



Doncaster Council

Report

16th February, 2022

To the Chair and Members of Cabinet

Retail, Hospitality and Leisure Relief Scheme 2022/23

Relevant Cabinet Member(s)	Wards Affected	Key Decision
Mayor Jones	All	Yes

EXECUTIVE SUMMARY

1. Since 2019/20, the government has provided a Business Rates Retail Discount for retail properties, which from 2020/21 was expanded to include the leisure and hospitality sectors.
2. At the Budget on 27 October 2021, the Chancellor announced the introduction of a new business rates relief scheme for retail, hospitality and leisure properties. The 2022/23 Retail, Hospitality and Leisure Business Rates Relief scheme will provide eligible, occupied, retail, hospitality and leisure properties with a 50% relief, up to a cash cap limit of £110,000 per business.
3. From an analysis of Business Rates records, the estimated number of eligible businesses qualifying for the Retail, Hospitality and Leisure Business Rates Relief Scheme would be around 1,269 receiving relief of around £7.9M.
4. The Government is not introducing new legislation for these reliefs. Instead, local authorities are expected to use their discretionary relief powers under Section 47 of the Local Government Finance Act 1988 (as amended) to grant the relief in line with the relevant eligibility criteria. Local authorities will be compensated for the cost of granting the reliefs through a Section 31 grant from Government.
5. The legislation states that the Authority may only grant relief if it would be reasonable to do so having regard to the interests of Council Tax payers in its area. Given the Government has committed to reimburse local authorities for all the reliefs, it is deemed to be in the interests of local Council Tax payers to award them. Awarding these reliefs at such a difficult time in the wake of the coronavirus outbreak will also support the Council's priority outcome of supporting Doncaster businesses to flourish.

6. The Department for Levelling Up, Housing and Communities have issued guidance for the scheme. Local authorities are required to have regard to any relevant government guidance when deciding whether to grant relief.

EXEMPT REPORT

7. The report is not exempt.

RECOMMENDATIONS

8. It is recommended that Cabinet:
 - Approves the proposed Retail, Hospitality and Leisure Business Rates Relief Scheme at **Appendix 1**, which will potentially benefit around **1,269** local businesses with relief totalling around £7.9M.

WHAT DOES THIS MEAN FOR THE CITIZENS OF DONCASTER?

9. Around 1,269 local businesses are eligible for Business Rate relief in 2022/23 under these proposals. The relief will support these businesses who will have a reduction of up to 50% of their Business Rates in 2022/23. In addition to the eligible businesses, the citizens of Doncaster generally will benefit from the schemes as the reliefs support these businesses and, in turn, the local economy. This is especially important at this time following the coronavirus outbreak.

BACKGROUND

10. As part of the Autumn 2018 budget, the Government announced that it would provide a Business Rates Retail Relief scheme for occupied retail properties with a rateable value of less than £51,000 that are wholly or mainly being used as shops, restaurants, cafes and drinking establishments. The relief was to apply in each of the years 2019/20 and 2020/21. The value of relief was to be one third of the bill and would be applied after all other mandatory and discretionary reliefs.
11. In a written Ministerial Statement on 27 January 2020, the Government announced that it would extend the value of the Retail Relief from one third of the bill to 50% in 2020/21. This relief would apply to occupied retail properties with a rateable value of less than £51,000 in the year 2020/21. It also extended the type of retail properties to include cinemas and live music venues.
12. In response to the coronavirus outbreak, in the Budget on the 11th March 2020 the Government announced that it would increase the discount to 100% and extend it to include the leisure and hospitality sector. Then in another announcement on the 17 March 2020, the Government confirmed that this relief would apply to all occupied retail, leisure and hospitality properties in the year 2020/21. There was no rateable value limit on the relief. In a further announcement on the 25th March, additional categories of retail business were added for estate agents, betting shops and bingo halls.

