the change to the funding for Non-Domestic Rating in April 2013, the effect of the relief is complex.
- 4.2 Any amounts granted prior to 1st April 2013 and continuing since that date will be included in the Council's baseline within the Business Rates Retention Scheme. For any amounts granted for similar cases, the costs of the relief will be borne in accordance with the Business Rates Retention Scheme shown above. This also applies where mandatory relief is granted.
- 4.3 Where Central Government leads an initiative, grants are often available through section 31 of the Local Government Act 2003. This is not automatic and Central Government will look to the Council to adopt the recommended approach when granting in these areas.

4.4 The financial effects of discretionary reliefs covered by this policy are as follows:

Appendix	Relief Type	Granted after 1st April 2023
	Charity Relief	
A	Discretionary relief granted to Mandatory Relief recipients.	40% borne by the Council
B	Non-profit Making Organisations including Sports Clubs and societies.	40% borne by the Council
C	50% Discretionary relief granted to Mandatory Rural Relief recipients	Section 31 Grant
	Rural Discretionary	
D	Discretionary Relief – Rural Rate Relief - premises not receiving mandatory relief but of benefit to the local community and less than £16,500 RV;	40% borne by the Council
	Localism	
E	Discretionary Relief granted to ratepayers generally and not covered by any other section.	40% borne by the Council
	Local Newspaper Relief	
F	Discretionary Relief granted to local newspapers meeting the criteria (until 31 March 2025)	Section 31 Grant
	Supporting Small Business Relief	
G	Supporting Small Businesses Relief (from 1 April 2023 for a period of up to three years if conditions are met.	Section 31 Grant
	Retail, Hospitality and Leisure Relief	
H	Retail, Hospitality and Leisure Relief Scheme (from 1 April 2023 for a period of one year).	Section 31
	Heat Network Relief	
I	Heat Network Relief (from 1 April 2023 for a period of one year)	Section 31 Grant
	S49 Hardship Relief	
J	Granting relief where the ratepayer is suffering hardship	40% borne by the Council
	S44a Part Occupied Premises	
K	Discretion to assist premises that are temporarily part occupied	40% borne by the Council

5.0 Discretionary Relief – Subsidy

- 5.1 Discretionary relief is potentially subject to the Subsidy Control Act 2022. The purpose of the Subsidy Control Act 2022 is to implement a domestic subsidy control regime in the United Kingdom that reflects the UK's strategic interests and particular national circumstances, providing a legal framework within which public authorities make subsidy decisions.
- 5.2 To the extent that the Council is seeking to provide relief that falls below the Minimal Financial Assistance (MFA) thresholds, the Subsidy Control Act 2022 allows an economic actor (e.g., a holding company and its subsidiaries) to receive up to £315,000 in a three-year period (consisting of the 2023/24 year and the two previous financial years). MFA subsidies cumulate with each other and with other subsidies that fall within the category of 'Minimal or SPEI financial assistance'. BEIS COVID-19 business grants and any other subsidies claimed under the Small Amounts of Financial Assistance limit of the Trade and Cooperation Agreement should be counted under the £315,000 allowance.
- 5.3 In those cases where it is clear to the Council that the ratepayer is likely to breach the MFA limit then the Council will withhold relief. Otherwise, the Council may include the relief in bills and ask the ratepayers, on a self-assessment basis, to inform the Council if they are in breach of the MFA limit.
- 5.4 MFA subsidies above £100,000 are subject to transparency requirements. This is not cumulated per beneficiary but applies per subsidy award. This means that for every individual subsidy provided of more than £100,000, the Council will include details of the subsidy on the subsidy control database.

6.0 Administration of Discretionary Relief

- 6.1 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

- 6.2 The Council will specify how applications are to be received (if required) and this may vary from time to time.
- 6.3 Where indicated by the Council, organisations may be required to provide a completed application form plus any such evidence, documents, accounts (normally the last two years), financial statements etc. necessary to allow the Council to make a decision. Where insufficient information is provided, then no relief will be granted. In some cases, it may be necessary for officers to visit premises and we would expect organisations claiming relief to facilitate this where necessary.
- 6.4 Where applications are required, they should initially be made to the Revenues and Benefits Service and will be determined in accordance with Section 7 of this policy.

6.5 The Council will provide this service and provide guidance free of charge. Ratepayers are encouraged to approach the Council direct and NOT pay for such services through third parties. Applications for relief will be accepted from ratepayers only.

Granting of relief

6.6 In all cases, the Council will notify the ratepayer of decisions made.

6.7 Where an application is successful, then the following will be notified to them in writing:

- 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. (It should be noted that reliefs are granted for the period specified in the appropriate appendix and may vary from a day to a full financial year);
- 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.

6.8 Where relief is not granted, then the following information is provided, again in writing:

- An explanation of the decision within the context of the Council's statutory duty; and
- An explanation of the appeal rights.

6.9 Discretionary relief is to be granted from the beginning of the financial year in which the decision is made or when liability begins whichever is the later. Since 1997 decisions can be made up to 6 months after the end of the financial year for which the application was made. In such cases, the Council *may* backdate its decision.

6.10 A decision to award discretionary relief and how much relief is given, is normally only applicable to the financial year for which the application is made. However, the Council reserves the right to grant relief for any other period as appropriate.

6.11 A fresh application for discretionary relief may be necessary for each financial year **or** at such time-period as the Council determines.

Variation of a decision

6.12 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 increase for any other reason, it will take effect at the expiry of a financial year unless it is granted for a fixed period;
- 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;

- 6.13 A decision may be revoked at any time however; a one-year period of notice will normally be given, and the change will take effect at the expiry of a financial year unless relief has been awarded for a fixed period.

7.0 Scheme of Delegation

Granting, Varying, Reviewing and Revocation of Relief

- 7.1 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.
- 7.2 The Council's scheme of delegation allows for the Corporate Manager: Revenues, Benefits, Planning (DM), Corporate Fraud, Welfare & Leisure to award, revise or revoke any discretionary relief applications. However, any application which is considered to be of a significant nature will be subject to consultation with the relevant executive or committee prior to final determination.
- 7.3 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.

Reviews

- 7.4 The policy for granting relief will be reviewed annually or where there is a substantial change to the legislation or funding rules. At such time, a revised policy will be brought before the relevant committee of the Council.

Appeals

- 7.5 Where the Council receives an appeal from the ratepayer regarding the granting, non-granting or the amount of any discretionary relief, the case will be reviewed by the Corporate Manager: Revenues, Benefits, Planning (DM), Corporate Fraud, Welfare & Leisure. Where a decision is revised then the ratepayer shall be informed, likewise if the original decision is upheld.
- 7.6 Where the ratepayer wishes to appeal the decision of the Corporate Manager: Revenues, Benefits, Planning (DM), Corporate Fraud, Welfare & Leisure, the case will be considered by the Council's Section 151 Officer whose decision on behalf of the Council will be final.
- 7.7 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.

