

FORM 1

NOTICE OF DELEGATION OF DECISION TO CABINET MEMBER BY STRONG LEADER

Section 15(4) of the Local Government Act 2000, the senior executive member may discharge any of the functions that are the responsibility of the Cabinet or may arrange for them to be discharged by another member of the Cabinet or Officer. On 1st December 2010, the Council adopted the Strong Leader Model for Corporate Governance 2011 as required under Part 3 of The Local Government and Public Involvement in Health Act 2007 (The 2007 Act).

I, Councillor Helen Dyke, as Strong Leader, delegate the decision to decide the Council's COVID-19 Additional Relief Fund (CARF) discretionary policy to the Cabinet Member detailed below:

Councillor Mary Rayner, Cabinet Member for Finance and Capital Portfolio

Dated: 9 February 2022

Signed:

A handwritten signature in black ink that reads "H.E. Dyke". The signature is written in a cursive style with a large, looped 'D'.

Leader of the Council

FORM 2

NOTICE OF DECISION OF CABINET MEMBER

Pursuant Section 15(4) of the Local Government Act 2000, as amended by section 63 of the Local Government and Public Involvement in Health Act 2007, the senior executive member may discharge any of the functions that are the responsibility of the Cabinet or may arrange for them to be discharged by another member of the Cabinet or Officer. On 1st December 2010, the Council adopted the Strong Leader Model for Corporate Governance 2011 as required under Part 3 of The Local Government and Public Involvement in Health Act 2007 (The 2007 Act).

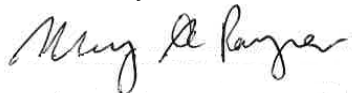
In accordance with the authority delegated to me by the Leader, I have made the following decision:

Subject	Decision	Reason for decision	Date for Decision to be taken
COVID-19 Additional Relief Fund (CARF) scheme	To decide the Council's COVID-19 Additional Relief Fund (CARF) discretionary policy	The Council is required to decide its own discretionary scheme for supporting businesses who have been affected by COVID-19 but who have not been eligible for other reliefs available. Relief under the CARF scheme is only available to reduce chargeable amounts for 2021/22 financial year.	9 February 2022

I confirm that the appropriate statutory officer consultation has taken place with regard to this decision.

Dated: 9 February 2022

Signed:



Councillor: Mary Rayner

Cabinet Member for Finance and Capital Portfolio

WYRE FOREST DISTRICT COUNCIL

STRONG LEADER REPORT

LOCAL AUTHORITY DISCRETIONARY COVID-19 ADDITIONAL RELIEF FUND (CARF)

OPEN	
CONTACT OFFICER:	Lucy Wright, Head of Revenues, Benefits & Customer Services
DATE:	4 Feb 2022
APPENDICES:	Appendix 1: COVID-19 Additional Relief Fund (CARF) scheme

1. PURPOSE OF REPORT

- 1.1 To decide Wyre Forest District Council's discretionary business rates relief scheme for the COVID-19 Additional Relief Fund (CARF) for certain businesses affected by COVID-19.

2. RECOMMENDATION

- 2.1 The Leader is asked to **APPROVE** the scheme set out in Appendix 1.
- 2.2 To **DELEGATE** amendments to the policy to the Head of Revenues, Benefits and Customer Services in the event of any changes to categories of businesses that may apply direct to the Council.

3. BACKGROUND

- 3.1 On 25 March 2021 the government announced a new COVID-19 Additional Relief Fund (CARF) of £1.5 billion to support business rate payers affected by the pandemic but that are ineligible for existing support linked to business rates.
- 3.2 On 15 December 2021, the Government published guidance intended to support local authorities in administering the COVID-19 Additional Relief Fund (CARF). The fund will be available to support businesses affected by the pandemic but that are ineligible for existing support linked to business rates.
- 3.3 The Government is not changing the legislation relating to the business rates reliefs available to properties. Instead, the Government will reimburse local authorities where relief is granted using discretionary relief powers under section 47 of the Local Government Finance Act 1988.
- 3.4 Billing authorities must adopt a local scheme and determine in each individual case whether, having regard to the published guidance and their own local scheme, to grant relief under section 47. The relief is available to reduce chargeable amounts in respect of 2021/22.

3.5 The allocated funding for Wyre Forest District Council is £1.8m.

4. KEY ISSUES

4.1 In developing and implementing the COVID-19 Additional Relief Fund (CARF) Local Authorities will be funding the relief from the section 31 grant and must comply with the following:

- 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.

4.2 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.

