

## **Non-Domestic Rates - Mandatory and Discretionary Rate Relief Policy (updated 2024)**

The Local Government Finance Act 1988 requires local authorities to grant “Mandatory rate relief” to the following categories of Non-Domestic ratepayer:

- Registered charities
- Village Post Offices, general stores, specialist food shops, public houses and petrol filling station – where they are in a designated rural settlement.
- Registered Community Amateur Sports Clubs (CASCs)

The Local Government Finance Act 1988 also gives local authorities the power to grant “Discretionary rate relief” as follows:

- To make a further award on top of mandatory relief granted to registered charities.
- To village Post Offices, general stores, qualifying food stores, public houses and petrol filling stations – where they are in a designated rural settlement.
- To make a further award on top of mandatory relief granted to registered Community Amateur Sports Clubs (CASCs)
- In respect of sports grounds and clubs
- To other non-profit making organisations

The Local Government Finance Act 1988 also gives local authorities the power to reduce or remit the amount of rates liable to be paid on the grounds of hardship. Where the authority is satisfied that it is in the interests of its Council Taxpayers.

The Local Government Act 2003 introduced the small business rate relief scheme.

The Localism Act 2011 (clause 69) introduced a further general power for local authorities to reduce the business rates of any local ratepayer (not just those who could previously be granted discretionary relief), where the authority is satisfied that it is in the interests of its Council Taxpayers.

### **Policy Aim**

This policy sets out the Council’s intentions for dealing with discretionary rate relief applications from Charities, Community Amateur Sports Clubs (CASC’s), Non-Profit Making Organisations, and other businesses which are situated within the Broadland District Council area.

Through this policy, the Council is providing a mechanism to reduce or remove the business rates liability for such charities, non-profit making organisations, certain rural businesses providing valuable facilities and services to communities within the area, and other businesses.

This policy aims to provide clarity around the process of administration of applications for Discretionary Rate Relief, consistency in the application of the policy and to ensure maximum take-up from potential qualifying organisations, which will in turn contribute to achieving the Council's ambitions for the district.

## **Part 1 – Mandatory reliefs (government specified)**

### **Mandatory Rate Relief for registered charities.**

Mandatory relief applies to registered charities or trustees for a charity where the rated premises are used wholly and mainly for charitable purposes. In the case of charity shops, they must sell goods that have been donated to the charity (this condition is also necessary for discretionary relief.) The relief allowed is 80%.

### **Mandatory Rate Relief for registered Community Amateur Sports Clubs (CASCs)**

Sports clubs that have registered with the Inland Revenue as Community Amateur Sports Clubs are entitled to 80% relief.

### **Mandatory Rural Rate Relief for village post offices, general stores, specialist food shops, public houses, and petrol filling stations.**

The rural business must be in a rural settlement area (detailed in a settlement list) that has a population of 3,000 or less.

- a) Sole post offices and general stores with a rateable value of £8,500 or less are entitled to 50% relief.
- b) Any village shop that wholly or mainly sells food for human consumption but excludes restaurants, tearooms, fast or hot food shops and confectionary shops with a rateable value of £8,500 or less are entitled to 50% relief.
- c) Where there is only one public house in a rural settlement, which has a rateable value not exceeding £12,500, there is an entitlement to 50% relief.
- d) Sole petrol filling stations with a rateable value of £12,500 or less are entitled to 50% relief.

### **Small Business Rate Relief**

An organisation cannot qualify for Small Business Rate Relief (SBRR) if eligible for one of the mandatory rate reliefs above.

From April 2017 small business rate relief of 100% applies to eligible premises with a rateable value of not more than £12,000, decreasing on a sliding scale up to a threshold of not more than £15,000.

The relief is only available to ratepayers with either one property in England, or one property and additional properties with rateable value totalling not more than £2,899.

Where a business takes on an additional property that would normally have meant the loss of small business rate relief, they are allowed to keep the relief on the first property for a period of 12 months.

## **Part 2 – Discretionary rate reliefs under local control**

All Discretionary Relief applications must be accompanied by a Small Business Rate Relief application where applicable.

Throughout this policy document (unless otherwise stated) it shall generally apply that discretionary relief will be awarded only up to a maximum sum of:

- £4,000 per registered charity or Community Amateur Sporting Club (CASC) in any financial year
- £12,000 per non-profit making organisation in any financial year (not charities or CASCs)

Applications for relief to be backdated into the previous financial year may only be accepted if the decision can be made by 1st October of the financial year in which the application is received.

