



**HYNDBURN**

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# Non Domestic Rates Retail, Hospitality and Leisure Relief Scheme 2022/2023

February 2022

## **1 Introduction**

- 1.1 This guidance is intended to support businesses in their application for and understanding of the Retail, Hospitality and Leisure Relief for 2022/2023.
- 1.2 The Government announced in the Budget in October 2021 that it will provide a Business Rates relief scheme for eligible, occupied, retail, hospitality and leisure properties in 2022/2023.
- 1.3 This scheme will support the businesses that make our high streets and town centres a success and help them evolve and adapt to changing consumer demands, by providing a 50% rate relief, up to a cash cap limit of £110,000 per business.
- 1.4 For 2022/2023, the Retail, Hospitality and Leisure Relief is applied after mandatory reliefs and other discretionary reliefs funded by grants made under section 31 of the Local Government Act 2003 have been applied. Other locally applied discounts under section 47 of the Local Government Finance Act 1988 must be applied after the Retail, Hospitality and Leisure Relief.
- 1.5 Retail, Hospitality and Leisure Relief awards are made under section 47 of the Local Government Finance Act 1988 as amended.
- 1.6 The scheme end date is 31<sup>st</sup> March 2023.

## **2 Eligibility**

- 2.1 Eligibility criteria for the Retail, Hospitality and Leisure Relief Discount includes occupied hereditaments that are wholly or mainly being used:
  - 2.1.1 for the provision of services to visiting members of the public, shops, restaurants, cafes, drinking establishments, cinemas and live music venues;

2.1.2 for assembly and leisure; or

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

2.2 We consider hereditaments used for the provision of services to visiting members of the public, shops, restaurants, cafes, drinking establishments, cinemas and live music venues to mean:

2.2.1 Hereditaments that are being used for the sale of goods to visiting members of the public such as:

- a) Shops (such as: florists, bakers, butchers, grocers, greengrocers, jewellers, stationers, off licences, chemists, newsagents, hardware stores, supermarkets etc.);
- b) Charity shops;
- c) Opticians;
- d) Post Offices;
- e) Furnishing Shops/display rooms (such as carpet shops, double-glazing, garage doors);
- f) Car/caravan show rooms;
- g) Second hand car showrooms or lots;
- h) Markets;
- i) Petrol stations;
- j) Garden centres;
- k) Art Galleries (where art is for sale/hire)

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

- a) Hair and beauty services (such as hairdressers, nail bars, beauty salons, tanning shops etc.);
- b) Shoe repair/key cutting;
- c) Travel Agents;
- d) Ticket offices i.e. for theatres;
- e) Dry cleaners;
- f) Launderettes;
- g) PC/TV/Domestic appliance repair;
- h) Funeral directors;
- i) Photo processing;
- j) Tool hire;
- k) Car hire;

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

- a) Restaurants;
- b) Takeaways;
- c) Sandwich shops;

- d) Coffee shops;
- e) Pubs;
- f) Bars.

2.2.4 Hereditaments which are being used as cinemas;

2.2.5 Hereditaments which are being used as live music venues;

- a) 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).
- b) 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).
- c) 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 found in Chapter 16 of the statutory guidance issued in April 2018 under section 182 of the Licensing Act 2003 may be used to help make a determination as to the eligibility for this relief.

2.3 We consider assembly and leisure to mean hereditaments that are being used wholly or mainly for the provision of sport, leisure and facilities to visiting members of the public (Including for the viewing of such activities):

- a) Sports grounds and clubs;
- b) Museums and art galleries;
- c) Nightclubs;
- d) Sport and leisure facilities;
- e) Stately homes and historic houses;
- f) Theatres;
- g) Tourist attractions;
- h) Gyms;
- i) Wellness centre, spas, massage parlours;
- j) Casinos, gambling clubs and bingo halls.

2.4.1 Hereditaments that are being used for the assembly of visiting members of the public:

- a) Public halls;
- b) Club houses, clubs and institutions.

2.5 We consider hotels, guest and boarding premises and self-catering accommodation to mean:

- a) Hotels, guest and boarding houses;
- b) Holiday homes;
- c) Caravan parks and sites.