4.3 The scheme has been devised by calculating the total liability of ratepayers after all non-eligible ratepayers as outlined in the guidance have been removed. A list of ratepayers deemed to not have been affected by COVID-19 has been created as set out in Appendix 1 and these too have been removed. The remaining ratepayers will automatically receive a single level of relief which, based on the latest analysis, equates to 24%.

4.4 Appendix 1 sets out the details of the CARF scheme and includes categories of ratepayers and hereditaments who will not be eligible.

5. FINANCIAL IMPLICATIONS

5.1 Central government will fully reimburse local authorities for discretionary relief awards which comply with the published guidance up to the maximum level of the allocations. Payments to major precepting authorities will be unaffected by the award of the relief. Within the year billing authorities only will be provided with 'on account' section 31 payments covering the full amount of relief awarded to ensure that their cashflow is not affected.

5.2 After the end of the year, billing authorities will be asked to provide outturn data on the actual total cost of providing the relief via the NNDR3 forms for 2021/22. The loss of income resulting from the relief will be reconciled against the 'on account'

payments made over the course of the year and any difference will be paid or recovered.

5.3 The final CARF allocation for Wyre Forest District Council is £1,800,077.

6. LEGAL AND POLICY IMPLICATIONS

6.1 The Council is a Category 1 responder under the Civil Contingencies Act 2004. The powers upon which the Council will rely in deploying the local authority discretionary grants fund (which the Government will pay under section 31 of the Local Government Act 2003) include section 1 of the Localism Act 2011, the general power of competence, and sections 111 and 137 of the Local Government Act 1972.

7. EQUALITY IMPACT NEEDS ASSESSMENT

7.1 An impact needs assessment is not required as the grant fund is for businesses, rather than individuals in a personal capacity.

8. RISK MANAGEMENT

8.1 The main risks now are perceived to be:

a) presentational: by businesses not agreeing to the list of ineligible ratepayers. Consideration will be given to a business who can evidence they have been adversely impacted by COVID-19.

b) fraud risk: by not having an application process will ensure fraudulent claims cannot be made as relief will only be given to ratepayers known to the authority.

The proposals in this report seek to mitigate these risks.

9. CONCLUSION

9.1 The Leader is invited to approve the discretionary scheme for the COVID-19 Additional Relief Fund as set out in Appendix 1.

10. CONSULTEES

10.1 Cabinet

10.2 Corporate Leadership Team

11. BACKGROUND PAPERS

11.1 Guidance from BEIS (December 2021) –

[CARF Guidance.docx \(publishing.service.gov.uk\)](#)



Wyre Forest District Council
COVID-19 Additional Relief Fund (CARF) Policy
Discretionary Non-Domestic Rate Relief
2021/22

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1.0 Purpose of the Policy

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

2.0 Discretionary Relief – Legislative Background

- 2.1 The original purpose of discretionary relief was to provide assistance where the property does not qualify for mandatory relief or to 'top up' cases where ratepayers already receive mandatory relief.
- 2.2 Over recent years and particularly since 2011 the discretionary relief provisions have been amended to allow authorities the flexibility to provide more assistance to businesses and organisations.
- 2.3 The range of bodies, which are eligible for discretionary relief, is wide and not all of the criteria laid down by the legislation will be applicable in each case.
- 2.4 The Council will expect all businesses to provide such information and evidence as required in order to determine whether relief should be awarded.

2.5 There is no statutory appeal process or Tribunal against any decision made by the Council although, as with any decision of a public authority, decisions can be reviewed by Judicial Review. The authority will however, upon request, review decisions made. Details of the internal review process are given within this policy.

2.6 The decision to grant or not to grant CARF is a matter purely for the Council.

3.0 Eligibility for CARF scheme

3.1 Whilst the Council has determined its own scheme the Department for Levelling Up, Housing and Communities has stated that, in order to receive the allocated funding, it must:

a) not award relief to ratepayers who for the same period of the relief either are or would have been eligible for the Expanded Retail Discount (covering Retail, Hospitality and Leisure), the Nursery Discount or the Airport and Ground Operations Support Scheme (AGOSS);

b) **not** award relief to a hereditament for a period when it is unoccupied (other than hereditaments which have closed temporarily due to the governments advice on COVID-19 which should be treated as occupied for the purposes of this relief) and

c) direct their support towards ratepayers who have been adversely affected by the pandemic and have been unable to adequately adapt to that impact.

3.2 In line with Section 47(8) of the Local Government Finance Act 1988, the Council must not grant any relief to itself or to either local or major precepting authorities.

3.3 The relief will be applied after mandatory reliefs and other discretionary reliefs funded by Section 31 grants have been applied, excluding those where the Council has provided relief using its wider discretionary relief powers introduced by the Localism Act 2011 which are not funded by Section 31 grants.