All qualifying businesses and organisations are required to notify The Council of any change in circumstances that may affect their entitlement to Discretionary Rate Relief.

### **Discretionary rate relief for premises occupied by youth organisations.**

Youth Organisations, which are registered charities, may apply for an additional 20% 'top-up' discretionary relief where 80% mandatory relief has been granted. Such organisations include Scouting groups, Guides, and other organisations such as Youth Activity Centres.

Applicants will need to demonstrate that the use of the premises is in furtherance of the objects of the charity, and that the property is wholly or mainly occupied by the charity.

Each application will be looked at on its own merits and it will be at the discretion of the Council whether or not to make an award of discretionary relief.

Properties occupied by Cadet Forces supported and administered by the Ministry of Defence will be entitled to 100% rate relief.

This category excludes any hereditaments occupied for sporting activities, which are dealt with separately.

### **Discretionary Relief for registered Community Amateur Sports Clubs (CASCs)**

Some sports clubs have registered with HM Revenue and Customs as Community Amateur Sports Clubs. CASCs qualify for 80% mandatory relief as set out in Part 1.

Broadland will upon application support CASCs by awarding a further 20% 'top-up' discretionary relief. This 'top-up' relief will be awarded up to a maximum of £4,000 per CASC per financial year.

### **Discretionary Relief for sports grounds and clubs.**

Support will be provided in respect of Business Rates on the sports grounds and associated facilities of local sports clubs (which are not registered CASCs). The clubs may apply for discretionary relief with the amount to be awarded generally being 75% of the rates due, with a few exceptions specified below.

### **Yachting/Sailing/boating/rowing/water sports clubs – 25%**

### **Golf clubs – nil rate relief**

### **Other premises occupied by sporting organisations.**

Where there are other premises occupied by sports organisations which are in the nature of:

- Offices from which sports are administered or organised.
- Facilities provided for the advancement of sports and recreation which are not the premises of a specified local sports club.

Relief will be provided at 75% up to a maximum award of £5,000 per financial year.

### **Discretionary Rural Rate Relief for village post offices and general stores.**

The rural business must be in a designated rural settlement area that has a population of 3,000 or less. Broadland District Council will exercise its discretion to provide a 50% rate relief:

- Where there is only one post office or general store which has a rateable value above £8,500 but not exceeding £16,500.

The definition of a general store is a trade or business consisting wholly or mainly of the retail sale of both food for human consumption (excluding confectionary) and general household goods.

The award of relief will be calculated after the award of Small Business Rate Relief (where applicable).

### **Discretionary Rate Relief – Childcare providers (Day Nurseries)**

Under the Localism Act (clause 69) the council will consider applications for Business Rate Relief from Day Care Nurseries which provide a benefit to the community by providing childcare facilities, providing their rateable value is below £35,000.

Businesses which are entitled to Small Business Rate Relief or Charitable relief must have pursued that avenue of assistance before applying for Discretionary Rate Relief.

The council will offer support to Day Nurseries as follows:

- a. Day-care Nurseries currently receiving 80% mandatory charitable rate relief to be topped up with 20% Discretionary Rate Relief.
- b. Day-care Nurseries not in receipt of mandatory charitable rate relief with rateable values up to £20,000 to receive 50% Discretionary Rate Relief.

- c. Day-care Nurseries not in receipt of mandatory charitable rate relief with rateable values between £20,001 and £35,000 to receive 25% Discretionary rate relief.

### **Non-domestic Rates discount**

The Localism Act 2011 (clause 69) introduced a general power for local authorities to reduce the business rates of any local ratepayer (not just those who could previously be granted discretionary relief). This is a wide power under which each case will need to be treated on its own merits. The key test is whether the authority is satisfied that it is in the interests of its Council Taxpayers to decide to award relief.

The general approach to the use of these discount powers will be to support a business as it looks to locate into the area or grow/invest into new or improved premises locally. The powers may on occasion be used to support a business through a period in its life cycle where it is under particular pressures and the Council wants to ensure the longer-term retention and growth of the business.

