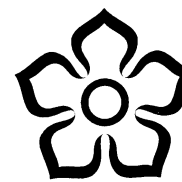


Business Rates – Retail Discount Policy

2019/20 and 2020/21



Leicester
City Council

1 Introduction

1.1 Leicester City Council ('the Council') recognises the challenge that changing consumer behaviour presents in our town centres, and is directed by government to provide a business rates Retail Discount Policy for occupied retail properties with a rateable value of less than £51,000.

1.2 This Business Rates Retail Discount ('the Retail Discount') will be available from 1 April 2019, and applicable to the financial years 2019/20 and 2020/21 only.

2 Eligibility

2.1 In order to be eligible for the Retail Discount, the property in question must be:

- (i) An occupied hereditament, and;
- (ii) With a rateable value of less than £51,000, and;
- (iii) Wholly or mainly being used as a shop, restaurant, café or drinking establishment. From 1st April 2020 this also includes cinemas and live music venues.

2.2 Shops, restaurants, cafés, drinking establishments, cinemas and live music venues are considered to mean:

- (i) Hereditaments that are being used for the sale of goods to visiting members of the public, and/or:
 - Shops (such as florists, bakers, butchers, grocers, greengrocers, jewellers, stationers, off licenses, 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, and/or:

- 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.

(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 a cinema from 1st April 2020 only.

(v) Hereditaments that are being used as live music venues from 1st April 2020 only.

– 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. Although we would expect this would be clear in most circumstances, guidance would be sought from Chapter 16 of the statutory guidance issued in April 2018 under section 182 of the Licensing Act 2003

2.3 To qualify for the relief, the hereditament should be wholly or mainly being used as a shop, restaurant, café or drinking establishment and from 1st April 2020 this also includes 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.

2.4 The lists set out above are not intended to be exhaustive, as it would be impossible to list the many and varied retail uses that exist. Properties may also receive relief if they are considered by the Council to be broadly similar in nature to those outlined in 2.2.

2.5 It is for the Council to determine in each individual case when, with regard to all relevant legislation and guidance, to grant the Retail Discount under section 47 of the Local Government Act ('Section 47'). The Council is not permitted to award discretionary relief to a precepting authority or itself, as a billing authority.

3 Excluded Categories

3.1 Any property wholly or mainly used for the following will not be considered eligible for the purposes of the Retail Discount:

- (i) Hereditaments that are being used for the provision of the following services for visiting members of the public, and/or;
 - Financial services (e.g. banks, building societies, cash points, bureaux 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 advisors, tutors);
 - Post office sorting offices.
- (ii) Hereditaments that are not reasonably accessible to visiting members of the public, i.e. requiring a fee or membership, and/or;
- (iii) In line with Government guidance, the Council does not consider other assembly or leisure uses beyond those listed at 2.2 to be retail uses for the purpose of the discount. For example, theatres and museums are outside the scope of the scheme, as are nightclubs which are not similar in nature

to the type of properties listed at 2.2. Properties used for sport or physical recreation (e.g. gyms) are also outside the scope of the discount.

3.2 Properties which are wholly or mainly being used for any other above uses or uses which are considered to be broadly similar to those outlined at 3.1, will not be considered to be eligible for the Retail Discount.

3.3 Where a property is in multiple use including non-qualifying services, the Council will determine the predominate use of the property having regard to the floor space used for the qualifying and non-qualifying parts, the overall objectives of the business and the published Government guidance.

4 Value of discount

4.1 The total amount of government-funded relief available for each property under this scheme for 2019/20 is one third of the bill and for 2020/21 half of the bill, after mandatory reliefs and other discretionary reliefs funded by Government section 31 grants have been applied.

4.2 Where the Council has applied a locally funded relief (not funded by section 31 grants), for example a hardship fund, under section 47 of the Local Government Act 1992 this must be applied after the Retail Discount.

4.3 There is no relief available to properties with a rateable value of £51,000 or above.

4.4 The eligibility for the relief, and the relief itself, will be assessed and calculated on a daily basis. The following formula will be used to determine the amount of relief to be granted for a chargeable day for a qualifying hereditament in the financial years 2019/20 and 2020/21:

2019/20 relief to be granted

$$\frac{V}{3}$$

2020/21 relief to be granted

$$\frac{V}{2}$$

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

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

4.6 Ratepayers that occupy more than one property will be entitled to relief for each of their eligible properties, subject to the State Aid De Minimis Rules.

4.7 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.

5 State Aid

5.1 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, Retail Discount will be State Aid compliant where it is provided in accordance with De Minimis Regulations.

5.2 The De Minimis Regulations allow an undertaking to receive up to 200,000 euros of De Minimis Aid in a three-year period (consisting of the current financial year and the two previous financial years).

5.3 To administer De Minimis, it is necessary for the Council to establish that the award of aid will not result in the undertaking having received more than 200,000 euros of De Minimis Aid. The threshold only relates to aid provided under the De Minimis Regulations, and aid under other exemptions or outside the scope of State Aid is not relevant to the De Minimis calculation.