8.0 Reporting changes in circumstances

- 8.1 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.
- 8.2 Where a change of circumstances is reported, the relief will, if appropriate, be revised or cancelled. Where any award is to be reduced, the Council will look to recover the amount from the date the change of circumstances occurred.

9.0 Fraud

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

Appendix A
Discretionary Relief – Mandatory Relief recipients

Discretionary Relief – Mandatory Relief recipients

General Explanation

- A.1 S43 of the Local Government Finance Act 1988 allows mandatory relief (80%) to be granted on premises if the ratepayer is a charity or trustees for a charity and the premises are wholly or mainly used for charitable purposes. No charge is made in respect of unoccupied premises where it appears that *when next in use* it will be used wholly or mainly for those purposes.
- A.2 The legislation has been amended by the Local Government Act 2003 (effective from 1st April 2004) to include registered Community Amateur Sports Clubs (CASC). These organisations can now receive the mandatory (80%) relief.

Charity registration

- A.3 Charities are defined within the legislation as being an institution or other organisation established for charitable purposes only or by persons administering a trust established for charitable purposes only.
- A.4 The question as to whether an organisation is a charity may be resolved in the majority of cases by reference to the register of charities maintained by the Charity Commissioners under s.4 of the Charities Act 1960. Entry in the register is conclusive evidence. By definition, under the Non-Domestic Rating legislation, there is no actual need for an organisation to be a registered charity to receive the relief and this has been supported by litigation, however in all cases the organisation must fall within the following categories:
- trusts for the relief of poverty;
 - trusts for the advancement of religion;
 - trusts for the advancement of education; and
 - trusts for other purposes beneficial to the community, but not falling under any of the preceding heads.
- A.5 Certain organisations are exempted from registration generally and are not required to make formal application to the Charity Commissioners these are:
- the Church Commissioners and any institution administered by them;
 - any registered society within the meaning of the Friendly Societies Acts of 1896 to 1974;
 - units of the Boy Scouts Association or the Girl Guides Association; and
 - voluntary schools within the meaning of the Education Acts of 1944 to 1980.
- A.6 The Council will consider charitable organisations, registered or not, for mandatory relief.

Use of Premises – wholly or mainly used.

- A.7 Irrespective of whether an organisation is registered as a charity or not, the premises **must** be wholly or mainly used for charitable purposes. This is essential if any relief (either mandatory or discretionary) is to be granted. In most cases this can be readily seen by inspection, but on occasions the Council has had to question the actual use to which the premises are to be put. In some cases, it will be necessary for the Council to inspect any premises fully.
- A.8 Guidance from the Department of Housing, Levelling Up and Communities has stated that in the case of 'mainly', at least 51% must be used for charitable purposes whether of that charity or of that and other charities.

A.9 The following part of this section gives details on typical uses where relief may be given plus additional criteria that have to be satisfied. The list is not exhaustive but gives clear guidance on premises for which mandatory relief can be granted *and therefore* premises which may be equally considered for discretionary rate relief.

Offices, administration, and similar premises.

A.10 Premises used for administration of the Charity include:

- Offices;
- Meeting Rooms; and
- Conference Rooms.

Charity shops

A.11 Charity shops are required to meet additional legislative criteria if they are to receive mandatory relief. Section 64 (10) of the Local Government Finance Act 1988 provides that a property is to be treated as being wholly or mainly used for charitable purposes at any time if, at the time, it is wholly or mainly used for the sale of goods donated to a charity and the proceeds of the sale of the goods (after any deduction of expenses) are applied for the purposes of the charity.

A.12 In order to ascertain whether an organisation meets these requirements, inspections may be made by an officer of the Council when an application is received.

Granting of Mandatory Relief - the Council's Policy

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

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

A.14 The Council will consider applications for a discretionary rate relief 'top up' from charities based on their own merits, on a case-by-case basis.

A.15 Discretionary relief will be granted where the following criteria are met:

- Where a local charity has a Rateable Value of up to £14,999, receipt of mandatory relief will trigger the top-up of 20%;
- Where the Rateable Value is between £15k – £80K and above application will be required, the level of relief will be no more than 10% of the balance to pay after mandatory relief has been awarded at 80%;
- Where the Rateable Value is above £80k, no top-up will be awarded; and
- No Discretionary Relief will be awarded to National Charity Shops

Discretionary Relief will only be considered where the Rateable Value (RV) is up to and including £80,000(RV). Applications received where the (RV) is above this will be reviewed on a case by case basis and not immediately refused, although circumstances would need to be considered to be unique before relief is awarded. Relief will be capped at a maximum of 80% the net business rates charge with a £80,000(RV), Mid Devon recognises that one size doesn't fit all.

A.16 In the case of registered Community Amateur Sports Clubs, the key criteria in determining the application will be:

- On the CASC register (<https://www.gov.uk/government/publications/community-amateur-sportsclubs-casc-registered-with-hmrc--2>);
- Open to the whole community;
- Run as an amateur club;
- A non-profit making organisation; and
- Aiming to provide facilities for, and encourage people to take part in, eligible sport.

The Council will consider applications for a Discretionary Rate Relief “top up” from CASC’s on a case by case basis. If, but for an award of Mandatory Relief, a CASC would qualify for 100% small business rate relief, Discretionary Rate Relief “top up” will be awarded at 100% of any remaining business rate bill. This only applies to local organisations not national companies; however, all applications will be looked at on a case by case basis.

A.17 The principal consideration is that any Relief is granted in the best interests of the taxpayers of Mid Devon and produces a local benefit as the Council must bear a percentage of the cost of any Relief granted at 40%. However, it should be noted that sports clubs and other organisations which run a bar will have this assessed along with other criteria. For a consistent approach on the maximum of **10%**

A.18 The Council wishes to support and enable appropriate businesses to start, develop and continue with their operations that deliver outcomes directly related to the Council’s aims and vision. In the main, this will be done through other means rather than granting discretionary relief. There may be occasions where applications are made for such relief or where a package of measures, including discretionary relief, are appropriate in supporting businesses. This would need to be in accordance with any limitations in respect of subsidy.

Community Library Partnerships or Similar

A.19 Where a Library has been set up as a Charity or Community Interest Company Mid Devon will award Mandatory Relief of 80% and 20% top up, as such no business rates would be payable. As directed by regulation LGFA 1988 Regulation 47(9) should a Parish Council become a ‘trustee’ to the Library Mid Devon will award 100% relief.

Appendix B
Discretionary Relief – Non-Profit Making Organisations including Recreation.

Discretionary Relief – Non-Profit Making Organisations including Recreation.

General explanation

Non-Profit

- B.1 The legislation allows the Council to grant discretionary relief where the property is not an *excepted* one and all or part of it is occupied for the purposes of one or more institutions or other organisations none of which is established or conducted for profit and each of whose main objects are charitable or are otherwise philanthropic or religious or concerned with education, social welfare, science, literature, or the fine arts.
- B.2 Relief cannot be granted to any premises occupied by the Council, or any town, parish council or major Precepting Authority (*excepted premises*).
- B.3 A number of issues arise from the term 'not established or conducted for profit'. This requires the Council to make enquiries as to the overall purpose of the organisation although if surpluses and such amounts are directed towards the furtherance or achievement of the objects of the organisation then it does not necessarily mean that the organisation was established or conducted for profit.