13. In the Budget 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.
14. At the Budget on 27 October, the Chancellor announced the introduction of a new business rates relief scheme for retail, hospitality and leisure properties. The 2022/23 Retail, Hospitality and Leisure Business Rates Relief scheme will provide eligible, occupied, retail, hospitality and leisure properties with a 50% relief, up to a cash cap limit of £110,000 per business
15. The Department for Levelling Up, Housing and Communities (DLUHC) have issued guidance for the Retail, Hospitality and Leisure Business Rates Relief scheme. Properties that will benefit will be occupied hereditaments that are wholly and mainly being used:
 - i. As shops, restaurants, cafes, drinking establishments, cinemas or live music venues;
 - ii. For assembly and leisure;
 - iii. As hotels, guest & boarding premises and self-catering accommodation.

The full list of premises included within the above definitions in the DLUHC guidance are shown within the scheme at **Appendix 1**. The guidance points out that the list is not intended to be exhaustive and that it is for local authorities to determine for themselves whether particular properties not listed are broadly similar in nature to those specified in the guidance and, if so, consider them eligible for the relief.

16. In a similar way to other reliefs (such as charity relief), this is a test on use rather than occupation. Therefore, hereditaments that are occupied but not wholly or mainly used for the qualifying purpose will not qualify for the relief.
17. The DLUHC guidance also sets out the types of uses that the Government does **not** consider to be retail use for the purpose of the Retail, Hospitality and Leisure Business Rates Relief scheme:
 - i. Hereditaments that are being used for the provision of the following services to visiting members of the public;
 - a. Financial services (e.g. banks, building societies, cash points, bureaux de change, short-term loan providers, betting shops)
 - b. Medical services (e.g. vets, dentists, doctors, osteopaths, chiropractors)
 - c. Professional services (e.g. solicitors, accountants, insurance agents/financial advisers, employment agencies, estate agents, letting agents)
 - d. Post office sorting offices
 - ii. Hereditaments that are not reasonably accessible to visiting members of the public.

In line with legal restrictions in section 47 (8A) of the Local Government Finance Act 1988 billing authorities may not grant the relief to themselves or other precepting authorities.

18. Subject to the £110,000 cash cap per business, the total amount of government-funded relief available for each property for 2022/23 under this scheme is:
 - a. For chargeable days from 1 April 2022 to 31 March 2023 50% of the chargeable amount.
19. The relief should 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. However, as required in the NNDR3 guidance notes, the former categories of discretionary relief available prior to the Localism Act 2011 (i.e. charitable/CASC/rural etc. top up and not for profit) should be applied first in the sequence of discretionary reliefs and, therefore, before Retail, Hospitality and Leisure relief. Authorities may use their discretionary powers to offer further discounts outside this scheme or additional relief to hereditaments within the scheme. However, where an authority applies a locally funded relief under section 47, this should be applied after the Retail, Hospitality and Leisure relief.
20. Subject to the cash cap, the eligibility for the discount and the discount 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 chargeable day for a particular hereditament in the financial year 2022/23:

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 in paragraph 19 above.

21. From an analysis of Business Rates records, there are approximately 4,000 premises that meet the general criteria for the Retail, Hospitality and Leisure relief. However, after taking into account other reliefs including Small Business Rates Relief (SBRR), exemptions and empty premises, there are potentially around 1,269 premises that will receive the relief. Ratepayers that occupy more than one property will be entitled to relief for each of their eligible properties up to the maximum £110,000 cash cap, per business.
22. Under the cash caps, no ratepayer can in any circumstances exceed the £110,000 cash cap across all of their hereditaments in England.
23. No ratepayer can in any circumstances exceed the £2 million cash cap across all of their hereditaments in England.
24. 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.

25. The government will fully reimburse billing authorities and major precepting authorities for their loss of income under the rates retention scheme because of awarding the relief that falls within the definitions in this scheme. Local authorities will be asked to provide an estimate of their likely total cost for providing the relief in their National Non-Domestic Rate Return 1 (NNDR1) for 2022/23. Central government will provide payments to authorities to cover the local share. Local authorities will also be asked to provide outturn data on the actual total cost for providing the relief, via the National Non-Domestic Rate 3 (NNDR3) forms. Any required reconciliations will then be conducted at these points.