5.4 All properties considered eligible will be sent with their bill a State Aid declaration form. The State Aid declaration form will set out the amount of aid offered through this relief in Pounds Sterling and Euros. This is included as a record for the business of the amount of State Aid they have received and must be considered by that business for any future State Aid support they receive. Businesses will be required to retain this form for three years from its date.

5.5 The business will only need to complete the declaration for any other Public support received which is defined as De Minimis Aid. State Aid received under other exemptions or public support which is not State Aid does not need to be declared.

5.6 If the business has not received any other De Minimis State Aid, including any other Retail Discount they are being granted for premises other than the one to which the bill and letter relates, they do not need to complete or return the declaration. A nil return is accepted as confirmation that the business is eligible to receive the amount of retail discount detailed in their bill.

5.7 All declarations returned will be reviewed and should the De Minimis threshold be breached then a new bill will be calculated with the Retail Discount removed. If the De Minimis threshold is not breached, no further action will be taken.

5.8 The council is required to carry out this monitoring procedure, which will assist the Council and businesses to minimise the risk that they breach the 200,000 euros ceiling. The consequence of such a breach would be that the aid to a business may be held to be unlawful by the European Commission or the Court and recovered from the recipient business with interest.

5.9 The UK left the EU on 31 January 2020, but as there is an Implementation Period, the State Aid rules will continue to apply as now and will be subject to control by the EU Commission as at present. If the UK leaves the EU without a negotiated Withdrawal Agreement, the Government has announced its intention to transpose EU State Aid rules into UK domestic legislation, with only technical modifications to correct deficiencies with the transposed EU law to ensure the regime operates effectively in a domestic context. The council will therefore continue to apply State Aid rules, including De Minimis Aid, to the relief for 2019/20 and 2020/21, unless directed otherwise by legislation.

6 Appeals

6.1 An appeals process relating to the Retail Discount eligibility criteria outlined above will be open to all business rate payers in the City who feel that they meet the eligibility criteria of this policy and have not received a deduction in their business rates via the Retail Discount.

6.2 The following occasions are the sole basis of any grounds for appeal:

- (i) The premises are of a type specifically stated as being eligible for relief, and the Council has by error omitted to grant relief; or
- (ii) The premise is not of a type specifically stated as being eligible for relief, but by analogy the use is comparable to one which is listed as eligible.

6.3 All appeals must be made by contacting the Business Rates team, through the contact details on your bill.

6.4 Appeals will be dealt with through completion of a standard form detailing the appellant's rationale for why they believe that they are eligible for the Retail Discount.

6.5 Appeals will be considered in line with this Policy. Decisions are taken at the sole discretion of the Director of Finance in consultation with the Revenues & Benefits Manager.

6.6 All appeals will be reviewed within four weeks of submission of all necessary information. All decisions taken on appeals are final and the outcome will be recorded and delivered to the business in writing.

6.7 If an appeal is successful, rate relief will be backdated for the full eligible period. If an appeal is unsuccessful the only further recourse available to applicants is a judicial review. This review is the means by which the decisions of the Council under discretionary rating powers may be questioned.

7 Policy Review

7.1 The policy is to be applied in line with Government guidance and will be reviewed following any other changes announced by the Ministry of Housing, Communities & Local Government.

8 Relevant Legislation

- The Data Protection Act 1998 & 2018.
- The Freedom of Information Act 2000.
- The Human Rights Act 1998.
- Environmental Protection Act 1990 (as amended) Section 79.
- The Education Act 1996.
- Local Government Finance Act 1988, Section 47, as amended.

Appendix A: Calculation examples for 2020/21

The retail discount (50%) is always calculated after mandatory relief and other discretionary reliefs funded by section 31 grant.

Example 1: An occupied shop with a rateable value of £40,000

Gross rates (before any reliefs) = £40,000 x 0.499 = £19,960

Retail discount (50%): = -£9,980

Rates due (after retail discount): = £9,980

Example 2: An occupied charity shop with a rateable value of £40,000

Gross rates (before any reliefs) = £40,000 x 0.512 = £20,480

Net rates after charity relief: = £4,096

Retail discount (50%): = -£2,048

Rates due (after charity relief and retail discount): = £2,048

Example 3: An occupied shop with a rateable value of £13,500 eligible for Small Business Rate Relief (SBRR)

Gross rates (before any reliefs) = £13,500 x 0.499 = £6,76.50

Net rates after SBRR (50%): = £3,368.25

Retail discount (50%): = -£1,684.13

Rates due (after SBRR and retail discount): = £1,684.12

Example 4: An occupied shop with a rateable value of £10,000 eligible for Small Business Rate Relief (SBRR)

Gross rates (before any reliefs) = £10,000 x 0.499 = £4,990

Net rates after SBRR (100%): = £nil

Rates bill is nil and, therefore, no retail discount applies

Example 5: An occupied shop with a rateable value of £40,000 eligible for Transitional Relief (TR) and receiving Revaluation Discretionary Relief

