

**Neath Port Talbot County Borough Council
Cyngor Bwrdeistref Sirol Castell-nedd**

**Democratic Services
Gwasanaethau Democrataidd**

Decision Notice

CABINET - URGENCY ACTION , WEDNESDAY, 25TH MARCH, 2020

Please see below approval of decision as follows:

1. **Welsh Government scheme for NNDR Relief support for Businesses in the Retail, Leisure and Hospitality 2020/21 - 10 AM (Pages 3 - 20)**

To approve and enable the Business Rates Team to administer the Retail, Leisure and Hospitality Business Rates Relief Scheme for 2020/21.

That the grant funding and Retail, Leisure and Hospitality Business Rates Relief Scheme for 2020/21, as set out in the circulated report, be approved.

For Immediate Implementation

Yours sincerely

p.p Chief Executive



Neath Port Talbot County Borough Council

Cabinet

25th February 2020

Report of the Head of Finance – Huw Jones

Matter for Decision:

Non-domestic Rates - Retail, Leisure and Hospitality Rates Relief in Wales – 2020-21

Wards Affected: All

Purpose of report

1. To adopt and make available the Welsh Government's discretionary rates relief scheme for Retail, Leisure and Hospitality Businesses 2020/21 to eligible businesses in the County Borough.

Background

2. The Welsh Government have announced grant funding to the 22 Unitary Authorities to provide rates relief to Retail, Leisure and Hospitality Businesses in 2020/21 for businesses with rateable values of £500,000 or less.

Due to coronavirus the UK and Welsh Governments are providing financial support to businesses to try to keep them viable during this challenging period. They have requested that the 22 Local Authorities provide the relief to all eligible NNDR business payers in their area.

Each Authority must adopt the scheme and decide in each individual case when to grant relief under Section 47 of The Local Government Finance Act 1988. Business Rates relief provided in this scheme is then reimbursed via a grant to each Local Authority.

Qualifying Criteria

3. Properties that will benefit from this relief will be Retail, Leisure and Hospitality Businesses with rateable values of £500,000 or less.

The following definitions of the eligible criteria are as set out in the Welsh Government Scheme Guidance as attached as an Appendix to this report.

For the purposes of this scheme, retail properties such as, “shops, restaurants, cafes and drinking establishments” will mean the following (subject to the other criteria in this guidance).

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, newsagents, hardware stores, supermarkets, etc)
- Charity shops
- Opticians
- Pharmacies
- Post offices
- Furnishing shops or display rooms (such as carpet shops, double glazing, garage doors)
- Car or caravan showrooms
- Second hand car lots
- Markets
- Petrol stations
- Garden centres
- Art galleries (where art is for sale or hire)

ii. Hereditaments that are being used for the provision of the following services to visiting members of the public

- Hair and beauty services
- Shoe repairs or key cutting
- Travel agents
- Ticket offices, e.g. for theatre
- Dry cleaners
- Launderettes
- PC, TV or domestic appliance repair
- Funeral directors
- Photo processing
- DVD or video rentals

- Tool hire
- Car hire
- Cinemas
- Estate and letting agents

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

- Restaurants
- Drive-through or drive-in restaurants
- Takeaways
- Sandwich shops
- Cafés
- Coffee shops
- Pubs
- Bars or Wine Bars

In relation to assembly and leisure we consider 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) and for the assembly of visiting members of the public.

- Sports grounds and clubs,
- Sport and leisure facilities,
- Gyms
- Tourist attractions,
- Museums and art galleries,
- Stately homes and historic houses,
- Theatres,
- Live Music Venues
- Cinemas
- Nightclubs,

ii. Hereditaments that are being used for the assembly of visiting members of the public.

- Public halls,
- Clubhouses, clubs and institutions

In relation to hotels, guest & boarding premises and self-catering accommodation we consider 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

To qualify for the relief, the hereditament should be wholly or mainly used for the qualifying purposes. In a similar way to other reliefs, 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 closed temporarily due to the government's advice on Covid-19 should be treated as occupied for the purposes of this relief.