Recreation Clubs

- B.4 Ideally all recreation clubs should be encouraged to apply for Community Amateur sports Club (CASC) status, which would automatically entitle them to 80% relief. The relief granted to CASCs is covered earlier within this policy.
- B.5 Recreation clubs can also apply to the Charity Commissioners for registration as a Charity (thereby falling under the mandatory provisions for 80% relief) where they meet the following conditions:
- The promotion of community participation in healthy recreation and by the provision of facilities for the playing of particular sports; and
 - The advancement of the physical education of young people not undergoing formal education.
- B.6 Where sports clubs do not meet the CASC requirement, and are not registered charities, discretionary relief can be granted (0-100%) where the property is not an *excepted* one, it is wholly or mainly used for purposes of recreation and all or part of it is occupied for the purpose of a club, society or other organisation not established or conducted for profit.

Access to clubs

- B.7 Guidance issued by the DHLUC also requires the Council to consider access to clubs within the community before granting discretionary relief.
- B.8 Membership should be open to all sections of the community. There may be legitimate restrictions placed on membership which relate for example to ability in sport or to the achievement of a standard in the field covered by the organisation or where the capacity of the facility is limited, but in general membership should not be exclusive or restrictive.
- B.9 Membership rates should not be set at such a high level as to exclude the general community. However, membership fees may be payable at different rates that distinguish the different classes of membership such as juniors, adults, students, pensioners, players, non-players, employed and

unemployed. In general, the club or organisation must be prepared to show that the criteria by which it considers applications for membership are consistent with the principle of open access.

B.10 The Council also asks the following question to help establish the level of access ‘Does the organisation actively encourage membership from particular groups in the community e.g., young people, women, older age groups, persons with disability, ethnic minorities’ etc.?’

Provision of facilities.

B.11 Clubs which provide training or education are encouraged, as are those who provide schemes for particular groups to develop their skills e.g., young people, the disabled, retired people.

B.12 A number of organisations run a bar. The mere existence of a bar will not in itself be a reason for not granting relief. However, the Council focuses on the main purpose of the organisation. The Council is encouraged to examine the balance between playing and non-playing members.

B.13 Within this area, the Council also considers whether the facilities provided relieve the Council of the need to do so or enhance and supplement those that it does provide.

Discretionary Relief - Non–Profit Organisations including Recreation – the Council’s Policy.

B.14 The Council will consider applications for discretionary rate relief from non-profit making organisations on their own merits on a case-by-case basis. In determining the application, the following matters will be taken into consideration (The list is not exhaustive):

- Organisations can only be considered for relief on its own merits by reference to the contribution and importance of the business to the local community:
- 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, and recreation or otherwise beneficial to the community:
- It should be noted that sports clubs and other organisations which run a **bar** will have this assessed along with other criteria; and
- It is agreed that the Council will consider applications for a Discretionary Rate Relief for ‘Not For-Profit’ Organisations and Community Interest Companies on a case by case basis. The principal consideration is that any Discretionary Relief is granted in the best interests of the taxpayers of Mid Devon and produces a local benefit as the Council must bear a percentage of the cost of any Relief granted of 40%.

Discretionary Relief will only be considered where the Rateable Value (RV) is up to and including £80,000(RV). Applications received where the (RV) is above this will be reviewed on a case by case basis and not immediately refused, although circumstances would need to be considered to be unique before relief is awarded. Relief will be capped at a maximum of 80% the net business rates charge with a £80,000(RV), Mid Devon recognises that one size doesn’t fit all.

Appendix C

Discretionary Relief - Rural Rate Relief – Mandatory Relief recipients

Discretionary Relief - Rural Rate Relief – Mandatory Relief recipients

What are the qualifying criteria for Mandatory Relief?

- C.1 For a Post Office or General Store to be entitled to 50% Mandatory Relief, all the following criteria must be met:
- The Rateable Value of the property must not exceed £8,500 (from 1 April 2023);
 - The property must be used as a Post Office or a General Store (see below for definition), or both;
 - The property must be the only Post Office or the only General Store within the Rural Settlement.
- C.2 For a Public House or Petrol Filling Station to be entitled to 50% Mandatory Relief, all the following criteria must be met:
- The Rateable Value of the property must not exceed £12,500 from 1 April 2010);
 - The property must be used as a Public House (see below for definition) or a Petrol Filling Station (see below for definition); and
 - The property must be the only Public House or the only Petrol Filling Station within the Rural Settlement.
- C.3 For a village food shop to be entitled to 50% Mandatory Relief, all the following criteria must be met:
- The Rateable Value of the property must not exceed £8,500 from 1 April 2023); and
 - The property must be used as a shop selling mainly food (see below for definition).

What rural settlements exist within the Mid Devon District Council's area?

- C.4 The following are deemed to be rural settlements within the Council's area. The boundary of each settlement is the same as the Parish boundary, except where otherwise defined.

Ashill; Ash Thomas; Bampton; Bickleigh; Blackborough; Bolham; Bow; Bradninch; Brushford; Burllescombe; Butterleigh; Cadbury; Cadeleigh; Calverleigh; Chawleigh; Cheriton Bishop; Cheriton Fitzpaine; Clannaborough; Clayhanger ; Clayhidon; Coldridge; Colebrooke; Coplestone; Cove; Crediton Hamlets; Cruwys Morchard; Culmstock; Down St Mary; Eggesford; Halberton; Hittisleigh; Hockworthy; Holcombe Rogus; Huntsham; Kennerleigh; Kentisbeare; Lapford; Loxbeare; Morchard Bishop; Morebath; Newton St Cyres; Nymet Rowland; Oakford; Poughill; Puddington; Sampford Peverell; Sandford; Shillingford; Shobrooke; Silverton; Stockleigh Pomeroy; Stockleigh English; Stoodleigh ; Templeton; Thelbridge; Thorverton; Uffculme; Uplowman; Upton Hellions; Washfield; Washford Pyne; Wembworthy; Westleigh; Willand; Woolfardisworthy; Yeoford; and Zeal Monachorum.

What is the definition of a General Store?

- C.5 For the purposes of Rural Rate Relief, 'General Store' means a business or trade, which wholly or mainly sells by retail both food (other than confectionery) for human consumption and general household goods. Where there are two or more General Stores within the same Rural Settlement, none can qualify for Mandatory Relief on that basis, although if one of them functions as a Post Office or a Food Shop relief may be claimed independently on that ground. However, both a General Store and a Post Office in the same Rural Settlement will qualify for Mandatory Relief, provided that, they both meet the criteria. Although a General Store or a Post Office may not meet the criteria for Mandatory Relief, they may still be eligible to apply for Discretionary Relief.

What is the definition of a Public House?

