

CITY OF DONCASTER COUNCIL

RETAIL, HOSPITALITY AND LEISURE (RHL) RELIEF SCHEME 2023/24

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 Autumn Statement on the 17th November 2022, the Chancellor announced the 2023/24 Retail, Hospitality and Leisure (RHL) relief scheme, which will provide eligible, occupied, retail, hospitality and leisure properties with a 75% relief, up to a cash cap limit of £110,000 per business.
4. As this recent change is for the year 2023/24 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 as a result 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 2023/24. 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 2023.
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 2024 (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 2024, 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 2023 or from 1st April 2024 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 2023/24,
 - 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 2024. The ratepayer cannot subsequently 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 the purpose of 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 2023/24 under this scheme is,

- a. For chargeable days from 1 April 2023 to 31 March 2024 75% 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. The ordering should be applied in the following sequence:

- Transitional Relief
- Mandatory Reliefs (as determined in legislation)
- S47 Discretionary Relief, in the following order
 - 2023 Supporting Small Business (SSB) relief
 - Former categories of discretionary relief available prior to the Localism Act 2011 (i.e. charitable, CASC and rural top up, not for profit) should be applied first in the sequence of discretionary reliefs, after SSB
 - Other discretionary (centrally funded) including, Freeport relief
 - 2023/24 Retail Hospitality and Leisure relief scheme
 - Other locally funded schemes (such as hardship)

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 2023/24:

Amount of relief to be granted = $V \times 0.75$ 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 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.

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). But 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, which will commence on 4 January 2023.
34. To the extent that a local authority is seeking to provide relief that falls below the Minimal Financial Assistance (MFA) thresholds, the Subsidy Control Act allows an economic actor (e.g. a holding company and its subsidiaries) to receive up to £315,000 in a 3-year period (consisting of the 2023/24 year and the 2 previous financial years). MFA subsidies cumulate with each other and with other subsidies that fall within the category of 'Minimal or SPEI financial assistance'. Expanded Retail Discount granted in 2021/22 does not count towards the £315,000 allowance but BEIS COVID-19 business grants and any other subsidies claimed under the Small Amounts of Financial Assistance limit of the Trade and Cooperation Agreement 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 MFA limit then we will automatically withhold the relief. Otherwise, we will 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 MFA 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 or not 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 2023/24 year, taking into account any changes in legislation or guidance from Central Government regarding the funding for this relief.