

BATH AND NORTH EAST SOMERSET COUNCIL POLICY - NON DOMESTIC RATE RELIEF

Introduction

The Localism Act of 2011 (“the Act”) amended the discretionary powers available to Councils with effect from 1st April 2012. Specifically, section 69 of the Act amended section 47 of the Local government Finance Act 1988 (“the 88 Act”). Section 47 of the 88 Act enables the Local Authority to grant relief to any ratepayer, including profit making organisations and individuals, with the proviso that awarding relief is in the interests of its Council Tax payers

Any use of this additional discretionary power would normally have to be funded in full by the local authority, as government funding is not normally available to offset the cost of granting this relief.

Since the introduction of The Act, the Government has introduced a number of measures aimed at providing business rate relief to qualifying ratepayers whilst guaranteeing to reimburse local authorities for the local share of discretionary relief by way of a grant under section 31 of the Local Government Act 2003 (“the 2003 Act”).

This additional Appendix to the Bath and North East Somerset Council Non Domestic Rate Relief Policy gives guidance to officers administering claims for discretionary relief under discretionary powers provided by the Act.

Appendix F covers:

1. Newspaper relief
2. Business Rate Retail Discount
3. Business Rate Pub Relief

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1) Business Rates Relief for Local Newspapers

THIS IS A SUMMARY OF THE RELIEF SCHEME AND MUST BE READ IN CONJUNCTION WITH MHCLG GUIDANCE.

THE AUTHORITY IS ADOPTING A SCHEME THAT FOLLOWS MHCLG GUIDANCE ON PROPERTY CRITERIA AND ELIGIBILITY. THE AUTHORITY WILL ONLY OFFER RELIEF THAT WILL BE FUNDED FULLY BY CENTRAL GOVERNMENT.

A COPY OF THE RELEVANT GUIDANCE CAN BE FOUND AT:

<https://www.gov.uk/government/consultations/the-case-for-a-business-rates-relief-for-local-newspapers>

This relief is a reduction in the bill for up to £1,500.00. The relief will be awarded for ratepayers who qualify for the period 01.04.2017 to 31.03.2025.

Eligibility criteria

- The relief will provide a £1,500.00 relief per annum for office space occupied by local newspapers up to a maximum of one discount per local newspaper title and per hereditament, for three years from 1 April 2017.
- The relief is to be specifically for traditional local newspapers. The relief will not be available to magazines.
- The hereditament must be occupied by a local newspaper and wholly or mainly used as office premises for journalists and reporters.
- The ratepayer must confirm that relief granted to them will be in accordance with European Union De Minimis Regulations (1407/2013) to comply with State Aid law.

Amount of Relief

- The amount of relief is limited to a maximum of one discount: per newspaper title (e.g. per newspaper name) and per hereditament. For example; A local newspaper with two offices would be able to claim a discount for only one of them. An office shared by three separate local newspaper titles would only be eligible for a single discount.

The total amount of government-funded relief available for each newspaper title and hereditament until 31/3/25 under this scheme is £1,500 per year. The amount does

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not vary with rateable value. 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:

Amount of relief to be granted = £1500 x A/B

Where:

A is the number of days in the financial year that the hereditament is eligible for relief; and

B is the number of days in the financial year.

2) Retail Discount

THIS IS A SUMMARY OF THE RELIEF SCHEME AND MUST BE READ IN CONJUNCTION WITH DCLG GUIDANCE.

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A COPY OF THE RELEVANT GUIDANCE CAN BE FOUND AT:

<https://www.gov.uk/government/publications/business-rates-retail-discount-guidance>

Background

The Government has announced a new relief scheme for retail properties that have a rateable value of below £51,000. Under the scheme, eligible ratepayers received a one third discount of their daily chargeable amount. From 1/4/2020 the level of discount will increase to 50% of their daily chargeable amount.

Which properties will benefit from relief?

Properties that will benefit from the relief will be occupied hereditaments with a rateable value of less than £51,000, that are wholly or mainly being used as shops, restaurants, cafes, drinking establishments, cinemas and live music venues.

The Government consider shops, restaurants, cafes, drinking establishments, cinemas and live music venues to mean:

i. Hereditaments that are being used for the sale of goods to visiting members of the public:
– Shops (such as: florists, bakers, butchers, grocers, greengrocers, jewellers, stationers, off licences, chemists, newsagents, hardware stores, supermarkets, etc) – Charity shops – Opticians – Post offices – Furnishing shops/ display rooms (such as: carpet shops, double glazing, garage doors) – Car/caravan show rooms – Second hand car lots – Markets – Petrol stations – Garden centres – Art galleries (where art is for sale/hire)

ii. Hereditaments that are being used for the provision of the following services to visiting members of the public: – Hair and beauty services (such as: hair dressers, nail bars, beauty

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salons, tanning shops, etc) – Shoe repairs/key cutting – Travel agents – Ticket offices e.g. for theatre – Dry cleaners – Launderettes – PC/TV/domestic appliance repair – Funeral directors – Photo processing – Tool hire – Car hire

iii. Hereditaments that are being used for the sale of food and/or drink to visiting members of the public: – Restaurants – Takeaways – Sandwich shops – Coffee shops – Pubs – Bars

iv. Hereditaments which are being used as cinemas

v. Hereditaments that are being used as live music venues: – live music venues are hereditaments wholly or mainly used for the performance of live music for the purpose of entertaining an audience.