- C.6 For the purposes of Rural Rate Relief, 'Public House' means any premises as defined in the Licensing Act 2003, which has a premises license authorising sale by retail of alcohol for consumption on the

premises. In addition, the premises must be used principally for retail sales of alcohol to members of the public for consumption on the premises, and sales must not be subject to the condition that buyers reside at or consume food on the premises.

What is the definition of a Petrol Filling Station?

C.7 For the purposes of Rural Rate Relief, 'Petrol Filling Station' means premises where petrol or other automotive fuels are sold retail to the general public for fuelling motor vehicles intended or adapted for use on roads.

What is the definition of a Food Shop?

C.8 For the purpose of Rural Rate Relief, 'Food Shop' means a trade or business consisting wholly or mainly of the sale by retail of food for human consumption (excluding confectionery and catering – in this context catering means any supply of food for consumption on the premises on which it is supplied and any supply of hot food for consumption off the premises). This definition may also include shops, which sell mainly household foods, and which may partly also sell hot take away food or food consumed on the premises. But shops whose main business is a restaurant, tearoom, take-away, or confectionery sales are not food shops and so will not qualify for mandatory relief.

What are the qualifying criteria for Discretionary Relief?

C.9 The Council may grant up to 50% Discretionary Relief in respect of any property which qualifies for 50% Mandatory Relief and the Council may also grant up to 100% Discretionary Relief to any rural business which does not meet the mandatory provisions. It should be noted that for 2017 onwards Central Government has requested that Council grant 50% discretionary relief to all ratepayers who receive 50% mandatory rural rate relief.

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

C.10 As Central Government has requested and fully funds any additional relief granted to ratepayers who receive mandatory rural rate relief, the Council will automatically grant the additional 50% until such time as primarily legislation is changed.

Appendix D
Discretionary Relief – Premises within Rural Settlements

Discretionary Relief – Premises within Rural Settlements

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

Benefit to the local community

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

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

- D.6 The Council will also consider applications for a discretionary rural rate relief from all ratepayers, not entitled to mandatory relief up to a maximum of 100%.
- D.7 In determining the application, the following matters will be taken into consideration:
- The granting of any discretionary relief will be essential in ensuring the viability of any business within the rural settlement;
 - The granting of any discretionary relief is proportionate given the level of any business rates charged compared with the overall turnover of the business;
 - The granting of any discretionary relief will assist the business in continuing to be viable and / or prevent the business from failing;
 - The business is considered by the Council to be essential to the community and that any reduction or withdrawal of the business will have a serious detrimental effect on the rural settlement; and
 - The granting of any discretionary relief is reasonable having regard to the effect on taxpayers of the Council.

Appendix E
Discretionary Relief – Localism Act 2011

Discretionary Relief – Localism Act 2011

General explanation

- E.1 Section 69 of the Localism Act 2011 amended Section 47 of the Local Government Finance Act 1988. These provisions allow all Councils to grant discretionary relief in **any** circumstances where it feels fit having regards to the effect on the Council Taxpayers of its area.
- E.2 The provisions are designed to give authorities flexibility in granting relief where it is felt that to do so would be of benefit generally to the area and be reasonable given the financial effect to Council Taxpayers. An example where the Council has granted relief in the past are where premises were affected by flooding.

Discretionary Relief – Localism – the Council’s Policy

- E.3 Applications will be considered from any ratepayer who wishes to apply. However, where a ratepayer is suffering hardship or severe difficulties in paying their rates liability then relief can be granted under the existing provisions as laid down by Section 49 of the Local Government Finance Act 1988. There will be no requirement to grant relief in such cases under the Council’s discretionary relief policy.
- E.4 Any ratepayer applying for discretionary rate relief under these provisions and who does not meet the criteria for existing relief (charities, non-profit making organisations etc.) may apply. When considering an application for rate relief the following factors will be taken into account: Any ratepayer applying for a Local Business Rate Discount who does not meet the criteria for Discretionary Rate Relief under any other part of this policy, must meet all of the following criteria and any award will be based on these factors:
- The ratepayer must not be entitled to Mandatory Rate Relief (Charity or Rural Rate Relief);
 - The Rateable Value must be less than £80,000 (RV);
 - The ratepayer must not be an organisation that could receive relief as a non-profit making organisation or as Community Amateur Sports Club;
 - The ratepayer must occupy the premises – no relief will be granted for unoccupied properties. The premises and the organisation must be of significant benefit to the taxpayers of Mid Devon;
 - Provide facilities to certain priority groups such as elderly, disabled, minority or disadvantaged groups, and / or Provide significant employment or employment opportunities to residents of Mid Devon;
 - Provide residents of Mid Devon with such services, opportunities or facilities that cannot be obtained locally or are not provided by another organisation;
 - The ratepayer must show that the organisation will comply with all legislative requirements and operate in an ethical, sustainable, and environmentally friendly manner at all times;
- E.5 Where a ratepayer can demonstrate that all of the above criteria are met, any award must have due regard to the financial status of the applicant when determining the level of relief to be granted, and the impact and best interests of the Council Tax payers of Mid Devon
- E.6 It must be noted that the Council will only pay a maximum of **80%** relief, 100% relief will only be considered in the most exceptional circumstances and via the formal appeals process.

- E.7 Relief will not be given to those organisations where a bar is the main activity. It would be expected that any bar profits would be used to offset any expenses thus negating the reliance on public funds.
- E.8 Relief will be withdrawn/ cancelled if:
- (a) the conditions or circumstances on the basis of on which the relief was granted change or
 - (b) fail to materialise, or the information submitted as part of the application proves to be misleading;
 - (c) the applicant ceases to be the ratepayer; or
 - (d) business/organisation ceases to trade (in case of occupied rates) or downscales operations and workforce in contravention of any agreement; or
 - (e) the use of the property changes
- E.9 A formal application from the ratepayer will be required in each case and any relief will be granted in line with subsidy requirements as specified within this policy.

Appendix F
Local Newspaper Relief

- F.1 This is a relief that will be awarded until 2025 and the Government is not changing the legislation around the reliefs available to these properties. Central Government will reimburse local authorities that use their discretionary relief powers (under section 47(3)) of the Local Government Finance Act 1988 to grant relief in line with the eligibility criteria set out in this guidance.
- F.2 The Council will be compensated by Central Government through a grant under section 31 of the Local Government Act 2003.

Eligibility criteria

- F.3 The scheme will provide a £1,500 relief (per annum) for office space occupied by local newspapers up to a maximum of one discount per local newspaper title and per hereditament.

Local Newspapers

- F.4 The relief is to be specifically for local newspapers and by that, the Council means what would be considered a “traditional local newspaper.” The relief will not be available to magazines.

Office Space

- F.5 The hereditament **must** be occupied by a local newspaper and wholly or mainly used as office premises for journalists and reporters.

Amount of Relief

- F.6 The amount of relief is limited to a maximum of one discount per newspaper title (e.g., per newspaper name) **AND** per hereditament. As with all discretionary rate relief, any grant will be subject to subsidy limits as defined within this policy.