2.6 The above lists are not exhaustive and we will consider representations from individual businesses that believe they have similar characteristics to those listed above but who have not been included to date.

2.7 Eligibility for Retail, Hospitality and Leisure Relief is a test on use rather than occupation. Therefore, hereditaments which are unoccupied or which are occupied but not wholly or mainly used for the qualifying purposes will not qualify for this discount.

2.8 Hereditaments occupied for mixed use will be considered with qualification being determined by the main use of the property.

2.10 Retail, Hospitality and Leisure Relief award will not be available for hereditaments being used for the provision of the following services:

- a) Financial services (e.g. banks, building societies, cash points, bureaux de change, payday lenders, pawn brokers);
- b) Medical services (e.g. vets, dentists, doctors, osteopaths, chiropractors);
- c) Professional Services (e.g. solicitors, accountants, insurance agents/financial advisors, employment agencies, estate agents, letting agents);
- d) Post Office sorting offices;

2.11 In addition, the Retail, Hospitality and Leisure Relief Scheme will not be available for premises that are not reasonably accessible to the public.

2.12 The relief will be applied on a daily basis. A new hereditament created as a result of a split or merger during the financial year, or where there is a change of use, will be considered afresh for relief on that day.

### **3 Amount and Duration of Relief**

3.1 The total amount of government-funded discount available for each hereditament under this scheme is 50% of the bill. This discount is applied after mandatory reliefs and, other discretionary reliefs funded by grants provided under section 31 of the Local Government Act 2003.

3.2 Retail, Hospitality and Leisure Relief will be applied as a reduction to the overall business rates liability for 2022/2023; no cash alternative is available.

3.3 Ratepayers who occupy more than one hereditaments may be entitled to the Retail, Hospitality and Leisure Relief for each of their eligible hereditaments, subject to a maximum cash cap of £110,000 per business.

#### **4. Retail, Hospitality and Leisure Relief Scheme Cash Caps**

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

4.4 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.

4.5 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. In all cases, we will ask the ratepayers, on a self-assessment basis, to inform us if they are in breach of the cash caps.

4.6. Furthermore, the Retail Hospitality and Leisure Scheme is likely to amount to subsidy. Any relief provided by local authorities under this scheme will need to comply with the UK’s domestic and international subsidy control obligations (See the [BEIS guidance for public authorities \(https://www.gov.uk/government/publications/complying-with-the-uks-international-obligations-on-subsidy-control-guidance-for-public-authorities/technical-guidance-on-the-uks-international-subsidy-control-commitments\)](https://www.gov.uk/government/publications/complying-with-the-uks-international-obligations-on-subsidy-control-guidance-for-public-authorities/technical-guidance-on-the-uks-international-subsidy-control-commitments) which explains the subsidies chapter of the UK-EU Trade and Cooperation Agreement (TCA), World Trade Organisation rules on subsidies, and other international subsidy control commitments).

4.7. To the extent that a local authority 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 9 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.

- 4.8 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 Council will automatically withhold the relief. Otherwise, the Council may include the relief in bills and ask the ratepayers, on a self-assessment basis, to inform the authority if they are in breach of the cash caps or Small Amounts of Financial Assistance limit.

## **5. State Aid/Subsidy Control**

- 5.1 Whilst EU State Aid rules no longer apply within the UK following the end of the transition period on 31 December 2020, the UK still has several international obligations relating to subsidies. These include those arising from the UK's continued membership of the World Trade Organisation, or from the UK-EU Trade and Cooperation Agreement. The Government considers that relief awarded under this scheme is a subsidy.

## **6. Scheme Review**

- 6.1 The discount scheme will be reviewed in line with any changes made by Government in order to ensure that eligibility remains within Government guidance and relevant legislation.

## **7. Data Protection**

- 7.1 Details of our data privacy policy can be found at [www.hyndburnbc.gov.uk/privacy-notice](http://www.hyndburnbc.gov.uk/privacy-notice)

## **8. Equality and Diversity**

- 8.1 The Council remains committed to its obligations under the Public Sector Equality Duty and a 'Customer First Analysis' has been provided with this scheme.

