

Retail Hospitality and Leisure Business Rates Scheme (2022/23)

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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 to be awarded in respect of the Retail, Hospitality and Leisure Business Rates Relief Scheme for the financial year commencing 1st April 2022.
- 1.2 This is a government led initiative and the Council is keen to support businesses as far as possible.

2.0 General Explanation

- 2.1 The 2022/23 Retail, Hospitality and Leisure Business Rates Relief scheme will provide eligible, occupied, retail, hospitality, and leisure properties with a 50% relief, up to a cash cap limit of £110,000 per business.

3.0 Who is eligible for the relief?

- 3.1 Hereditaments which benefit from the relief will be those which for a chargeable day in 2022/23:
 - (a) meet the eligibility criteria; and
 - (b) 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 2023. The ratepayer cannot withdraw their refusal for either all or part of the financial year.
- 3.2 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 certain precepting authorities (e.g., a parish or county council) or a functional body, within the meaning of the Greater London Authority Act 1999.

4.0 How much relief will be available?

- 4.1 Subject to the £110,000 cash cap per business, the total amount of government-funded relief available for each property for 2022/23 under this scheme is for chargeable days from 1 April 2022 to 31 March 2023, 50% of the chargeable amount.
- 4.2 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 their wider discretionary relief powers introduced by the Localism Act 2011, which are not funded by section 31 grants.
- 4.3 Subject to the cash cap, the eligibility for the discount and the relief itself will be assessed and calculated on a daily basis. The formula that will be used to determine the amount of relief to be granted for a chargeable day for a particular hereditament in the financial year 2022/23 is $V \times 0.5$, 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.

- 4.4 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.

5.0 The cash cap and subsidy control

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

- 5.2 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.

- 5.3 Furthermore, 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

- 5.4 To the extent that the Council is seeking to provide relief that falls within the Small Amounts of Financial Assistance Allowance, Article 364 of the TCA allows an economic actor (e.g., a holding company and its subsidiaries) to receive up to 325,000 Special Drawing Rights (£343,000 as at 9th December 2021) in a three-year period (consisting of the 2022/23 year and the two previous financial years). Expanded Retail Discount granted in either 2020/21 or 2021/22 does not count towards the £343,000 allowance but BEIS business grants (throughout the 3 years) and any other subsidies claimed under the Small Amounts of Financial Assistance limit should be counted.

- 5.5 In those cases where it is clear to the Council that the ratepayer is likely to breach the cash cap or the Small Amounts of Financial Assistance limit then the authority will automatically withhold the relief.

- 5.6 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.

6.0 Eligibility for the Retail, Hospitality and Leisure Relief Scheme

6.1 Hereditaments that are eligible for Retail, Hospitality and Leisure scheme 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 or live music venues;
- (ii) for assembly and leisure; or
- (iii) as hotels, guest & boarding premises or self-catering accommodation.

6.2 The Council considers shops, restaurants, cafes, drinking establishments, cinemas, and live music venues to mean:

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

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

6.3 The Council considers assembly and leisure to mean:

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

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

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

- Public halls; and
- Clubhouses, clubs, and institutions.

6.4 The Council considers 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; and
- Caravan parks and sites.

6.5 To qualify for the relief, the hereditament should be wholly or mainly being used for the above qualifying purposes. 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.

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

7.0 Ineligible uses

7.1 The lists below set out the types of uses that the government **does not** consider to be an eligible use for the purpose of this discount.

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

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

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

8.0 Retail, Hospitality and Leisure Business Rates Scheme (2022/23) - the Council's policy for granting discretionary relief.

8.1 Over the past few years, a number of schemes have been led by government but without specific legislative changes. These are administered under S47 of the Local Government Finance Act 1988. 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.

8.2 In the case of Retail, Hospitality and Leisure Business Rates Relief scheme, the Council will grant the relief strictly in accordance with government guidance.

9.0 Effect on the Council's Finances

- 9.1 As this is a government led initiative, grants for the full amount awarded will be available through section 31 of the Local Government Act 2003.

10.0 Administration of Discretionary Relief

- 10.1 The following section outlines the procedures followed by officers in granting, amending, or cancelling discretionary relief and reduction. This is essentially laid down by legislation¹

Applications and Evidence

- 10.2 Retail, Hospitality and Leisure Business Rates relief will be awarded automatically by the Council.
- 10.3 **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.**

Granting of relief

- 10.4 In all cases, the Council will notify the ratepayer of decisions via their rates demand and details will include:
- The amount of relief granted and the date from which it has been granted;
 - The new chargeable amount; and
 - A requirement that the applicant should notify the Council of any change in circumstances that may affect entitlement to relief.
- 10.5 This 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.
- 10.6 Variations in any decision will be notified to ratepayers as soon as practicable

11.0 Scheme of Delegation

Granting, Varying, Reviewing and Revocation of Relief

- 11.1 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

¹ The Non-Domestic Rating (Discretionary Relief) Regulations 1989

allows for delegation of decisions by the Council to Cabinet, Committees, Sub-Committees or Officers.

11.2 The Council's scheme of delegation allows for the Head of Revenues and Benefits to award, revise or revoke any discretionary relief applications.

11.3 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.

12.0 Reviews

12.1 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 Head of Revenues and Benefits. Where a decision is revised, then the ratepayer shall be informed, likewise if the original decision is upheld.

12.2 Where the ratepayer wishes to appeal the decision, the case will be considered by the Council's Section 151 Officer whose decision on behalf of the Council will be final.

12.3 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.

13.0 Reporting changes in circumstances

13.1 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.

13.2 Where a change of circumstances is reported, 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.

14.0 Fraud

14.1 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.