

# East Herts Council Report

## Executive

**Date of Meeting:** 8 February 2022

**Report by:** Councillor Geoffrey Williamson. Executive Member for Financial Sustainability

**Report title:** Discretionary COVID-19 Additional Relief Fund (CARF) scheme

**Ward(s) affected:** All

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## Summary

To approve a discretionary business rates relief scheme funded by Government.

## RECOMMENDATIONS for Executive:

**(A) To approve the discretionary scheme as detailed at paragraph 2.3**

### 1.0 Background

- 1.1 On 25 March 2021 the Government announced a new COVID-19 Additional Relief Fund (CARF) of £1.5 billion. They advised that the fund would be available to support those businesses affected by the pandemic but that were ineligible for existing support (see paragraph 1.8) linked to business rates. The scheme details were published on 15 December 2021.
- 1.2 The relief is available to reduce chargeable amounts in respect of 2021/22 only.

- 1.3 The Government will, in line with the eligibility criteria set out in its guidance, reimburse local authorities where relief is granted using discretionary relief powers under section 47 of the Local Government Finance Act 1988. It will be for individual billing authorities to adopt a local scheme and determine in each individual case whether, having regard to this guidance and their own local scheme, to grant relief under section 47.
- 1.4 The guidance can be viewed [here](#).
- 1.5 East Herts has been allocated £3,087,717.
- 1.6 Background paper 4.2 (below) lists those businesses which the Government considered eligible for the expanded retail discount, and are therefore **not** eligible for this relief. Point 7 lists those businesses which whilst falling within this board definition, the Government chose to exclude from the expanded retail relief, and accordingly could apply for this relief if they met all other criteria.
- 1.7 However there are other business types, including manufacturing businesses, and service businesses which were not open to visiting members of the public which will also be eligible to apply for support.
- 1.8 The Government criteria states that billing authorities will be responsible for designing the discretionary relief schemes that are to operate in their areas. However, in developing and implementing their schemes local authorities must, if they are funding the relief from the section 31 grant:
  - a) not award relief to ratepayers who for the same period of the relief either are or would have been eligible for the Extended Retail Discount (covering Retail, Hospitality and Leisure), the Nursery Discount

or the Airport and Ground Operations Support Scheme (AGOSS),

- b) not award relief to a hereditament for a period when it is unoccupied (other than hereditaments which have become closed temporarily due to the government's advice on COVID-19, which should be treated as occupied for the purposes of this relief), and
- c) direct their support towards ratepayers who have been adversely affected by the pandemic and have been unable to adequately adapt to that impact.
- d) In line with the legal restrictions in section 47(8A) of the Local Government Finance Act 1988, billing authorities may not grant the discount to themselves, certain precepting authorities (e.g. a parish or county council) or a functional body, within the meaning of the Greater London Authority Act 1999.
- e) Depending upon how local authorities choose to award CARF, the amount of relief awarded may need to 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.

## **2.0 Report**

- 2.1 As usual with these schemes it is unclear exactly how many businesses will be eligible. It is therefore proposed to open the scheme for one month and determine the value of allocations at the end.
- 2.2 The Government have used their own estimates in their

assessment methodology to determine the size of each allocation but that is based on incomplete data and without knowing how many potentially eligible businesses will self-exclude due to subsidy limitations etc.

2.3 The table below shows the proposed scheme:

A	An application window is open for one month
B	<p>Funds are granted based on dividing the allocated available funding by the total qualifying liability and pro rata if oversubscribed (up to the maximum liability for each qualifying applicant).</p> <p>The RV on the date of application will be that which determines entitlement. However allocations will be recovered if RV's are subsequently reduced but no additional awards will be made if RV's increase. See 1.6 (iii) above.</p> <p>If funds remain available, a further application window may be offered, or late applications accepted.</p>
C	<p>That no specific business type is excluded (other than by the mandatory criteria), however we will require that the 'premises' is a place where <b>business</b> is operated/conducted from, making awards to <b>personal use</b> facilities unlikely.</p> <p>This is consistent with the mandatory requirement that the ratepayer demonstrate that they have been <i>"adversely affected by the pandemic and have been unable to adequately adapt to that impact."</i></p>

### **3.0 Risks**

*Only as referenced in the report*

#### **Implications/Consultations**

No

#### **Community Safety**

No

#### **Data Protection**

No

#### **Equalities**

No

#### **Environmental Sustainability**

No

#### **Financial**

*Only as referenced in the report*

#### **Health and Safety**

No

#### **Human Resources**

No

#### **Human Rights**

No

#### **Legal**

No

#### **Specific Wards**

No

## **4.0 Background papers, appendices and other relevant material**

4.1 <https://www.gov.uk/government/publications/covid-19-additional-relief-fund-carf-local-authority-guidance>

### **4.2 Eligibility for the Expanded Retail Discount**

#### **Annex A from:**

<https://www.gov.uk/government/publications/business-rates-expanded-retail-discount-2021-to-2022-local-authority-guidance/business-rates-expanded-retail-discount-2021-to-2022-local-authority-guidance>

1. Hereditaments that meet the eligibility for Expanded Retail Discount will be occupied hereditaments which meet all of the following conditions for the chargeable day:

a. they are wholly or mainly being used:

i. as shops, restaurants, cafes, drinking establishments, cinemas and live music venues,

ii. for assembly and leisure; or

iii. as hotels, guest & boarding premises and self-catering accommodation,

2. We consider 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
- Employment agencies
- Estate agents and letting agents
- Betting shops

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, guidance on this may be found in Chapter 16 of the statutory guidance issued in April 2018 under section 182 of the Licensing Act 2003<sup>[footnote 41](#)</sup>.

3. We consider 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

4. We consider hotels, guest & 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

5. To qualify for the discount 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 due to the government's advice on COVID19 should be treated as occupied for the purposes of this relief.

6. 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. There will also be mixed uses. However, it is intended to be a guide for authorities as to the types of uses that the government considers for this purpose to be eligible for relief. Authorities should determine for themselves whether particular properties not listed are broadly similar in nature to those above and, if so, to consider them eligible for the relief. Conversely, properties that are not broadly similar in nature to those listed above should not be eligible for the relief.

**7. 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 local authorities 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.**

**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)
- Medical services (e.g. vets, dentists, doctors, osteopaths, chiropractors)
- Professional services (e.g. solicitors, accountants, insurance agents/ financial advisers)
- Post office sorting offices

**ii. Hereditaments that are not reasonably accessible to visiting members of the public**

**Contact Member**

Councillor Geoffrey Williamson, Deputy Leader & Executive Member for Financial Sustainability,

**Contact Officer**

Su Tarran. Head of Revenues & Benefits Shared Service

Contact Tel No x2075

[su.tarran@hertspartnership-ala.gov.uk](mailto:su.tarran@hertspartnership-ala.gov.uk)

**Report Author**

Su Tarran. Head of Revenues & Benefits Shared Service

Contact Tel No x2075

[su.tarran@hertspartnership-ala.gov.uk](mailto:su.tarran@hertspartnership-ala.gov.uk)