Hereditaments cannot be considered a live music venue for the purpose of business rates relief where a venue is wholly or mainly used as a nightclub or a theatre, for the purposes of the Town and Country Planning (Use Classes) Order 1987 (as amended). – Hereditaments can be a live music venue even if used for other activities, but only if those other activities (i) are merely ancillary or incidental to the performance of live music (e.g. the sale/supply of alcohol to audience members) or (ii) do not affect the fact that the primary activity for the premises is the performance of live music (e.g. because those other activities are insufficiently regular or frequent, such as a polling station or a fortnightly community event). – There may be circumstances in which it is difficult to tell whether an activity is a performance of live music or, instead, the playing of recorded music.

To qualify for the relief the hereditament should be wholly or mainly being used as a shop, restaurant, cafe or drinking establishment cinemas and live music venues. 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.

As the grant of the relief is discretionary, the council may choose not to grant the relief if it considers it inappropriate, for example where granting the relief would go against the authority's wider objectives for the local area.

The list below sets out the types of uses that council does not consider to be retail use for the purpose of this relief.

- Financial services (e.g. banks, building societies, cash points, bureau de change, payday lenders, betting shops, pawn brokers)
- Other services (e.g. estate agents, letting agents, employment agencies)
- Medical services (e.g. vets, dentists, doctors, osteopaths, chiropractors)
- Professional services (e.g. solicitors, accountants, insurance agents/
financial advisers, tutors)

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– Post office sorting office

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

How much relief will be available?

The total amount of government-funded relief available for each property under this scheme is 50% of the ratepayer's daily chargeable amount. Entitlement to this relief will only apply providing the conditions of entitlement are met. If there is a change in circumstances such as the ratepayer ceases to operate a retail business or the rateable value of the property increases to £51,000 or more then entitlement to this relief will cease from the effective date of the change.

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 2020-21:

Amount of relief to be granted = daily chargeable amount / 1/2.

The relief will be awarded after all other reliefs have been awarded.

3) Business Rates Relief Scheme for Pubs

THIS IS A SUMMARY OF THE RELIEF SCHEME AND MUST BE READ IN CONJUNCTION WITH MHCLG GUIDANCE.

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A COPY OF THE RELEVANT GUIDANCE CAN BE FOUND AT:

<https://www.gov.uk/government/publications/business-rates-pubs-discount-2020-to-2021-local-authority-guidance>

Background

The legislation covering this Relief is within Section 47 of the Local Government Finance Act 1988 as amended by The Localism Act 2011.

On 27 January 2020 the treasury announced a £1,000 business rate discount for public houses with a rateable value of up to £100,000 for one year from 1 April 2020.

Eligibility Criteria

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The scheme will be available to eligible occupied properties with a rateable value of less than £100,000. The majority of pubs are independently owned or managed and will not be part of chains. Where pubs are part of a chain, relief will be available for each eligible property in the chain, subject to meeting State Aid requirements.

Eligible properties must fulfil the following criteria;

- be open to the general public
- allow free entry other than when occasional entertainment is provided
- allow drinking without requiring food to be consumed
- permit drinks to be purchased at a bar.

These types of properties will be excluded;

- restaurants
- cafes
- nightclubs
- hotels
- snack bars
- guesthouses
- boarding houses
- sporting venues
- music venues
- festival sites
- theatres
- museums
- exhibition halls
- cinemas
- concert halls
- casinos

These criteria are not exhaustive and in addition the Council may also consider whether the property demonstrates other characteristics of being a pub; for example being owned and operated by a brewery, and whether the property has planning permission to be used as a Pub.

Calculation of relief

The amount of relief available for this scheme for 2020/21 is £1,000.00 for each eligible property. Eligibility for the relief and the relief itself will be assessed and calculated on a daily basis.

The relief will be awarded after any other reliefs granted under S47 of the 88 Act which are reimbursed by a grant paid under S31 of the 2003 Act.

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State Aid

State Aid law is the means by which the European Union regulates state funded support to businesses. Providing discretionary relief to ratepayers is likely to amount to State Aid. However discretionary relief will be State Aid compliant where it is provided in accordance with the De Minimis Regulations (1407/2013)¹. The De Minimis Regulations allow an undertaking to receive up to €200,000 of De

1. Minimis aid in a three year period (consisting of the current financial year and the two previous financial years). To administer De Minimis it is necessary for the local authority to establish that the award of aid will not result in the undertaking having received more than €200,000 of De Minimis aid. The threshold only relates to aid provided under the De Minimis Regulations (aid under other exemptions or outside the scope of State Aid is not relevant to the De Minimis calculation). In basic terms this means discretionary assistance which could have the effect of distorting competition between similar undertakings within the European Union.<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2013:352:0001:0008:EN:PDF>