Local Newspaper Relief – the Council’s policy for granting discretionary relief.

- F.7 The Council has decided to grant relief strictly in accordance with Central Government guidelines.

Appendix G
Supporting Small Businesses Relief

General Explanation

- G.1 For the financial years 2023/24 to 2025/26, the Government will, in line with the eligibility criteria set out below, reimburse the Council if it uses its discretionary relief powers under section 47 of the Local Government Finance Act 1988 (as amended), to grant 2023 Supporting Small Business relief.
- G.2 It will be for the Council, which administers the 2023 Supporting Small Business (2023 SSB) relief, to adopt a local scheme and determine in each individual case when, having regard to this guidance, to grant relief under section 47.
- G.3 Central government will reimburse the Council and major precepting authorities for the actual cost to them under the rates retention scheme of the 2023 Supporting Small Business relief that falls within the definitions in this policy.

Who is eligible for the 2023 Supporting Small Business Relief (2023 SSB) and how much relief will be available?

- G.4 2023 SSBR will help those ratepayers who as a result of the change in their rateable value at the revaluation are losing some or all of their Small Business, Rural Rate Relief or 2017 SSBR and, as a result, are facing large increases in their bills.
- G.5 Charities and Community Amateur Sports Clubs, who are already entitled to mandatory 80% relief, are not eligible for 2023 SSBR.
- G.6 To support these ratepayers, 2023 SSBR will ensure that the increase in the bills of these ratepayers is limited to a cash value of £600 per year. This cash maximum increase ensures that ratepayers do not face large bill increases in 2023/24 after transitional relief and small business rate relief (as applicable) have been applied. In order to simplify the scheme, the 2023 SSBR will not include minimum percentage bill increases (unlike the 2017 scheme).
- G.7 Those on 2023 SSBR whose 2023 rateable values are £51,000 or more will not be liable to pay the supplement (1.3p) to fund small business rate relief while they are eligible for 2023 SSBR.
- G.8 The 2017 SSBR scheme was provided to support small and medium ratepayers who had seen large increases in their bills at the 2017 revaluation. They have, therefore, had 6 years of support to allow them to adjust to their full 2017 bills. Therefore, for those ratepayers receiving 2017 SSB relief in 2022/23, any eligibility for 2023 SSBR will end on 31 March 2024.
- G.9 The Council will ensure this eligibility criteria is clear in the scheme approved and that relief for these ratepayers is awarded for one year only so that the relief can then be withdrawn on 31 March 2024 without further notice.
- G.10 A change of ratepayers will not affect eligibility for the Supporting Small Business scheme but eligibility will be lost if the property falls vacant or becomes occupied by a charity or Community Amateur Sports Club.
- G.11 There is no second property test for eligibility for the 2023 SSBR scheme. However, those ratepayers who during 2022/23 lost entitlement to Small Business Rate Relief (because they failed the second

property test) but have, under the rules for Small Business Rate Relief, been given a 12 month period of grace before their relief ended - can continue on the 2023 SSBR scheme for the remainder of their 12 month period of grace.

Sequence of reliefs

- G.12 Hereditaments eligible for charity or Community Amateur Sports Club relief or hereditaments which are unoccupied are not eligible for 2023 SSBR. For the avoidance of doubt, small business rate relief or rural rate relief will not be applied to further reduce the bill found under 2023 SSBR (to avoid the double counting of relief).
- G.13 The same principle applies to properties for which a Section 44A certificate has been granted (apportionment of rateable values for partly occupied properties). The presence of a section 44A certificate will not further reduce the bill found under 2023 SSBR.
- G.14 All other discretionary reliefs, including those funded by section 31 grants, will be considered after the application of 2023 SSBR.

Subsidy control

- G.15 The 2023 SSBR is likely to amount to a subsidy. Therefore, any relief provided by the Council under this scheme will need to comply with the UK's domestic and international subsidy control obligations.
- G.16 To the extent that the Council is seeking to provide relief that falls below the Minimal Financial Assistance (MFA) thresholds, the Subsidy Control Act allows an economic actor (e.g., a holding company and its subsidiaries) to receive up to £315,000 in a three-year period (consisting of the 2023/24 year and the two previous financial years). MFA subsidies cumulate with each other and with other subsidies that fall within the category of 'Minimal or SPEI financial assistance'. BEIS COVID-19 business grants and any other subsidies claimed under the Small Amounts of Financial Assistance limit of the Trade and Cooperation Agreement should be counted under the £315,000 allowance.
- G.17 In those cases where it is clear to the Council that the ratepayer is likely to breach the MFA limit then the Council will withhold the relief. Otherwise, the Council may include the relief in bills and ask the ratepayers, on a self-assessment basis, to inform the Council if they are in breach of the MFA limit.
- G.18 MFA subsidies above £100,000 are subject to transparency requirements. This is not cumulated per beneficiary but applies per subsidy award. This means that for every individual subsidy provided of more than £100,000, the Council will include details of the subsidy on the subsidy control database.

Recalculations of reliefs

- G.19 As with other reliefs, the amount of SSBR awarded will be recalculated in the event of a change of circumstances. This could include, for example, a backdated change to the rateable value or to the hereditament. This change of circumstances could arise during the year in question or during a later year.

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

G.21 Therefore, when making an award for SSBR, the Council will ensure the conditions of the award that the relief are subject to the property's continuing eligibility. If the use of the property changes so that it is no longer eligible, the relevant chargeable amount must be recalculated to reflect that fact.

G.22 The Council will also ensure that the scheme provides that eligibility for those ratepayers previously in the 2017 SSBR scheme in 2022/23 are eligible for one year of relief only and that the relief will then be withdrawn from those ratepayers on 31 March 2024 without further notice.

Supporting Small Businesses Relief – the Council's policy for granting discretionary relief.

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

Appendix H
Retail, Hospitality and Leisure Relief

General Explanation

- H.1. At the Autumn Statement on 17 November 2022 the Chancellor announced the introduction of a new business rates relief scheme for retail, hospitality, and leisure properties worth around £2.1 billion in 2023/24. This will support the businesses that make our high streets and town centres a success and help them to evolve and adapt to changing consumer demands.
- H.2 The 2023/24 Retail, Hospitality and Leisure Business Rates Relief scheme will provide eligible, occupied, retail, hospitality, and leisure properties with a 75% relief, up to a cash cap limit of £110,000 per business.

How will the relief be provided?

- H.3 As this is a temporary measure for 2023/24, Government is not changing the legislation relating to the reliefs available to properties. Instead, Government will, in line with the eligibility criteria set out in this guidance, reimburse the Council if it uses its discretionary relief powers under section 47 of the Local Government Finance Act 1988 (as amended) to grant relief. It will be for the Council to adopt a local scheme and determine in each individual case when, having regard to this guidance, to grant relief under section 47.
- H.4 Government will fully reimburse the Council and major precepting authorities for their loss of income under the rates retention scheme as a result of awarding the relief that falls within the definitions in this guidance, using a grant under section 31 of the Local Government Act 2003.
- H.5 The government expects the Council to apply and grant relief to qualifying ratepayers from the start of the 2023/24 billing year.