The above list is not intended to be exhaustive as it would be impossible to list all the many and varied retail, leisure and hospitality uses that exist. There will also be mixed uses. However, it is intended to be a guide for local authorities as to the types of uses that the Welsh Government considers for this purpose to be eligible for relief. Local authorities should determine for themselves whether particular properties not listed are broadly similar in nature to those above and, if so, to consider them eligible for the relief. Conversely, properties that are not broadly similar in nature to those listed above should not be eligible for the relief.

As the grant of the relief is discretionary, local authorities may choose not to grant the relief if they consider that appropriate, for example where granting the relief would go against the local authority's wider objectives for the local area

Hereditaments that are not considered to be eligible for High Street and Retail Rates Relief

In compliance with Welsh Government guidance, the Council will deem that Retail, Leisure and Hospitality Businesses whose rateable value is more than £500,000 will not be eligible for the relief. Neither are the following Hereditaments:

i. Hereditaments that are being used wholly or mainly for the provision of the following services to visiting members of the public

- Financial services (e.g. banks, building societies, cash points, ATMs, bureaux de change, payday lenders, betting shops, pawn brokers),
- Medical services (e.g. vets, dentists, doctors, osteopaths, chiropractors),
- Professional services (e.g. solicitors, accountants, insurance agents, financial advisers, tutors),
- Post Office sorting offices
- Children's play centres
- Day nurseries
- Kennels and catteries
- Casino and gambling clubs
- Show homes and marketing suites
- Employment agencies

There are a number of further types of hereditament which the Welsh Government believes should not be eligible for the relief.

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

If a hereditament is not usually reasonably accessible to visiting members of the public, it will be ineligible for relief under the scheme even if there is ancillary use of the hereditament that might be considered to fall within the descriptions set out above.

iii. Hereditaments that are not occupied

Properties that are not occupied on 1 April 2020 should be excluded from this relief. However, under the mandatory Empty Property Relief, empty properties will receive a 100% reduction in rates for the first three months (and in certain cases six) of being empty.

iv. Hereditaments that are owned, rented or managed by a local authority

Hereditaments owned, rented or managed by a local authority, such as visitor centres, tourist information shops and council-run coffee shops or gift shops attached to historic buildings, are exempt from this scheme.

Eligibility for the relief and the relief itself will be assessed and calculated on a daily basis. If there is a change in occupier part way through the year, after relief has been awarded, the new occupier will qualify for the relief on a pro-rata basis based on the remaining days of occupation using the following formula.

Amount of relief to be granted = V , where

V is the daily charge for the hereditament for the chargeable day after the application of any mandatory relief and any other discretionary reliefs, excluding those where local authorities have used their discretionary relief powers introduced by the Localism Act 2011 which are not funded by section 31 grants

Ratepayers who occupy more than one property will be entitled to Retail, Leisure and Hospitality Rates Relief for each of their eligible properties.

Retail, leisure and hospitality properties which are excluded from Small Business Rates Relief due to the multiple occupation rule are eligible for this relief scheme

Changes to existing hereditaments, including change in occupier

Empty properties becoming occupied after 1 April 2020 will qualify for this relief.

If there is a change in occupier part way through the financial year, after relief has already been provided to the hereditament, the new occupier will qualify for the relief on a pro-rata basis based on the remaining days of occupation using the formula in paragraph 22 of this guidance.

The discount 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 discount on that day.

Financial Impact

4. Welsh Government have set aside a fully funded specific grant of to fund Local Authorities for this scheme.

Integrated Impact Assessment

5. Due to the challenging times currently being experienced by businesses no IIA has been carried out as members will note that the Council is making available funds being made available in line with the WG Guidance and scheme.

Members will note that the scheme for business rates relief in 2020-21 to Retail, Leisure and Hospitality businesses whose rateable values is £500,000 or less is being made available by the Welsh Government to all eligible Businesses in Wales that meet the published criteria. The approval of the scheme will provide equality of financial assistance and treatment to relevant businesses in Neath Port Talbot and across Wales.