OPTIONS CONSIDERED

26. Option 1: Do Nothing

The Government has not legislated for this relief scheme but has, instead, advised that local authorities can use their discretionary relief powers under Section 47 of the Local Government Finance Act 1988, as amended, to grant relief. However, as Central Government is providing funding for the scheme, and they will support local businesses as they continue to deal with the coronavirus outbreak and contribute towards the corporate priority of supporting local businesses, this option is not recommended.

Option 2: Award relief under different criteria to the government guidance and eligibility criteria

Using section 47 discretionary relief powers, the Council could decide on different criteria to award the relief other than that specified in the government guidance. However, this option is not recommended as the relief would not then be funded via Section 31 Central Government grant and the cost of the relief would have to be met by the Council.

Option 3: Award relief in line with the government guidance and eligibility criteria

Central Government will reimburse billing authorities and those major precepting authorities for the actual cost to them under the rates retention scheme of this relief that falls within the definitions in the DLUHC guidance. This is the recommended option for the Retail, Hospitality and Leisure Business Rates Relief Scheme for 2022/23.

REASONS FOR RECOMMENDED OPTION

27. **Option 3** is the recommended option as this supports the Government’s

intentions to recognize the challenges faced by smaller retailers and ensures the Council is fully reimbursed for the relief awarded.

IMPACT ON THE COUNCIL'S KEY OUTCOMES

28.

	Outcomes	Implications
	<p>Doncaster Working: Our vision is for more people to be able to pursue their ambitions through work that gives them and Doncaster a brighter and prosperous future;</p> <ul style="list-style-type: none"> • Better access to good fulfilling work • Doncaster businesses are supported to flourish • Inward Investment 	<p>Awarding relief to eligible businesses will support businesses during this difficult period as they continue to feel the effects of the coronavirus outbreak and support the local Doncaster economy.</p>
	<p>Doncaster Living: Our vision is for Doncaster's people to live in a borough that is vibrant and full of opportunity, where people enjoy spending time;</p> <ul style="list-style-type: none"> • The town centres are the beating heart of Doncaster • More people can live in a good quality, affordable home • Healthy and Vibrant Communities through Physical Activity and Sport • Everyone takes responsibility for keeping Doncaster Clean • Building on our cultural, artistic and sporting heritage 	
	<p>Doncaster Learning: Our vision is for learning that prepares all children, young people and adults for a life that is fulfilling;</p> <ul style="list-style-type: none"> • Every child has life-changing learning experiences within and beyond school • Many more great teachers work in Doncaster Schools that are good or better • Learning in Doncaster prepares young people for the world of work 	

	<p>Doncaster Caring: Our vision is for a borough that cares together for its most vulnerable residents;</p> <ul style="list-style-type: none"> • Children have the best start in life • Vulnerable families and individuals have support from someone they trust • Older people can live well and independently in their own homes 	
	<p>Connected Council:</p> <ul style="list-style-type: none"> • A modern, efficient and flexible workforce • Modern, accessible customer interactions • Operating within our resources and delivering value for money • A co-ordinated, whole person, whole life focus on the needs and aspirations of residents • Building community resilience and self-reliance by connecting community assets and strengths • Working with our partners and residents to provide effective leadership and governance 	<p>The proposals will maximise use of the government funding for relief whilst not exceeding this, thus ensuring there is no cost to the Council.</p>

RISKS AND ASSUMPTIONS

29. There is a risk of failure to identify qualifying businesses and award the reliefs accordingly. This risk will be managed by thorough checking of Business Rates records to ensure all qualifying businesses are identified, and publicity of the schemes on the Council's website.
30. Failure to award relief in line with the Government's criteria and guidance could risk that the Council is not properly reimbursed for relief awarded which does not comply with the Section 31 grant conditions. This risk will be managed by close monitoring of relief awarded throughout the year and quality control checking of awards.