In considering whether to award a business rate discount the Council will particularly have regard to:

1. How a business links to the Norfolk & Suffolk Economic Strategy (NSES) of the Local Enterprise Partnership (LEP) and any strategies/delivery plans of the Council that are in place to drive economic growth locally. This could include whether the business operates in one of the key sectors in the NSES:
  - a. Advanced Manufacturing & Engineering
  - b. Life Sciences & Biotech
  - c. Financial Services & Insurance
  - d. Advanced Agriculture, Food & Drink
  - e. ICT, Tech & Digital Creative
  - f. Visitor Economy – Tourism, Heritage & Culture
  - g. Energy
  - h. Transport, Freight & Logistics
  - i. Construction & Development
2. Whether the award of a discount would support an increase in employment locally.
3. Whether it would support bringing a property/site back into use which may have been unoccupied for a significant period
4. Whether such a discount would help support a project bringing other benefits or regeneration locally
5. Whether the support would help a business locate onto a strategically important site, at a stage in the development of the site where it will help bring forward further development of the wider site.

6. Whether the ratepayer would help to establish a hub to attract other businesses to the area, or to a business cluster.
7. Whether by supporting investment in new or significantly expanded premises there will be an increase in rateable value that will generate additional rates income to fund local services in the longer-term
8. Whether the discount would support a new enterprise (<2 years) that has significant growth potential (in key sectors and emerging/growing markets)
9. Whether a ratepayer might offer employment initiatives such as apprenticeships, work placements etc.
10. Whether the ratepayer is already (or has previously been) in receipt of other forms of rate relief or has previously received a business rate discount.

### **Community Interest Companies (CICs)**

Community Interest Companies are a form of limited company designed specifically for those wishing to operate for the benefit of the community rather than for the benefit of the owners of the company. This means that a CIC cannot be formed or used solely for the personal gain of a particular person, or group of people.

CIC's can be limited by shares, or by guarantee, and have a statutory "Asset Lock" to prevent the assets and profits being distributed, except as permitted by legislation. This ensures the assets and profits are retained within the CIC for community purposes, or transferred to another asset-locked organisation, such as another CIC or charity. A company that is a charity cannot be a CIC, unless it gives up its charitable status.

Under the Localism Act (clause 69) relief will be considered for Community Interest Companies which provide benefits to the local community and satisfy the following criteria:

- Are registered as a community interest company. (the Community Interest Company Register will be checked to confirm entitlement).
- The Articles of Association or Memorandum clearly state that any surplus of income over expenditure will be applied in a manner that ensures no profit is made.
- It is set up with the purpose of providing benefit to the local community or a section of the community.
- Businesses which are entitled to Small Business Rate Relief or Mandatory Charitable relief must have pursued that avenue of assistance before applying for Discretionary Rate Relief.

The council will support such organisations as follows:

- a. CICs with a rateable value of up to £20,000 - 80% discretionary rate relief
- b. CICs with a rateable value of between £20,001 and £30,000 - 50% discretionary rate relief.

Where a CIC occupies premises on one or more sites in the district area, that comprise more than one rating assessment, the rateable values of each will be added together when deciding whether relief is available under a or b above. If the combined rateable value is over £30,000 no relief will be available.

### **Discretionary Relief for other non-profit making organisations**

Discretionary rate relief of 80% is granted on occupied properties to organisations which are not registered charities, which are not established or conducted for profit and whose main objects are:

- Charitable
- Philanthropic or religious
- Concerned with education or social welfare.
- Concerned with science, literature, or the fine arts.
- Not for profit clubs or societies established wholly or mainly for recreation.

Ratepayers who will normally benefit from such relief include:

- Village halls run for the benefit of the community.
- Church halls operated for the benefit of the community.
- Museums
- Premises occupied by Norfolk based wildlife groups.
- Premises occupied for preservation projects.

### **Discretionary Hardship Relief**

Section 49 of the Local Government Finance Act 1988 gives discretion to the billing authority to reduce or remit payments of rates in respect of both occupied and unoccupied premises. This award can be up to 100%. When making an award an authority must be satisfied that:

- 1) the ratepayer would sustain hardship if the authority did not do so, and
- 2) it is reasonable for the authority to do so, having regard to the interests of persons subject to its Council Tax.

Decisions will not normally be made without receipt of actual financial accounts for previous periods.



The test of “hardship” need not be confined strictly to financial hardship and applicants should disclose all relevant factors affecting the ability of the business to meet its rate liability.