Valleys Community Impacts

6. Positive impact for business rates payers who fit the criteria for the relief and subsequent reduction in rates bill.

Workforce impacts

7. There will be additional staff resource time required to review and award the relief on the accounts. This work will be absorbed within the Non Domestic Rates (NDR) Team.

Legal impact

8. There is a potential State Aid consideration in relation to this relief. Whilst the UK left the EU on 31 January 2020, the Withdrawal Agreement negotiated by the UK Government and the EU provides that during a transition period State Aid rules will continue to apply as now and will be subject to control by the EU Commission as at present.

The Welsh Government guidance states that UK Government has notified the EU of its intention to bring forward an immediate change to the UK's tax treatment of non-domestic property, in response to the ongoing Covid-19 emergency, and to seek clearance under Article 107(3)(b) of the Treaty on the Functioning of the European Union. Subject to this approval, the Expanded Retail Discount Scheme will become a notified state aid scheme. Once the notification has been approved by the European Commission, it will supersede the de minimis regulation as the appropriate cover for awarding the discount, meaning existing de Minimis limits will no longer restrict the provision of support.

Risk management

9. There are potential state aid risks in relation to awarding this relief but this will be mitigated once the European Commission has approved the UK request as stated in paragraph 8.

Consultation

10. There is no requirement under the Constitution for external consultation on this item.

Recommendation

11. It is recommended that Members accept the grant funding and approve the Retail, Leisure and Hospitality Business Rates Relief Scheme for 2020/21 as set out in this report.

Reason for proposed decision

12. To enable the Business Rates Team to administer the Retail, Leisure and Hospitality Business Rates Relief Scheme 2020/21.

Implementation of decision

13. The decision is proposed for immediate implementation.

Appendices

14. Appendix 1 – Welsh Government Guidance on NNDR Retail, Leisure and Hospitality Rates Relief in Wales – 2020-21

List of background papers

15. Local Government Finance Act 1988.
Welsh Government Non Domestic High Street and Retail Rates Relief Scheme 2020-21.

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Llywodraeth Cymru
Welsh Government

Non-Domestic Rates

Retail, Leisure and Hospitality Rates Relief in Wales – 2020-21

Guidance

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Non-Domestic Rates – Retail, Leisure and Hospitality Rates Relief

Guidance

About this guidance

1. This guidance is intended to support county and county borough councils (“local authorities”) in administering the Retail, Leisure and Hospitality Rates Relief scheme (“the relief”). On 18 March, the Minister for Finance and Trefnydd announced the expansion of the relief on a temporary basis for 2020-21. This guidance applies to Wales only.
2. This guidance sets out the criteria which the Welsh Government will use to determine the funding for local authorities for relief provided to retail, leisure and hospitality properties. The guidance does not replace any existing non-domestic rates legislation or any other relief.
3. Enquiries about the scheme should be sent to:
localtaxationpolicy@gov.wales
4. The relief is being offered from 1 April 2020 and will be available until 31 March 2021.

Introduction

5. This relief is aimed at businesses in Wales in the retail, leisure and hospitality sectors, for example shops, pubs and restaurants, gyms, performance venues and hotels.
6. The Welsh Government will provide grant funding to the 22 local authorities in Wales to provide the Retail, Leisure and Hospitality Rates Relief scheme to eligible ratepayers for 2020-21. The scheme aims to provide support for eligible occupied properties by offering a discount of 100% on the non-domestic rates bill for a property, to all eligible premises. The scheme will apply to all eligible ratepayers with a rateable value of £500,000 or less.
7. This document provides guidance on the operation and delivery of the scheme.

Section 1

Retail, Leisure and Hospitality Rates Relief

How will the relief be provided?

8. As this is a temporary measure, we are providing the relief by reimbursing local authorities that use their discretionary relief powers under section 47 of the Local Government Finance Act 1988. It will be for individual local authorities to adopt a scheme and decide in each individual case when to grant relief under section 47. The Welsh Government will reimburse local authorities for the relief that is provided in line with this guidance via a grant under section 31 of the Local Government Act 2003 and 58A of the Government of Wales Act 2006.