LEGAL IMPLICATIONS [Officer Initials: SRF Date: 01.02.22]

31. Local authorities can grant discretionary rate relief as described in this report using its powers under section 47 of the Local Government Finance Act 1988, as amended by the Localism Act 2011.
32. The legislation states that the local authority may only grant relief if it would be reasonable to do so having regard to the interests of Council Tax payers in its area. Given that the Government will provide full funding for the schemes and such businesses are in need of assistance to deal with the impact of the Covid-19, it is reasonable to deem the proposed scheme to be in the interests

of the Authority's Council Tax payers and to award the relief. The legislation also requires a local authority to have regard to any relevant guidance issued by the Secretary of State when deciding whether to grant relief and the proposed scheme is in line with that guidance.

33. As identified in Appendix 1 of the report, such rate relief may amount to subsidy. In such cases Rate Relief can only be provided if it falls within the Small Amounts of Financial Assistance Allowance as further described within Appendix 1

FINANCIAL IMPLICATIONS [Officer Initials: CC Date 01/02/2022]

34. Central Government will reimburse billing authorities and those major precepting authorities, i.e. South Yorkshire Fire and Rescue for Doncaster, for the cost of the relief via a grant under section 31 of the Local Government Act 2003. Therefore, it is not estimated to be detrimental to the Council's financial position to grant the relief. The estimated number of hereditaments and level of relief are set out in the body of the report.

HUMAN RESOURCES IMPLICATIONS [Officer Initials SH Date 31/01/22]

35. There are no specific HR implications associated with the approach as it is anticipated that the administration of the schemes will be managed within existing resources. If alternative approaches are adopted and this requires significant manual intervention, additional resources may be required to administrate this scheme.

TECHNOLOGY IMPLICATIONS [Officer Initials PW Date 31/01/22]

36. There are no direct technology implications in relation to this decision. The proposed Retail, Hospitality and Leisure Business Rates Relief Scheme can be accommodated by the existing NEC Business Rates system.

HEALTH IMPLICATIONS [Officer Initials RS Date 01/02/2022]

37. Good quality work is important for good health and wellbeing. Business Rate relief is one way to support local businesses fulfil their wider social value including paying the living wage, maximising work-life balance for employees and providing greater employment security. In the midst of a pandemic this is one way to alleviate hardship for local people.

EQUALITY IMPLICATIONS [Officer Initials: AS Date 20/01/2022]

38. There are no equality implications associated with this report.

CONSULTATION

39. There is no statutory requirement to consult on these relief schemes. Given the Council is proposing to award relief strictly in accordance with the government guidance for the schemes and will be fully reimbursed by Central Government, it was not considered necessary to undertake any general consultation.

BACKGROUND PAPERS

40. Appendix 1 - Retail, Hospitality and Leisure Business Rates Relief Scheme
There are no background papers to this report.

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DONCASTER METROPOLITAN BOROUGH COUNCIL

RETAIL, HOSPITALITY AND LEISURE RELIEF SCHEME 2022/23

Background

1. Local Authorities have the power to grant Discretionary Rate Relief to Ratepayers that meet certain criteria. The amount of relief granted is used to reduce the amount the Ratepayer owes in Business rates.
2. Since 2019/20, the government has provided a Business Rates Retail Discount for retail properties, which in 2020/21 it expanded to include the leisure and hospitality sectors.
3. At the Budget on 27 October 2021, the Chancellor announced the introduction of a new business rates relief scheme for retail, hospitality and leisure properties. The 2022/23 Retail, Hospitality and Leisure Business Rates Relief scheme will provide eligible, occupied, retail, hospitality and leisure properties with a 50% relief, up to a cash cap limit of £110,000 per business.
4. As this recent change is for the year 2022/23 only, the Government is not changing the legislation around awarding reliefs available to properties. Instead the Government will, in line with the eligibility criteria set out in their guidance, reimburse local authorities that use their discretionary relief powers, introduced by the Localism Act (under section 47 of the Local Government Finance Act 1988, as amended) to grant relief. It will be for individual local billing authorities to adopt a local scheme and determine in each individual case when, having regard to the government guidance, to grant relief under section 47. Central Government will fully reimburse local authorities for the local share of the discretionary relief (using a grant under section 31 of the Local Government Act 2003).