3.4 Where any reduction or remission is granted to a ratepayer under Section 49 Local Government Finance Act 1988 (where hardship is proved to the Council), then there will be no requirement to grant CARF Discretionary Rate Relief for that amount.

3.5 In certain cases the order in which relief is granted is specified. Mandatory relief shall be granted in all cases where the relevant criteria are met irrespective of whether discretionary relief can be granted or not.

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

- 4.1 Over the past few years a number of scheme such as CARF have been led by Central Government but without specific legislative changes.
- 4.2 The Council is keen to support such initiatives especially where they are designed to help local businesses and will look to maximise both the reliefs given as well as maximise any grants receivable.
- 4.3 In view of this, the Council has decided that where a ratepayer meets **all** the relevant criteria, relief will be 24% of the 2021/22 liability **after** any other reliefs and reductions have been applied.
- 4.4 The criteria for the CARF scheme is as follows:
- a) The ratepayer is **not**, or would be, eligible for the Expanded Retail Discount (covering Retail, Hospitality and Leisure), the Nursery Discount or the Airport and Ground Operations Support Scheme (AGOSS);
 - b) The ratepayer is not entitled to either Small Business Rate Relief or Rural Rate Relief granted at 100%;
 - c) The ratepayer is **not** entitled to mandatory relief (80%) and discretionary (top up) of 20% which is funded through business rates retention;
 - d) The hereditament is treated as occupied by the Council;
 - e) The ratepayer confirms they have been adversely affected by the pandemic and have been unable to adequately adapt to that impact;
 - f) The ratepayer is **not** subject to Subsidy Control as defined within section 6 and
 - g) The hereditament or type of business is not excluded under section 5 below.

5.0 Excluded ratepayers/hereditaments

- 5.1 The Council has decided that the ratepayers/hereditaments within Appendix A will be excluded from relief under the Council's CARF scheme.

6.0 Subsidy Control

- 6.1 The Council's CARF scheme is subject to the subsidies chapter within the UK-EU Trade and Cooperation Agreement (TCA). However for CARF there is an exemption for subsidies under the value of approximately £2,243,000 per economic actor (broadly speaking for example a holding company and its subsidiaries).
- 6.2 This allowance comprises 325,000 Special Drawing Rights (at current exchange rates about £343,000) for Small Amounts of Financial Assistance and a further £1,900,000 for COVID-19 related subsidy.

- 6.3 To be awarded CARF the ratepayer must not have claimed over the period 2019/20 to 2021/22 more than £2,243,000 from schemes which fell within the Small Amounts of Financial Assistance or COVID-19 related allowances.
- 6.4 Any COVID-19 business grants a ratepayer has received from local government generally and the 2019/20 Retail Relief should count towards this limit but the ratepayer should not count any Extended Retail Discount they have received since 1 April 2020.
- 6.5 Further details of subsidy control can be found [here](#)
- 6.6 The ratepayer will need to indicate to the Council:
- If they have not to date received any subsidy which fell within the Small Amounts of Financial Assistance or COVID-19 related allowances or
 - If the ratepayer has received other such subsidies, they will be required to provide the name and total value of those subsidies.
- 6.7 A ratepayer must not apply for CARF if they have already exceeded the £2,243,000 allowance. The Council will still consider requests for support under the CARF scheme if they have reached this limit provided the ratepayer can evidence they:
- a) Intend to use the support to fund uncovered fixed costs (costs not covered by profits for insurance etc) during the period of COVID-19. Economic actors may claim for up to 70% of their uncovered costs. This 70% limit does not apply to small businesses with less than 50 employees and less than £9 million turnover where the limit is instead 90% and
 - b) Have shown a decline in turnover of at least 30% within the April 2020 to March 2021 period compared to the same 2019 to 2020 period.
- 6.8 The ratepayer may claim up to a further £10 million of additional allowance on top of the £2,243,000 if they meet the above tests and they have not claimed any other support from the additional allowance up to an aggregate £10 million limit (such as from the COVID-19 business grants).
- 6.9 Government and the Council will not tolerate any business falsifying their records or providing false information to gain this relief including claiming support above these thresholds.
- 6.10 A ratepayer who falsely requests any relief or provides false information or makes false representation in order to gain relief may be guilty of fraud under the Fraud Act 2006.

7.0 Effect on the Council's Finances

- 7.1 As Central Government leads this initiative, funding will be provided through Section 31 of the Local Government Act 2003. This is not automatic and Central Government will look to the Council to adopt the recommended approach when granting in these areas.

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

8.0 Administration of the scheme

- 8.1 The following section outlines the procedures followed by officers in granting, amending or cancelling discretionary relief. This is essentially laid down by legislation in the Non-Domestic Rating (Discretionary Relief) Regulations 1989.