Which properties will benefit from relief?

- H.6 Hereditaments which benefit from the relief will be those which for a chargeable day in 2023/24:
- meet the eligibility criteria; and
 - the ratepayer for that chargeable day has not refused the relief for the eligible hereditament.

The ratepayer may refuse the relief for each eligible hereditament anytime up to 30 April 2024. The ratepayer cannot subsequently withdraw their refusal for either all or part of the financial year.

- H.7 The Council has decided that, for the purposes of section 47 of the 1988 Act, hereditaments where the ratepayer has refused the relief are outside of the scheme and outside of the scope of the decision of which hereditaments qualify for the discount and are therefore ineligible for the relief.
- H.8 In line with the legal restrictions in section 47(8A) of the Local Government Finance Act 1988, the Council may not grant the discount to themselves or precepting authorities.

How much relief will be available?

- H.9 Subject to the £110,000 cash cap per business, the total amount of government-funded relief available for each property for 2023/24 under this scheme is for chargeable days from 1 April 2023 to 31 March 2024, 75% of the chargeable amount.

H.10 The relief will be applied after mandatory reliefs and other discretionary reliefs funded by section 31 grants have been applied, but before those where the Council has used its wider discretionary relief powers introduced by the Localism Act 2011, which are not funded by section 31 grants. However, the former categories of discretionary relief available prior to the Localism Act 2011 (i.e., charitable relief etc.) will be applied first in the sequence of discretionary reliefs and, therefore, before Retail, Hospitality and Leisure relief. Authorities may use their discretionary powers to, at cost to themselves, offer further discounts outside this scheme or additional relief to hereditaments within the scheme. However, where the Council applies a locally funded relief under section 47, this will be applied after the Retail, Hospitality and Leisure relief.

H.11 The ordering **will** be applied in following sequence:

- Transitional Relief
- Mandatory Reliefs (as determined in legislation)
- S.47 Discretionary Relief in the following order:
 - (i) 2023 Supporting Small Business (SSB);
 - (ii) Former categories of discretionary relief available prior to the Localism Act 2011 (i.e., charitable, CASC, rural top up, and not for profit) will be applied first in the sequence of discretionary reliefs, after SSB;
 - (iii) Other discretionary (centrally funded);
 - (iv) 2023/24 Retail Hospitality and Leisure relief scheme; and
 - (v) Other locally funded schemes (such as section 49 hardship).

H.12 Subject to the cash cap, the eligibility for the discount and the relief itself will be assessed and calculated on a daily basis. The following formula will be used to determine the amount of relief to be granted for a chargeable day for a particular hereditament in the financial year 2023/24:

- Amount of relief to be granted = $V \times 0.75$ where:
- V is the daily charge for the hereditament for the chargeable day after the application of any mandatory relief and any certain other discretionary reliefs in line with the above.

H.13 This will be calculated ignoring any prior year adjustments in liabilities which fall to be liable on the day.

H.14 Ratepayers that occupy more than one property will be entitled to relief for each of their eligible properties up to the maximum £110,000 cash cap, per business.

The Cash Cap and Subsidy Control

H.15 Under the cash cap, no ratepayer can in any circumstances exceed the £110,000 cash cap across all of their hereditaments in England.

H.16 Where a ratepayer has a qualifying connection with another ratepayer, then those ratepayers will be considered as one ratepayer for the purposes of the cash caps. A ratepayer shall be treated as having a qualifying connection with another:

- (a) where both ratepayers are companies, and
 - (i) one is a subsidiary of the other, or
 - (ii) both are subsidiaries of the same company; or

- (b) where only one ratepayer is a company, the other ratepayer (the “second ratepayer”) has such an interest in that company as would, if the second ratepayer were a company, result in its being the holding company of the other.

H.17 The Retail Hospitality and Leisure Scheme is likely to amount to subsidy. Any relief provided by the Council under this scheme will need to comply with the UK’s domestic and international subsidy control obligations.

H.18 To the extent that the Council is seeking to provide relief that falls below the Minimal Financial Assistance (MFA) thresholds, the Subsidy Control Act allows an economic actor (e.g., a holding company and its subsidiaries) to receive up to £315,000 in a 3-year period (consisting of the 2023/24 year and the 2 previous financial years). MFA subsidies cumulate with each other and with other subsidies that fall within the category of ‘Minimal or SPEI financial assistance’. Expanded Retail Discount granted in 2021/22 does not count towards the £315,000 allowance but BEIS COVID-19 business grants and any other subsidies claimed under the Small Amounts of Financial Assistance limit of the Trade and Cooperation Agreement will be counted.

H.19 In those cases, where it is clear to the Council that the ratepayer is likely to breach the cash cap or the MFA limit, then the Council will automatically withhold the relief.

H.20 MFA subsidies above £100,000 are subject to transparency requirements. This is not cumulated per beneficiary but applies per subsidy award. This means that for every individual subsidy provided of more than £100,000, the Council will include details of the subsidy on the subsidy control database.

Splits, mergers, and changes to existing hereditaments

H.21 The relief will be applied on a day-to-day basis using the formula set out above. A new hereditament created as a result of a split or merger during the financial year, or where there is a change of use, will be considered afresh for the relief on that day.

Recalculations of relief

H.22 The amount of relief awarded will be recalculated in the event of a change of circumstances. This could include, for example, a backdated change to the rateable value or the hereditament. This change of circumstances could arise during the year in question or during a later year.

H.23 Under regulations made under section 47 of the Local Government Finance Act 1988 the Council must give at least 12 months’ notice of a revocation or variation of a rate relief scheme the effect of which would be to increase rate bills. Such a revocation or variation can only take effect at the end of a financial year (other than to comply with international agreements). But within these regulations, the Council may still make decisions to ensure the scheme is administered in accordance with the extant rules. If a change in circumstances renders a property ineligible, the relevant bill can be amended in the year to reflect the loss of the relief.