Gross rates (before any reliefs) = £40,000 x 0.499 = £19,960

Transitional Relief (say): = -£1,500

Net rates after Transitional Relief: = £18,460

Net rates after Revaluation Discretionary Relief (say): = £15,460

Retail discount (50%): = -£7,730

Rates due (after TR, revaluation relief and retail discount): = £7,730

Example 6: An occupied shop with a rateable value of £18,000 previously paying nothing prior to revaluation 2017 and eligible for Supporting Small Business Relief (SSB)

Gross rates (before any reliefs) = £18,000 x 0.499 = £8,982

Supporting Small Businesses Relief (say): = -£6,582

Net rates after SSB: = £2,400

Retail discount (50%): = -£1200

Rates due (after SSB and retail discount): = £1200

Example 7: A shop with a rateable value of £40,000 (example 1) but only occupied until 30 September 2020

Gross rates (before any reliefs) = £40,000 x 0.499 = £19,960

Retail discount (50%): = -£9,980

Rates due p.a. (after retail discount): = £9,980

Daily charge while occupied = £27.34 per day

Occupied charge 1/4/20 to 30/9/20 (183 days): = £5,003.22

Unoccupied property relief (1/10/20 to 31/12/2020): = £nil

Unoccupied property rates (1/1/21 to 31/3/21) =

£40,000 x 0.512 x 90/365 = £5,049.86

Rates due for the year (after retail relief): = £10,053.08

Example 8: A shop with a rateable value of £40,000 (example 1) with a rateable value increase to £60,000 with effect from 1 October 2020

Gross rates (before any reliefs) = £40,000 x 0.499 = £19,960

Retail discount (50%): = -£9,980

Rates due p.a. (after retail discount): = £9,980

Daily charge while occupied: = £27.34 per day

Charge 1/4/20 to 30/9/20 (183 days): = £5,003.22

Daily charge on standard multiplier (1/10/20 to 31/3/21):

(£60,000 x 0.512)/365 = £84.16 per day

Charge 1/10/20 to 31/3/21 (183 days): = £15,317.12

Rates due for the year (after retail relief): = £20,320.34

Calculation examples for 2019/20

The retail discount (one third) is always calculated after mandatory relief and other discretionary reliefs funded by section 31 grant.

Example 1: An occupied shop with a rateable value of £40,000

Gross rates (before any reliefs) = £40,000 x 0.491	= £19,640
Retail discount (1/3):	= -£6,547
Rates due (after retail discount):	= £13,093

Example 2: An occupied charity shop with a rateable value of £40,000

Gross rates (before any reliefs) = £40,000 x 0.504	= £20,160
Net rates after charitable relief:	= £4,032
Retail discount (1/3):	= -£1,344
Rates due (after charity relief and retail discount):	= £2,688

Example 3: An occupied shop with a rateable value of £13,500 eligible for Small Business Rate Relief (SBRR)

Gross rates (before any reliefs) = £13,500 x 0.491	= £6,629
Net rates after SBRR (50%):	= £3,314
Retail discount (1/3):	= -£1,105
Rates due (after SBRR and retail discount):	= £2,210

Example 4: An occupied shop with a rateable value of £10,000 eligible for Small Business Rate Relief (SBRR)

Gross rates (before any reliefs) = £10,000 x 0.491	= £4,910
Net rates after SBRR (100%):	= £nil
Rates bill is nil and, therefore, no retail discount applies	

Example 5: An occupied shop with a rateable value of £18,000 previously paying nothing prior to revaluation 2017 and eligible for Supporting Small Businesses Relief (SSB)

Gross rates (before any reliefs) = £18,000 x 0.491	= £8,838
Supporting Small Businesses Relief (say):	= -£7,038
Net rates after SSB:	= £1,800
Retail discount (1/3):	= -£600
Rates due (after SSB and retail discount):	= £1,200

Example 6: A shop with a rateable value of £40,000 (example 1) but only occupied until 30 September 2019

Gross rates (before any reliefs) = £40,000 x 0.491	= £19,640
Retail discount (1/3):	= -£6,547
Rates due p.a. (after retail discount):	= £13,093
Daily charge while occupied (leap year):	= £35.77 per day

Occupied charge 1/4/19 to 30/9/19 (183 days):	= £6,547
Unoccupied property relief (1/10/19 to 1/1/20):	= £nil

Unoccupied property rates (1/1/20 to 31/3/20), £19,640 x 91/366	= £4,883
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Rates due for the year (after retail relief): = £11,430

Example 7: A shop with a rateable value of £40,000 (example 1) with a rateable value increase to £60,000 with effect from 1 October 2019

Gross rates (before any reliefs) = £40,000 x 0.491 = £19,640
Retail discount (1/3): = -£6,547
Rates due p.a. (after retail discount): = £13,093
Daily charge while occupied (leap year): = £35.77 per day

Charge 1/4/19 to 30/9/19 (183 days): = £6,547
Daily charge on standard multiplier (1/10/19 to 1/1/20):
(£60,000 x 0.504)/366 = £82.62 per day
Charge 1/10/19 to 31/3/20 (183 days): = £15,120
Rates due for the year (after retail relief): = £21,667