The applicant must be liable to pay National Non-Domestic Rates to Broadland District Council. The council must be satisfied that:

- i. The ratepayer would sustain hardship if the Council does not grant Hardship Relief, and
- ii. It is reasonable to grant Hardship Relief having regard to the interest of Broadland District Council taxpayers.

The test of “hardship” need not be confined strictly to financial hardship and applicants should disclose all relevant factors affecting the ability of the business to meet its rate liability.

The “interest” of Broadland District Council Taxpayers may go wider than direct financial interests for example;

- i. where employment prospects in an area would be worsened by a ratepayer going out of business, or
- ii. the amenities of an area might be detrimentally affected.

Whilst the Council can consider an application for Hardship Relief from any ratepayer who satisfies the qualifying criteria, applications are particularly welcome from ratepayers in respect of the following categories of properties:

- Village Shops and rural businesses
- Organisations that provide employment to people who live in the Broadland area.
- Businesses in areas facing a decline in trade.
- Businesses that provide a unique service to the area

The above list is for guidance only and is not conclusive. Hardship Relief should not be regarded as automatic under any circumstances. It is unlikely that Hardship Relief would be granted in respect of an empty property or where there is little expectation of economic survival.

Generally, only businesses that operate exclusively in the Broadland area will be considered for relief. This will generally exclude all national companies. Relief will only normally be allowed for one business premises in the Broadland District Council area.

Decisions to award such relief will be made by the Director with responsibility for Finance in conjunction with their Portfolio Holder.

## **Part 3 – Government funded discretionary rate reliefs.**

### **Additional Discretionary Rural Rate relief**

The Autumn Statement 2016 confirmed that the Government would double rural rate relief to 100% from 1 April 2017 onwards. The Government intends to amend the relevant primary legislation to require local authorities to grant 100% mandatory rural rate relief.

However, until such time that the legislation allows billing authorities to grant 100% mandatory rural rate relief Broadland District Council will use local discount powers to grant 50% discretionary rural rate relief in addition to the 50% mandatory rural rate relief to eligible ratepayers from 1 April 2017. Government will fully reimburse billing authorities for such awards.

This discretionary relief will be awarded to those ratepayers qualifying for mandatory relief in the circumstances set out in Part 1.

### **Supporting Small Businesses (2017)**

At the Spring Budget 2017, the Chancellor announced that a scheme of relief would be made available to those ratepayers facing large increases as a result of the loss of small business or mandatory rural rate relief following the revaluation.

To support these ratepayers, the Supporting Small Businesses relief will ensure that the increase per year in the bills of these ratepayers is limited to the greater of:

- a). a percentage increase p.a. of 5%, 7.5%, 10%, 15% and 15% 2017/18 to 2021/22 all plus inflation (the real terms transitional relief cap for small businesses each year). Unlike the transitional relief scheme, for the first year of the scheme the percentage increase is taken against the bill for 31 March 2017 after small business rate relief or rural rate relief, or
- b). a cash value of £600 per year (£50 per month). This cash minimum increase ensures that those ratepayers paying nothing or very small amounts in 2016/17 after small business rate relief are brought into paying something.

In comparing to the bill for 31 March 2017 any award of discretionary relief shall be disregarded. This shall have the effect of limiting calculation of support to those cases where it is the loss of mandatory rural rate relief that triggers the calculation of the £600 per year cap. Support is not available to those ceasing to be entitled to discretionary rural rate relief.

The exact calculation of relief shall be carried out in accordance with detailed guidance provided by Government as set out in the following document:

<https://www.gov.uk/government/publications/42017-spring-budget-update>

### **Supporting Small Businesses (2023)**

At the Autumn Statement 2022 the Chancellor also announced that a new Supporting Small Business (SSB) relief scheme which will cap bill increases at £600 per year for any business losing eligibility for Small Business Rate Relief or Rural Rate Relief at the 2023 revaluation. The scheme also provides support for those

previously eligible for the 2022/23 SSB scheme and facing large increases in 2023/24 but in those cases for one further year only.

The Government anticipates that local authorities will include details of the relief to be provided to eligible ratepayers for 2023/24 in their bills for the beginning of the 2023/24 billing cycle. The Government has published guidance setting out the eligibility criteria for the scheme.