Eligibility for the Retail, Hospitality and Leisure Relief Scheme

H.24 The Council uses the following definitions to establish eligibility for the relief:

Hereditaments that meet the eligibility for Retail, Hospitality and Leisure scheme will be occupied hereditaments which meet all of the following conditions for the chargeable day:

- they are wholly or mainly being used:
 - (i) as shops, restaurants, cafes, drinking establishments, cinemas, or live music venues,
 - (ii) for assembly and leisure; or
 - (iii) as hotels, guest & boarding premises, or self-catering accommodation

i. Hereditaments that are being used for the sale of goods to visiting members of the public:

- Shops (such as: florists, bakers, butchers, grocers, greengrocers, jewellers, stationers, off licences, chemists, newsagents, hardware stores, supermarkets, etc)
- Charity shops
- Opticians
- Post offices
- Furnishing shops/ display rooms (such as: carpet shops, double glazing, garage doors)
- Car/caravan show rooms
- Second-hand car lots
- Markets
- Petrol stations
- Garden centres
- Art galleries (where art is for sale/hire)

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

- Hair and beauty services (such as: hairdressers, nail bars, beauty salons, tanning shops, etc)
- Shoe repairs/key cutting
- Travel agents
- Ticket offices e.g., for theatre
- Dry cleaners
- Launderettes
- PC/TV/domestic appliance repair
- Funeral directors
- Photo processing
- Tool hire
- Car hire

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

- Restaurants
- Takeaways
- Sandwich shops
- Coffee shops
- Pubs
- Bar

iv. Hereditaments which are being used as cinemas.

v. Hereditaments that are being used as live music venues:

- Live music venues are hereditaments wholly or mainly used for the performance of live music for the purpose of entertaining an audience. Hereditaments cannot be considered a live music venue for the purpose of business rates relief where a venue is wholly or mainly used as a nightclub or a theatre, for the purposes of the Town and Country Planning (Use Classes) Order 1987 (as amended).
- Hereditaments can be a live music venue even if used for other activities, but only if those other activities (i) are merely ancillary or incidental to the performance of live music (e.g., the sale/supply of alcohol to audience members) or (ii) do not affect the fact that the primary activity for the premises is the performance of live music (e.g., because those other activities are insufficiently regular or frequent, such as a polling station or a fortnightly community event).
- There may be circumstances in which it is difficult to tell whether an activity is a performance of live music or, instead, the playing of recorded music.

vi. Hereditaments that are being used for the provision of sport, leisure, and facilities to visiting members of the public (including for the viewing of such activities).

- Sports grounds and clubs
- Museums and art galleries
- Nightclubs
- Sport and leisure facilities
- Stately homes and historic houses
- Theatres
- Tourist attractions
- Gyms
- Wellness centres, spas, massage parlours
- Casinos, gambling clubs and bingo halls

vii. Hereditaments that are being used for the assembly of visiting members of the public.

- Public halls
- Clubhouses, clubs, and institutions

viii. Hereditaments where the non-domestic part is being used for the provision of living accommodation as a business:

- Hotels, Guest, and Boarding Houses
- Holiday homes
- Caravan parks and sites

H.25 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.

H.26 The list set out above is not intended to be exhaustive as it would be impossible to list the many and varied uses that exist within the qualifying purposes.

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

H.27 The list below sets out the types of uses that the government does not consider to be an eligible use for the purpose of this discount. Again, it is for the Council to determine for themselves whether particular properties are broadly similar in nature to those below and, if so, to consider them **not** eligible for the discount under their local scheme:

- Financial services (e.g., banks, building societies, cash points, bureaux de change, short-term loan providers, betting shops);
- Medical services (e.g., vets, dentists, doctors, osteopaths, chiropractors);
- Professional services (e.g., solicitors, accountants, insurance agents/ financial advisers, employment agencies, estate agents, letting agents); and
- Post office sorting offices.

Retail Hospitality and Leisure Relief – the Council’s policy for granting discretionary relief.

H.28 The Council has decided to grant relief strictly in accordance with Central Government guidelines.

Appendix I
Heat Network Relief

General Explanation

- I.1 In the Spring Statement 2022, the Chancellor announced that the Heat Network Relief will apply from 1 April 2022 so, for the financial year 2022/23, the relief was delivered using existing local government discretionary relief powers under Section 47 of the Local Government Finance Act 1988, funded by Government by means of a S31 grant. This approach has now been extended to the 2023/24 financial year.
- I.2 The Council therefore intends to provide relief under the discretionary relief provisions for 2023/24 period as requested by Government in order to assist eligible ratepayers.
- I.3 Heat networks take heat or cooling from a central source(s) and deliver it to a variety of different customers such as public buildings, shops, offices, hospitals, universities, and homes. By supplying multiple buildings, they avoid the need for individual boilers or electric heaters in every building. Heat networks have the potential to:
- reduce bills;
 - support local regeneration; and
 - be a cost-effective way of reducing carbon emissions from heating.
- I.4 Heat networks play an important role in decarbonising heat and support delivery of Government's net zero commitments. They are uniquely able to unlock otherwise inaccessible large-scale renewable and recovered heat sources such as waste heat and heat from rivers and mines.

How will the relief be provided?

- I.5 As this is a temporary measure for 2023/24, Government is not changing the legislation. Instead, Government will, in line with the eligibility criteria set out in this policy, reimburse the Council if it uses its discretionary relief powers, under section 47 of the Local Government Finance Act 1988, to grant relief.
- I.6 The Council will be reimbursed following the submission of outturn data in the National Non-Domestic Rates 3 (NNDR3) form for 2023/24. In addition, the Council is required to ensure that it is able to monitor and report the take up of the scheme at Parliamentary constituency level.

Who is eligible for the relief?

- I.7 In order to be eligible for Heat Network Relief, the hereditament must be:
- (a) wholly or mainly used for the purposes of a heat network; and
 - (b) the heat is, over the next 12 months, expected to be generated from a low carbon source (irrespective of whether that source is located on the hereditament or on a different hereditament).
- I.8 Government anticipates the test at (b) above being made based on a forecast at the commencement of the financial year. The Council is not required to revisit the forecast although it may undertake a review if thought necessary.

- I.9 For the purposes of this relief, a heat network is a facility, such as a district heating scheme, which supplies **thermal energy from a central source to consumers via a network of pipes for the purposes of space heating, space cooling or domestic hot water.**
- I.10 Hereditaments wholly or mainly providing heat for a different purpose (such as an industrial process) are not eligible.

Wholly or mainly

- I.11 The test for this relief should be applied to the hereditament as a **whole** and heat network relief is **not** available on part of a hereditament.
- I.12 Many small and medium scale heat networks, such as common heating systems in multi-occupied buildings or estates, do not give rise to a separate business rates liability. In these cases, the heat network forms part of the services of the properties which have a wider purpose (e.g., offices) and therefore would not be eligible for Heat Network Relief.
- I.13 It is expected that the networks eligible for the relief will be the larger facilities which have their own business rates assessment.

Thermal energy

- I.14 The test is on thermal energy. This means that the purposes of generating electricity does not count towards meeting the **wholly or mainly test** and, as a result, Government does not anticipate hereditaments comprising power stations and a heat recovery and network system to qualify.
- I.15 A hereditament comprising a Combined Heat and Power (CHP) facility where the generation of electricity at the hereditament was more significant than the generation and supply of heat would not qualify for the relief. However, if a heat recovery and network system taking heat from a power station was, for whatever reason, in a separate hereditament from the power station then it may still qualify subject to meeting the other tests of eligibility.
- I.16 Similar, considerations will apply where the heat is being taken from an incinerator or Energy from Waste (EfW) Plant. If the heat network forms part of the same hereditament as the incinerator or EfW plant then, unless it has been designed specifically as a heat network, it is unlikely to pass the wholly or mainly test (its primary purpose more likely being incineration of waste or generation of power). However, it may qualify (subject to the other tests of eligibility) if the heat network forms its own hereditament (i.e., if the heat is coming in from a different hereditament such as the case of a heat network which purchases heat from a separately assessed EfW plant).