Legislation

5. S47 of the Local Government Finance Act 1988, as amended by the Localism Act, states the Authority may only grant relief if it would be reasonable to do so having regard to the interests of Council Tax payers in its area. It also requires a local authority to have regard to any relevant guidance issued by the Secretary of State when deciding whether to grant relief.

Who Pays For The Relief Granted?

6. The government will fully reimburse billing authorities and major precepting authorities for their loss of income under the rates retention scheme because of awarding the relief that falls within the definitions in this scheme. Local authorities will be asked to provide an estimate of their likely total cost for providing the relief in their National Non-Domestic Rate Return 1 (NNDR1) for 2022/23. Central government will provide payments to authorities to cover the local share. Local authorities will also be asked to provide outturn data on the actual total cost for providing the relief, via the National Non-Domestic Rate 3

(NNDR3) forms. Any required reconciliations will then be conducted at these points.

The Council's Policy

Purpose

7. The purpose of this Policy is to specify how the Council will operate its discretionary powers in the Local Government Finance Act 1988 and to indicate the factors we will consider when deciding if Retail, Hospitality and Leisure Business Rates Relief can be awarded.
8. The Council will consider awarding Retail, Hospitality and Leisure Business Rates Relief to all ratepayers who meet the qualifying criteria as specified in this scheme. All ratepayers that receive Retail, Hospitality and Leisure Business Rates Relief will be treated equally and fairly. We will share information with other public bodies and grant funders to prevent and detect fraud and duplication of aid and assistance in respect of Business Rates.

Consultation

9. There is no statutory requirement to consult on these relief schemes. Given the Council is proposing to award relief strictly in accordance with the government guidance for the schemes and will be fully reimbursed by Central Government, it was not considered necessary to undertake any general consultation.

How Retail, Hospitality and Leisure Business Rates Relief will be awarded

10. Doncaster Council will automatically calculate and award the relief to those properties that meet the qualifying criteria set out below.

Period of Award

11. The start date of the relief will normally be the 1st April 2022.
12. For applications where the qualifying criteria are not met until after this date, the start date of the relief will be the date that the qualifying conditions are met up to and including 31st March 2023 (which is the last date that relief will be awarded for).
13. The minimum period of relief that can be awarded is one day.
14. The maximum period of relief that can be awarded is 12 months. All applications will cease on the 31st March 2023, or from such date that one or all of the qualifying criteria are not met, if sooner.
15. No relief will be awarded for a period prior to 1st April 2022 or from 1st April 2023 onwards, unless advised by the Secretary of State.

How we will decide whether to award Discretionary Rate Relief

16. Properties which benefit from the relief will be those which for a chargeable day in 2021/22,
 - a. Meet the eligibility criteria set out in paragraph 17 below; 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 2023. The ratepayer cannot withdraw their refusal for either all or part of the financial year.

17. Properties that will benefit from the relief will be occupied hereditaments that are wholly or mainly being used:

- as shops, restaurants, cafes, drinking establishments, cinemas or live music venues,
- for assembly and leisure; or
- as hotels, guest & boarding premises and self-catering accommodation.

We consider shops, restaurants, cafes, drinking establishments, cinemas or live music venues to mean:

- ***Properties that are being used for the sale of goods to visiting members of the public:***
 - Shops (such as florist, bakers, butchers, grocers, greengrocers, Jewellers, stationers, off licence, 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)
- ***Properties 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
- ***Properties 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
- ***Properties that are being used as cinemas***
 - ***Properties that are being used as live music venues***
 - Live music venues are properties wholly or mainly used for the performance of live music for entertaining an audience. Properties 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).
 - Properties 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. Further guidance on this may be found under section 182 of the Licensing Act 2003.

We consider assembly and leisure to mean:

- ***Properties 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
- ***Properties that are being used for the assembly of visiting members of the public.***
 - Public halls
 - Clubhouses, clubs and institutions

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

- ***Properties 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

18. 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.

19. 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 eligible for this relief and we 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.

20. Examples of types of use that are **not** considered to be eligible use for the purposes of this relief are:-

- ***Properties 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 office

- ***Properties that are not reasonably accessible to visiting members of the public.***

21. 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, a precepting authority, or a functional body, within the meaning of the Greater London Authority Act 1999.