This guidance can be found at:

<https://www.gov.uk/government/publications/business-rates-relief-2023-supportingsmall-business-relief-local-authority-guidance>

### **Expanded Retail Discount and Nursery Discount (2021/22)**

This part of the discretionary policy covers the award of Expanded Retail Discount and Nursery discount. This relief is awarded under S47 of the Local Government Finance Act 1988 (as amended). The purpose of the policy is to support those businesses who occupy retail, leisure and hospitality premises as defined in the guidance issued by MHCLG.

This guidance sets out the criteria for the Expanded Retail Discount and Nursery discount for 2021/22. The guidance does not replace existing legislation.

The Assistant Director for Finance in consultation with the relevant Portfolio Holder will agree the policy where the criteria and operation of relief schemes are prescribed by and fully funded by the Government, and this is such a scheme.

### **Expanded Retail Discount (up to 2021/22)**

Since 2019/20 the government has provided a Business Rates Retail Discount for retail properties which for 2020/21 it expanded to include the leisure and hospitality sectors. On 3 March 2021 the government confirmed that the Expanded Retail Discount would continue to apply in 2021/22 at 100% for three months, from 1 April 2021 to 30 June 2021, and at 66% for the remaining period, from 1 July 2021 to 31 March 2022. The government confirmed that there would be no cash cap on the relief received for the period from 1 April 2021 to 30 June 2021. From 1 July 2021, relief will be capped at £105,000 per business, or £2 million per business where the business is in occupation of a property that was required, or would have been required, to close, based on the law and guidance applicable on 5 January 2021.

Hereditaments which benefit from the relief will be those which for a chargeable day in 2021/22:

- a. meet the eligibility criteria at Annex A,  
and
- b. the ratepayer for that chargeable day has not refused the discount for the eligible hereditament. The ratepayer may refuse the discount for each eligible

hereditament anytime up to 30 April 2022. The ratepayer cannot withdraw their refusal for either all or part of the financial year.

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.

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 or a precepting authority. A “precepting authority” includes fire, police and parish councils or a functional body, within the meaning of the Greater London Authority Act 1999.

Subject to the cash caps, the total amount of government-funded relief available for each property for 2021/22 under this scheme is:

- a. For chargeable days from 1 April 2021 to 30 June 2021 100% of the chargeable amount, and
- b. for chargeable days from 1 July 2021 to 31 March 2022, 66% of the chargeable amount.

The relief should be applied after mandatory reliefs and, other discretionary reliefs funded by section 31 grants have been applied, excluding those where local authorities have used their wider discretionary relief powers introduced by the Localism Act, which are not funded by section 31 grants. Where an authority applies a locally funded relief, under section 47 this must be applied after the Expanded Retail Discount.

Subject to the cash cap, the eligibility for the discount and the discount itself will be assessed and calculated on a daily basis.

Ratepayers that occupy more than one property will be entitled to relief for each of their eligible properties subject to the cash caps explained below.

### **The Cash-Caps**

No cash caps will apply for the period between 1 April 2021 to 30 June 2021.

Under the cash caps, a ratepayer may only receive up to the following cash caps of Expanded Retail Discount in 2021/22 ignoring any relief for the period before 1 July 2021:

- a. £2 million for ratepayers meeting the eligibility for the closed cash cap test set out in Annex B (subject to paragraphs 21-23), or
- b. £105,000 for all other ratepayers (subject to paragraphs 21-23).

No ratepayer can in any circumstances exceed the £2 million cash cap across all their hereditaments in England. Where a ratepayer eligible for the closed cash cap also occupies hereditaments which do not meet the criteria for the closed cash cap and the value of the discount on the closed hereditaments is less than £2 million

then they may also claim the discount on other eligible hereditaments but only up to the cap of £105,000 in respect of those other eligible hereditaments.

For example, such a ratepayer whose rate bill from 1 July 2021 onwards on hereditaments eligible for the closed cash cap is £1 million and occupies other eligible hereditaments in England with a rates bill of £3 million is able to claim up to £1,105,000 in discount from 1 July 2021 onwards (£1million on their closed hereditament and then up to the £105,000 cash cap on their other eligible hereditaments).

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

- a. where both ratepayers are companies, and
  - i. one is a subsidiary of the other, or ii. both are subsidiaries of the same company; or
- b. where only one ratepayer is a company, the other ratepayer (the “second ratepayer”) has such an interest in that company as would, if the second ratepayer were a company, result in its being the holding company of the other.