The heat is generated from a low carbon source.

- I.17 A low carbon source is a source of which at least:
- (a) 50% is renewable as defined below;
 - (b) 50% is waste heat;
 - (c) 75% is cogeneration heat (where cogeneration' means the simultaneous generation in one process of thermal energy and electrical or mechanical energy); or
 - (d) 75% is a combination of the sources above.

- I.18 A renewable source is any of the sources listed in Class 1(e) of the Schedule to the Valuation for Rating (Plant and Machinery) (England) Regulations 2000 (SI 2000 No. 540) as inserted by regulation 2(b) of the Valuation for Rating (Plant and Machinery) (England) (Amendment) Regulations 2022.
- I.19 Waste heat includes heat unavoidably generated as a by-product of another process, which would be wasted if not used for the purposes of a district heating network. This may include heat generated through the incineration of waste.
- I.20 Combined Heat and Power (CHP) sources will qualify as sources of cogeneration heat including gas CHP. However, a hereditament comprising a CHP facility would still have to meet the first test of the relief – that the hereditament was **wholly or mainly** used for the purposes of a heat network (and not for example wholly or mainly for the purpose of generating and selling electricity).

How much relief will be available?

- I.21 Relief is available at 100% of the chargeable amount for the hereditament for any day on which the eligibility criteria are met. Therefore, for eligible hereditaments the rates liability will fall to nil from 1 April 2023.
- I.22 Heat Network relief is **not** available on only part of the hereditament. If the eligibility criteria are met for the hereditament as a whole then full relief will be applied even if, for example, the hereditament contains some plant (such as a back-up boiler) which may not in isolation meet the low carbon tests.
- I.23 Equally, a hereditament which overall does not meet the eligibility criteria cannot receive partial relief on an individual item of plant which in isolation may have passed the tests.
- I.24 The Heat Network Relief will be applied after mandatory reliefs but before any other discretionary reliefs.

Recalculations of relief

- I.25 The amount of Heat Network Relief awarded will be recalculated in the event of a change of circumstances. This may include, for example, a backdated change to the rateable value or to the hereditament.
- I.26 Under the Non-Domestic Rating (Discretionary Relief) Regulations 1989, the Council must give at least 12 months' notice of a revocation or variation of a rate relief scheme, the effect of which would be to increase rate bills. Such a revocation or variation can only take effect at the end of a financial year. But, within these regulations, the Council may still (and will) make decisions which are conditional upon eligibility criteria. If a change in circumstances renders a property ineligible, the Council will amend the rate liability to reflect the loss of the relief.
- I.27 In view of the above, when making an award for Heat Network Relief, the Council will ensure that the award will be subject to the property's continuing eligibility. If the use of the property changes so that it is no longer eligible, the relevant chargeable amount will be recalculated to reflect that fact.

Subsidy control

I.28 The Heat Network relief is subject to the UK's domestic and international subsidy control obligations. Businesses eligible for relief will need to fulfil any requirements in place to ensure compliance with those obligations in advance of, during, and after claiming relief.

Heat Network Relief – the Council's policy for granting discretionary relief.

I.29 The Council has decided to grant relief strictly in accordance with Central Government guidelines.

Appendix J
Section 49 – Hardship Relief

Section 49 – Hardship Relief

General explanation

- J.1 The Council is able to exercise its discretion under Section 49 of the Local Government Finance Act 1988 to provide either partial or full relief for non-domestic rate payments in cases of hardship where it would be reasonable to do so having due regard to the interests of council tax payers in general.

Section 49 Hardship Relief – the Council’s Policy

- J.2 The Council will consider applications for hardship relief from individuals and organisations based on their own merits on a case-by-case basis. Head of Resources will consider applications. Application forms are available from the Council.
- J.3 In making decisions on whether to award the relief the Council takes into account the following criteria (not listed in any priority). The Council may grant Hardship Relief if it is satisfied that:
- The Ratepayer would sustain financial hardship if the Council did not do so;
 - It is reasonable for the Council to grant Relief, with regard to the interests of its residents and Council Tax payers;
 - Hardship Relief will only be applied to the actual balance outstanding in the year the application was made;
 - No Hardship Relief can be awarded where payment has been made in part or full;
 - Hardship Relief is a temporary measure which can only be awarded once because it should not be used to artificially sustain a failing business. Hardship Relief maybe awarded where the ratepayer is facing temporary financial difficulties and where the community would be significantly disadvantaged if the business were to close. The maximum award period is 12 months;
 - Applications for Hardship Relief must be accompanied by a full set of audited accounts relating to the two years preceding the date of application. Where audited accounts are not available for the current financial year, projected figures certified as being a ‘true and fair view’ by the company secretary or company accountants may be used. It is recommended that applicants submit audited accounts dating back further than two years if such information is available; and
 - Due to the nature of this relief Mid Devon will not apply the £80,000 (RV) restriction. When reviewing the application all current case law will be taken into account when assessing any award.
- J.4 The ratepayer will provide additional information as deemed necessary by the Council to be essential in order for a fair evaluation of the application.

Appendix K
Section 44a – Part Occupied Relief

Section 44a – Part Occupied Relief.

- K.1 The Council has discretion under section 44a of the Local Government Finance Act to award Rate Relief where part of a property is unoccupied for a temporary period. The definition of 'temporary period' is not prescribed within the law and therefore Mid Devon has the discretion to decide the period of Relief to be awarded. The amount of Rate Relief that is awarded is determined by statute and is calculated by reference to the Rateable Value attributed to the unoccupied area by the Valuation Office Agency, part of His Majesty's Revenue and Customs (HMRC).
- K.2 Applications will only be considered in respect of unoccupied parts of a property and must be made within the year that the reduction was required. Clearly defined areas that are reasonably segregated from the occupied part of the property must be evidenced.
- K.3 No award shall be made where it appears to the Council that the reason that part of the property is unoccupied is wholly or mainly for the purposes of applying for Rate Relief.
- K.4 Rate Relief under this section will not be awarded in respect of partly occupied property where the partial occupation of the property may arise due to the ordinary day to day nature of the business (for example the operation of a warehouse).
- K.5 Where a backdated application is received, the customer will be required to produce evidence to prove the area was unoccupied for the period the relief relates to. Acceptance of such evidence is at the discretion of Mid Devon. A reason as to why the application wasn't made at the time of need must also be given.
- K.6 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 and guidance for part-occupied properties. Relief will be awarded on a 'case by case' basis; this may result in a period being longer than 3 or 6 months on a case by case basis.

Appeals

- K.7 These will be looked at by the Head of Service, if the customer remains unhappy then the Corporate Manager for Revenues and Benefits will also review. Appeals must be supported by the 'ward member' this however doesn't guarantee an award of relief .

Approvals

- K.8 Upon receipt of an application an officer will make a recommendation to a Team leader to approve the reduction.