How will the scheme be administered?

9. It will be for local authorities to determine how they wish to administer the scheme to maximise take-up and minimise the administrative burden for ratepayers and for local authority staff.
10. Local authorities are responsible for providing ratepayers with clear and accessible information on the details and administration of the scheme. If, for any reason, an authority is unable to provide this relief to eligible ratepayers from 1 April 2020, consideration should be given to notifying eligible ratepayers that they qualify for the relief and that their bills will be recalculated.

Which properties will benefit from relief?

11. Properties that will benefit from this relief will be occupied retail, leisure and hospitality properties – such as shops, pubs and restaurants, gyms, performance venues and hotels across Wales. More detailed eligibility criteria and exceptions to the relief are set out in paragraphs 13 to 20.
12. Relief should be granted to each eligible business as a reduction to its rates bill based on occupation between 1 April 2020 and 31 March 2021. It is recognised that there may be some instances where a local authority is retrospectively notified of a change of occupier. In such cases, if it is clear that the ratepayer was in occupation on or after the 1 April 2020, the local authority may use its discretion in awarding relief.
13. It is intended that, for the purposes of this scheme, retail properties such as, “shops, restaurants, cafes and drinking establishments” will mean the following (subject to the other criteria in this guidance).

- iv. **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, newsagents, hardware stores, supermarkets, etc)
- Charity shops
- Opticians
- Pharmacies
- Post offices
- Furnishing shops or display rooms (such as carpet shops, double glazing, garage doors)
- Car or caravan showrooms
- Second hand car lots
- Markets
- Petrol stations
- Garden centres
- Art galleries (where art is for sale or hire)

v. Hereditaments that are being used for the provision of the following services to visiting members of the public

- Hair and beauty services
- Shoe repairs or key cutting
- Travel agents
- Ticket offices, e.g. for theatre
- Dry cleaners
- Launderettes
- PC, TV or domestic appliance repair
- Funeral directors
- Photo processing
- DVD or video rentals
- Tool hire
- Car hire
- Cinemas
- Estate and letting agents

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

- Restaurants
- Drive-through or drive-in restaurants
- Takeaways
- Sandwich shops
- Cafés
- Coffee shops
- Pubs
- Bars or Wine Bars

14. We consider assembly and leisure to mean:

iii. 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) and for the assembly of visiting members of the public.

- Sports grounds and clubs,
- Sport and leisure facilities,
- Gyms
- Tourist attractions,
- Museums and art galleries,
- Stately homes and historic houses,
- Theatres,
- Live Music Venues
- Cinemas
- Nightclubs,

iv. Hereditaments that are being used for the assembly of visiting members of the public.

- Public halls,
- Clubhouses, clubs and institutions

15. We consider hotels, guest & boarding premises and self-catering accommodation to mean:

ii. 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

Other considerations

16. To qualify for the relief, the hereditament should be wholly or mainly used for the qualifying purposes. In a similar way to other reliefs, 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 closed temporarily due to the government's advice on Covid-19 should be treated as occupied for the purposes of this relief.

17. The above list is not intended to be exhaustive as it would be impossible to list all the many and varied retail, leisure and hospitality uses that exist. There will also be mixed uses. However, it is intended to be a guide for local authorities as to the types of uses that the Welsh Government considers for this purpose to be eligible for relief. Local authorities should determine for themselves whether particular properties not listed are broadly similar in nature to those above and, if so, to consider them eligible for the relief. Conversely, properties that are not broadly similar in nature to those listed above should not be eligible for the relief.

18. As the grant of the relief is discretionary, local authorities may choose not to grant the relief if they consider that appropriate, for example where granting the relief would go against the local authority's wider objectives for the local area.