In those cases where it is clear to us that the ratepayer is likely to breach the cash caps then we will automatically withhold the discount. Otherwise, local authorities may include the discount in bills and ask the ratepayers, on a self-assessment basis, to inform the authority if they are in breach of the cash caps.

### **Splits, mergers, and changes to existing hereditaments**

The discount should be applied on a day-to-day. A new hereditament created because of a split or merger during the financial year, or where there is a change of use, should be considered afresh for the discount on that day.

### **Annex A – eligibility for the Expanded Retail Discount**

1. Hereditaments that meet the eligibility for Expanded Retail Discount will be occupied hereditaments which meet all 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

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 are 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. The council will determine 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, bureau 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
    - iii. Hereditaments that are not reasonably accessible to visiting members of the public

## **Annex B – eligibility for the Closed Cash Cap (£2 million)**

1. Ratepayers that meet the eligibility criteria for the closed cash cap will be ratepayers who for a chargeable day occupy one or more hereditaments whose use on the chargeable day would, based on the law and guidance applicable on 5 January 2021, have meant that the business or activity would have been mandated to close by the government.



2. For the avoidance of doubt, hereditaments which have closed due to the government's response to coronavirus should be treated as occupied for the purposes of the closed cash cap.
3. If, under this eligibility test, a person would have been required to close its main, in-person service but could have adapted its business to operate takeaway, click and collect or online with delivery services, it will be considered closed and be eligible for the closed cash cap because its substantive business would have been mandated to close.
4. In cases where hereditaments would have remained open to provide services that can continue as they are exempt from the regulations (e.g., post office services, food banks) the ratepayer may still be eligible for the closed cash cap, because they would have been unable to provide their main in-person service.
5. The following hereditaments do not meet eligibility for the closed cash cap:
  - a. Hereditaments occupied by businesses and other ratepayers that would have been able to conduct their main service because they do not depend on providing direct in-person services from premises and can operate their services effectively remotely (e.g., accountants, solicitors).
  - b. Hereditaments whose occupiers may have chosen to close but not been required to.

### **Retail, Hospitality and Leisure Relief Schemes (2022/23 & 2023/24 & 2024/25)**

This part of the discretionary policy covers the relief scheme for Retail, Hospitality and Leisure properties. This relief is awarded under S47 of the Local Government Finance Act 1988 (as amended).

The purpose of the policy is to support those businesses who occupy retail, hospitality and leisure premises as defined in the guidance issued by Department for Levelling Up, Housing & Communities (DLUHC).

This guidance sets out the criteria for the discount for 2022/23 and 2023/24. The guidance does not replace existing legislation.

The Assistant Director for Finance in consultation with the relevant Portfolio Holder have agreed the policy.

Hereditaments which benefit from the relief will be those which for a chargeable day in 2022/23, 2023/24 or 2024/25:

1. meet the eligibility criteria at Part 2 and;
2. 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 withdraw their refusal for either all or part of the financial year.

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.

### **How much relief will be available?**

Subject to the £110,000 cash cap per business, the total amount of governmentfunded relief available for each property under this scheme is:

For chargeable days from 1 April 2022 to 31 March 2023, 50% of the chargeable amount.

For chargeable days from 1 April 2023 to 31 March 2024, 75% of the chargeable amount.

For chargeable days from 1 April 2024 to 31 March 2025, 75% of the chargeable amount.

The relief will be applied after mandatory reliefs and other discretionary reliefs funded by section 31 grants have been applied, but before those where local authorities have used their wider discretionary relief powers introduced by the Localism Act 2011, which are not funded by section 31 grants.

Amount of relief to be granted =  $V \times 0.5$  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 in line with the guidance.

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

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

Details of the relief allowed can be found in the Government guidance issued at:

### **2022/23 scheme:**

2022/23 Retail, Hospitality and Leisure Relief Scheme: local authority guidance - GOV.UK ([www.gov.uk](http://www.gov.uk))

### **2023/24 & 2024/25 scheme:**

[Business Rates Relief: 2023/24 & 2024/25 Retail, Hospitality and Leisure Scheme, local authority guidance - GOV.UK \(www.gov.uk\)](#)

Particular notice should be paid to the rules on cash caps and subsidy available within the guidance and the information on recalculations of relief.