How much will we award?

22. Subject to the £110,000 cash cap per business, the total amount of government-funded relief available for each property for 2022/23 under this scheme is,

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

23. The relief should 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. However, as required in the NNDR3 guidance notes, the former categories of discretionary relief available prior to the Localism Act 2011 (i.e. charitable/CASC/rural etc. top up and not for profit) should be applied first in the sequence of discretionary reliefs and, therefore, before Retail, Hospitality and Leisure relief. Authorities may use their discretionary powers to offer further discounts outside this scheme or additional relief to hereditaments within the scheme. However, where an authority applies a locally funded relief under section 47, this should be applied after the Retail, Hospitality and Leisure relief.
24. Subject to the cash cap, 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 chargeable day for a particular hereditament in the financial year 2022/23:
- 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 paragraph 23 above.
25. This should be calculated ignoring any prior year adjustments in liabilities which fall to be liable on the day
26. Ratepayers that occupy more than one property will be entitled to relief for each of their eligible properties up to the maximum £110,000 cash cap, per business.
27. 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 relief on that day.

Recalculations of Relief

28. The amount of relief awarded should be recalculated in the event of a change of circumstances. This could include, for example, a backdated change to the rateable value or the hereditament. This change of circumstances could arise during the year in question or during a later year.
29. Under regulations made under section 47 of the Local Government Finance Act 1988, authorities must give at least 12 months' notice of a revocation or variation of a rate relief scheme the effect of which would be to increase rate bills. Such a revocation or variation can only take effect at the end of a financial year (other than to comply with international agreements). However, within these regulations, local authorities may still make decisions, which are conditional upon eligibility criteria. If a change in circumstances renders a property ineligible, the relevant bill can be amended in the year to reflect the loss of the relief.
30. Therefore, when making an award for the Retail, Hospitality and Leisure relief scheme, local authorities should ensure in the conditions of the award that the relief are subject to the property's continuing eligibility.

The Cash Cap and Subsidy Control

31. Under the cash cap, no ratepayer can in any circumstances exceed the £110,000 cash cap across all of their hereditaments in England.
32. 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.
33. 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.
34. 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
35. In those cases where it is clear to the local authority that the ratepayer is likely to breach the cash cap or the Small Amounts of Financial Assistance limit then we will automatically withhold the relief. Otherwise, we will 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.

How Payments will be made

36. All relief awarded will be credited to the ratepayers Business Rates account.

Notifications

37. The Council will notify all businesses identified as eligible for Retail, Hospitality and Leisure Relief.

The notification will include the following information:-

- The period of the award.
- The amount of Retail, Hospitality and Leisure Relief to be awarded for the period.

Overpayments

38. The Council will recover all overpayments of Retail, Hospitality and Leisure Relief through the organisation's Business Rates account.

Right of Appeal

39. If you are aggrieved by a decision made under this scheme, you must write and tell us why you think the decision is wrong, e.g. whether the published criteria has been properly applied.

40. Your case will then be considered by someone who has not been involved in the original determination.

41. They will thoroughly check all the information we hold regarding the property and any further information you have provided. They will decide whether the criteria have been properly applied. They could then: -

- Decide not to change the decision;
- Change the decision and award Retail, Hospitality and Leisure Relief

They will write to tell you what has happened, normally within 21 days of reconsidering your appeal.

Fraud

42. The Council is committed to the fight against fraud in all its forms. An organisation who tries to fraudulently apply for Retail, Hospitality and Leisure Relief by falsely declaring their circumstances or providing a false statement or evidence in support of their application, may have committed an offence under the Theft Act 1968. Where we suspect that such a fraud may have occurred, the matter will be investigated in line with the Council's Anti-Fraud Strategy. This may lead to criminal proceedings being instigated.

Publicity

43. The Council will include information about Retail, Hospitality and Leisure Relief in the Business Rates Section of the Council's website.

Review

44. The policy will be reviewed periodically and at the end of the 2022/23 year, taking into account any changes in legislation or guidance from Central Government regarding the funding for this relief.