Types of hereditaments that are not considered to be eligible for Retail, Leisure and Hospitality Rates Relief

19. Any hereditament with a rateable value over £500,000.
20. The following list sets out the types of uses that the Welsh Government does not consider to be retail, leisure or hospitality use for the purpose of this relief and which would not be deemed eligible for the relief. However, it will be for local authorities to determine if hereditaments are similar in nature to those listed and if they would not be eligible for relief under the scheme.

v. Hereditaments that are being used wholly or mainly for the provision of the following services to visiting members of the public

- Financial services (e.g. banks, building societies, cash points, ATMs, bureaux de change, payday lenders, betting shops, pawn brokers),
- Medical services (e.g. vets, dentists, doctors, osteopaths, chiropractors),
- Professional services (e.g. solicitors, accountants, insurance agents, financial advisers, tutors),
- Post Office sorting offices
- Children's play centres
- Day nurseries
- Kennels and catteries
- Casino and gambling clubs
- Show homes and marketing suites
- Employment agencies

There are a number of further types of hereditament which the Welsh Government believes should not be eligible for the relief.

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

If a hereditament is not usually reasonably accessible to visiting members of the public, it will be ineligible for relief under the scheme even if there is ancillary use of the hereditament that might be considered to fall within the descriptions in paragraphs 13 to 15.

vii. Hereditaments that are not occupied

Properties that are not occupied on 1 April 2020 should be excluded from this relief. However, under the mandatory Empty Property Relief, empty properties will receive a 100% reduction in rates for the first three months (and in certain cases six) of being empty.

viii. Hereditaments that are owned, rented or managed by a local authority

Hereditaments owned, rented or managed by a local authority, such as visitor centres, tourist information shops and council-run coffee shops or gift shops attached to historic buildings, are exempt from this scheme.

How much relief will be available?

21. The total amount of government funded relief available for each property under this scheme for 2020-21 is 100% of the remaining bill, 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 2011 which are not funded by section 31 grants¹. Retail, Leisure and Hospitality Rates Relief should be applied against the net bill after other reliefs have been applied.

22. The eligibility for the relief and the relief itself will be assessed and calculated on a daily basis. The following formula should be used to determine the amount of relief to be granted for a particular hereditament in the financial year.

Amount of relief to be granted = V , where

V is the daily charge for the hereditament for the chargeable day after the application of any mandatory relief and any other discretionary reliefs, excluding those where local authorities have used their discretionary relief powers introduced by the Localism Act 2011 which are not funded by section 31 grants.

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

24. Ratepayers who occupy more than one property will be entitled to Retail, Leisure and Hospitality Rates Relief for each of their eligible properties.

25. Retail, leisure and hospitality properties which are excluded from Small Business Rates Relief due to the multiple occupation rule are eligible for this relief scheme.

Changes to existing hereditaments, including change in occupier

26. Empty properties becoming occupied after 1 April 2020 will qualify for this relief.

27. If there is a change in occupier part way through the financial year, after relief has already been provided to the hereditament, the new occupier will qualify for the relief on a pro-rata basis based on the remaining days of occupation using the formula in paragraph 22 of this guidance.

¹ As required in the NDR3 guidance notes, the former categories of discretionary relief prior to the Localism Act 2011 (ie. charitable/CASC top-up) should be applied first in the sequence of discretionary reliefs and, therefore, before the retail, leisure and hospitality rates relief.

28. The discount 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 discount on that day.

State Aid

29. Whilst the UK left the EU on 31 January 2020, the Withdrawal Agreement negotiated by the UK Government and the EU provides that during a transition period State Aid rules will continue to apply as now and will be subject to control by the EU Commission as at present.

The UK Government has notified the EU of its intention to bring forward an immediate change to the UK's tax treatment of non-domestic property, in response to the ongoing Covid-19 emergency, and to seek clearance under Article 107(3)(b) of the Treaty on the Functioning of the European Union. Subject to this approval, the Expanded Retail Discount Scheme will become a notified state aid scheme. Once the notification has been approved by the European Commission, it will supersede the de minimis regulation as the appropriate cover for awarding the discount, meaning existing de Minimis limits will no longer restrict the provision of support