### **Splits, mergers, and changes to existing hereditaments**

The relief should 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, should be considered afresh for the relief on that day.

### **Eligibility for the Retail, Hospitality and Leisure Relief Scheme**

1. Hereditaments that meet the eligibility for Retail, Hospitality and Leisure scheme will be occupied hereditaments which meet all 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

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

**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.

**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 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.

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. 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. The Council will determine 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.

**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, bureau de change, short-term loan providers, betting shops)

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

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

## **Nursery discount**

On 18 March 2020, the Government announce the business rates Nursery Discount 2020/21 as part of the response to the COVID-19 pandemic.

The relief applies to hereditaments which are occupied by providers on Ofsted's Early Years Register and which are wholly or mainly used for the provision of the Early Years Foundation Stage. There is no rateable value limit on the relief. Ofsted has ensured that all local authorities can access the Ofsted Early Years Register to support authorities identify eligible properties.

At the Budget on 3 March 2021, the Chancellor announced that the Nursery Discount would continue to apply at 100% for eligible properties for the first three months of 2021 from 1 April 2021 to 30 June 2021. Subsequently, from 1 July 2021 to 31 March 2022, the Nursery Discount will apply at 66%. From 1 July 2021, the relief will be capped at £105,000 per business.

### **Which properties will benefit from relief?**

Properties that will benefit from the relief will be hereditaments which are occupied by providers on Ofsted's Early Years Register and which are wholly or mainly used for the provision of the Early Years Foundation Stage.

To qualify for the relief the hereditament should be wholly or mainly being used for the above qualifying purpose. In a similar way to other reliefs (such as charity relief), this is a test on use rather than occupation. Therefore, hereditaments which are occupied but not wholly or mainly used for the qualifying purpose will not qualify for the relief. For the avoidance of doubt, hereditaments which have closed temporarily due to the government's advice on COVID-19 should be treated as occupied for the purposes of this relief.

A ratepayer may refuse the Nursery Discount anytime up to 30 April 2022. The ratepayer cannot subsequently withdraw their refusal for all or part of the financial year.

### **How much relief will be available?**

Subject to the cash cap, the total amount of government-funded relief available for each property for 2021/22 under this scheme is:

- a. For chargeable days from 1 April 2021 to 30 June 2021: 100% of the chargeable amount, and
- b. For chargeable days from 1 July 2021 to 31 March 2022: 66% of the chargeable amount.

The relief should be applied after mandatory reliefs and other discretionary reliefs funded by section 31 grants have been applied, excluding those where local authorities have used their wider discretionary relief powers introduced by the Localism Act which are not funded by section 31 grants.

Subject to the cash cap, the eligibility for the relief and the relief itself will be assessed and calculated on a daily basis.

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

Ratepayers that occupy more than one property will be entitled to relief for each of their eligible properties subject to the cash caps explained below.

### **The Cash-cap**

No cash cap will apply for the period between 1 April 2021 and 30 June 2021.

From 1 July 2021, a person may only receive Nursery Discount relief of up to £105,000 in 2021/22, ignoring any relief for the period before 1 July 2021.

No person can in any circumstance exceed the £105,000 cash cap across all of their hereditaments.

Where a person has a qualifying connection with another person then those persons should be treated as one person for the purposes of the cash cap. Persons shall be treated as having a qualifying connection where:

- a. Both persons 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 person is a company, the other person (the “second person”) has such an interest in that company as would, if the second person were a company, result in its being the holding company of the other.

In cases where it is clear to the local authority that the ratepayer is likely to breach the cash cap, the authority should withhold the discount. Otherwise, local authorities may include the discount in bills and ask the ratepayer, on a self-assessment basis, to inform the authority if they are in breach of the cash cap. Annex A of this guidance contains a sample cash cap ratepayer declaration which local authorities may wish to use.

## **Splits, mergers, and changes to existing hereditaments**

The Nursery Discount should be applied on a day-to-day. A new hereditament created as a result of a split or merger during the financial year, or where there is a change of use, should be considered afresh on that day.

## **2023 Transitional Relief regulations**

The regulations to implement the Transitional Relief scheme for the 2023 revaluation have been debated and approved by both Houses of Parliament and will come into force on 22nd December. The structure and format of the Transitional Relief scheme only differs from the 2017 scheme in that there is no downward transition and, of course, the caps are different.