## **9. Appeals and complaints**

- 9.1 As a discretionary power, appeals against decisions made under this Discount Scheme are by way of judicial review and all complaints made directly to the authority will be handled in line with the Council's complaints policy available at [www.hyndburnbc.gov.uk/complaints](http://www.hyndburnbc.gov.uk/complaints)

# Non Domestic Rates Retail, Hospitality and Leisure Relief Scheme Customer First Analysis

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## 1. Purpose

- What are you trying to achieve with the policy / service / function?

This analysis covers the Retail, Hospitality and Leisure Relief Scheme payable in the financial year 2022/2023. The schemes provide guidance to local businesses which may be eligible to a discount on their business rates. The schemes are delivered locally by billing authorities.

- Who defines and manages it?

The discount schemes are based on eligibility guidance provided by the Department for Levelling Up, Housing and Communities issued December 2021. Hyndburn's schemes are managed by the Benefits, Revenues and Customer Contact department under its remit to administer and collect business rates on behalf of the Council and preceptors.

- Who do you intend to benefit from it and how?

It is intended that eligible local businesses will benefit from the discount schemes and that in turn will generate benefit for the local high street, local residents and visitors to the area. It is intended that businesses can divert their existing business rates liabilities into support for staff during business closures and disruptions.

- What could prevent people from getting the most out of the policy / service / function?

The schemes are clear on eligibility and the Council will be applying both discounts proactively in order to prevent any business not applying through lack of awareness.

- How will you get your customers involved in the analysis and how will you tell people about it?

The schemes have both followed Government guidelines and as such customer involvement is not considered necessary at this stage. Customers will be informed via normal communication methods and the schemes will be available online as well as in hard copy.

## 2. Evidence

- How will you know if the policy delivers its intended outcome / benefits?]

Eligible businesses will benefit from a lower business rates bill which may support their staff and the viability of their business during the Government's COVID-19 response efforts.

- How satisfied are your customers and how do you know?

In relation to these schemes, it is not possible to say at this stage, these schemes have to be implemented as quickly as is reasonably possible.

- What existing data do you have on the people that use the service and the wider population?

We hold relevant data on our Business Rates customers which allows us to identify eligible businesses and make awards.

- What other information would it be useful to have? How could you get this?

None at this stage.

- Are you breaking down data by equality groups where relevant (such as by gender, age, disability, ethnicity, sexual orientation, marital status, religion and belief, pregnancy and maternity)?

Not relevant to this scheme.

- Are you using partners, stakeholders, and councillors to get information and feedback?

Not relevant to this scheme.

### **3. Impact**

- Are some people benefiting more – or less - than others? If so, why might this be?

Each scheme closely follows guidance set out by Government.

### **4. Actions**

- If the evidence suggests that the policy / service / function benefits a particular group – or disadvantages another - is there a justifiable reason for this and if so, what is it?

It is considered that smaller high street retailers and childcare providers are in greater need of these discounts than larger retailers and industrial businesses – however rateable value limits have been raised for some businesses making the schemes more encompassing of the range of local businesses.

- Is it discriminatory in any way?

No – the only defining criteria is the size of the hereditament and the type of business, none of which are based on any protected characteristics of the businesses or the customers.

- Is there a possible impact in relationships or perceptions between different parts of the community?

The discount is available to a broad range of businesses throughout Hyndburn.

- What measures can you put in place to reduce disadvantages?

n/a

- Do you need to consult further?

Not at this stage.

- Have you identified any potential improvements to customer service?

The discounts will be administered proactively with an opt-out declaration for those who may not be eligible or who wish to refuse the discounts. It is intended that this will provide immediate financial support to eligible businesses, eliminate any application delays and provide the discounts to ratepayers who may be ignorant of the schemes and would therefore miss out by not applying.

- Who should you tell about the outcomes of this analysis?

This analysis forms part of the submission of the discount scheme to Council.

- Have you built the actions into your Business Plan with a clear timescale?

n/a

- When will this assessment need to be repeated?

With any major changes to the scheme in the future.

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**Dated: February 2022**