Applications and Evidence

- 8.2 The Council will specify how and if applications are to be made and received. This may vary from time to time.
- 8.3 Where appropriate, ratepayers are required to provide such evidence necessary to allow the Council to make a decision. Where insufficient evidence is provided, then no relief will be granted. In some cases, it may be necessary for officers to visit premises and we would expect ratepayers claiming relief to facilitate this where necessary.
- 8.4 **The Council will provide this service and provide guidance free of charge. Ratepayers are encouraged to approach the Council direct and NOT pay for such services through third parties. Requests will be accepted from ratepayers only.**

Granting of relief

- 8.5 In all cases, the Council will notify the ratepayer of decisions made.
- 8.6 Where a request (if required) is successful then the following will be notified to the ratepayer 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;
 - The new chargeable amount;
 - The details of any planned review dates and the notice that will be given in advance of a change to the level of relief granted and
 - A requirement that the applicant should notify the Council of any change in circumstances that may affect entitlement to relief.
- 8.7 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 (see below).
- 8.8 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. Given the timing of this relief, awards will only be made for the 2021/22 financial year.

Variation of a decision

- 8.9 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.
- 8.10 A decision may be revoked at any time and a one-year period of notice will be given and the change will take effect at the expiry of a financial year. The Council will terminate the relief at any time the ratepayer fails to meet **any** of the relevant eligibility criteria.

9.0 Scheme of Delegation

Granting, Varying, Reviewing and Revocation of Relief

- 9.1 All powers in relation to reliefs are given under the Local Government Finance Act 1988, the Local Government and Rating Act 1997, the Local Government Act 2003 and the Localism Act 2011.
- 9.2 The Council's scheme of delegation allows for the Head of Revenues, Benefits and Customer Services to award, revise or revoke any discretionary relief requests. Any application which is of a significant nature will be subject to consultation with the Council's Section 151 Officer prior to final determination.
- 9.3 Applications that are refused will be reconsidered on request if additional supporting information is provided or the refusal is subsequently considered to be based on a misinterpretation of the application.

Disputes

- 9.4 Where the Council receives a dispute from the ratepayer regarding the granting, non-granting or amount of discretionary relief, the case will be reviewed by the Head of Revenues, Benefits and Customer Services. The ratepayer will be informed of the outcome of the review.

- 9.5 Where the ratepayer wishes to appeal the decision made by the Head of Revenues, Benefits and Customer Services the case will be considered by the Council's Section 151 Officer whose decision on behalf of the Council will be final.
- 9.6 The formal appeal process for the ratepayer is Judicial Review although the Council will endeavour to explain any decision fully and openly with the ratepayer.

10.0 Reporting changes in circumstances

- 10.1 Where any award is granted to a ratepayer The Council will require any changes in circumstances which may affect the relief, to be reported as soon as possible or in any event within 21 days of the change. This will be important where the change would result in the amount of the award being reduced or cancelled e.g. where the premises becomes unoccupied or is used for a purpose other than that determined by the Council as eligible for relief.
- 10.2 Where a change of circumstances is reported which would cease or revised eligibility, the relief will if appropriate be revised or cancelled as appropriate. Where any award is to be reduced The Council will look to recover the amount from the date the change of circumstances occurred.

11.0 Fraud

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

Appendix 1 Appendix A

List of hereditaments not likely to qualify. This list has been compiled using both the property description and/or known business and the likelihood that the business has not been adversely affected by COVID-19.

Accountants/financial services	Stores
Advertising right	Surgeries
Assessment centre	Tipping site
Auxiliary defence	Storage depot
Architects	Storage land
Bank	Scrapyard
Bus station	Insurance brokers
Children's Centre	Vehicle repair workshop
Civic Amenity Site	Vehicle testing station
Colleges	Vets
Community Centres	Visitor centre Forest Enterprise
Concrete batching plant	Waste transfer site/station
Container storage unit	Registered Social Landlord/Housing Companies
Crematorium	Barnardo's
Day nursery	Worcestershire NHS Trust
Post office sorting office	HM Courts
Dentists	Ambulance
Doctors	Severn Trent
Electronic delivery locker	BT
Estate agents	Forest Enterprise
Gas transporter/independent	Probation service
Hospital	Environment Agency
Independent distribution	Oakleaf Commercial Properties
Laboratory	Local authority hereditaments
Network	Precepting authority hereditaments
Nursery	ATMs
Photovoltaic installation	
Sales office/showhouse	
Schools	
Sewage treatment works	
Solicitors	

The following categories will be eligible for CARF:

- Bus garage
- Car parks
- Factories
- Marina
- Offices
- Warehouse
- Workshop