The draft regulations can be found [here](#) and the relevant Explanatory Memorandum [here](#). To satisfy the legal requirement for the regulations to also fund transitional relief, the regulations include in 2027/28 a supplement of 3.3p payable on all relevant hereditaments. As noted in the Explanatory Memorandum however, the government has announced its intention to bring forward the next revaluation to 1st April 2026 and also remove the requirement for funding transitional relief. Subject to the introduction and passage of such legislation, the government will remove from the regulations the supplement in 2027/28 and fund this scheme from the Exchequer.



## **Part 4 – general principles regarding discretionary rate reliefs**

Where necessary a written application form will need to be completed.

Supporting information may be required for some reliefs/discounts.

There is no automatic right of appeal against an authority's decision not to award Discretionary Relief or against the amount of relief allowed. However, should an applicant have a grievance they should write to the Director with responsibility for Finance, clearly stating their reasons.

The decision of the Director with responsibility for Finance will be final with respect to any decision not to award, to revoke or to vary the amount of relief allowed.

The Assistant Director for Finance in consultation with the relevant Portfolio Holder will agree the policy where the criteria and operation of relief schemes are prescribed by and fully funded by Government.

### **Recalculations of relief/discount award**

With all forms of relief/discount the amount of relief/discount awarded will be recalculated in the event of a change in circumstances. This could include, for example, a change to the rateable value of the premises, a change to the period of liability or a change in legislation or a change in the amount due as a result of the application of other reliefs/exemptions.

Relief/discount may also be varied during the year where eligibility criteria are no longer met.

### **Period of Award (general)**

The award period for new and renewal applications will be for a period ending not later than the end of the current financial year (the exception being Enterprise Zone Rate Relief which, once awarded, will generally be for a five- year period).

### **Review of Relief/Discount Award**

The Council will regularly review its approach to the award of relief/discounts and will periodically review the eligibility of qualifying businesses and organisations.

When a review of eligibility is carried out continuation of relief/discount will be subject to satisfactory completion of review forms and provision of requested supporting information. Where a renewal form is not returned, relief/discount will not be awarded, and the business or organisation will be sent a rate bill for the full charge.

When completed forms are returned, awards will be considered in the light of the version of policy in force at the time.

Prior to the Council's discretionary rate relief policy being revised, organisations will be given at least twelve months' notice that their eligibility to relief may change.

### **Award of all discretionary reliefs/discounts**

Where a ratepayer may qualify for more than one relief a mandatory relief will always be awarded (where applicable) and different reliefs will be awarded in the following sequence:

1. Mandatory charitable relief/Mandatory relief for CASCs/Mandatory Rural Rate Relief
2. Small Business Rate Relief (cannot get if entitled to mandatory relief)
3. Supporting Small Business Relief
4. Discretionary reliefs – charities/CASCs/rural discretionary/non-profit making/sports clubs/rates discount/hardship/Enterprise Zone Relief/Local Newspaper relief
5. Retail Discount
6. Locally funded discretionary reliefs – Day-care Nurseries, CIC, Nondomestic Rates discount.

Where a rate payer is concerned that they have not been awarded relief/discount in accordance with the policy set out above they can apply in writing to have the case reviewed by the Director with responsibility for Finance.

### **Subsidy Control (previously known as State Aid)**

All discretionary rate reliefs since 4 January 2023 are subject to Subsidy Control rules as defined within the Subsidy Control Act 2022, whether funded by Government or not.

This legislation allows for annual financial assistance up to the value of 325,000 Special Drawing Rights.

An award prior to the 4 January 2023 is still covered by Commission Regulation 1407/2013. State Aid law is the means by which the European Union regulates state funded support to businesses. Providing discretionary relief to ratepayers will amount to State Aid. However, Relief will be State Aid compliant where it is provided in accordance with the De Minimis Regulations (1407/2013)<sup>1</sup>.

The De Minimis Regulations allow an undertaking to receive up to €200,000 of De Minimis aid in a three-year period (consisting of the current financial year and the two previous financial years).

To administer De Minimis it is necessary to establish that the award of aid will not result in the undertaking having received more than €200,000 of De Minimis aid. Note that the threshold only relates to aid provided under the De Minimis Regulations (aid under other exemptions or outside the scope of State Aid is not relevant to the De Minimis calculation).