

BRIDGEND COUNTY BOROUGH COUNCIL

REPORT TO CABINET

14 MARCH 2023

REPORT OF THE CHIEF OFFICER - FINANCE, PERFORMANCE AND CHANGE

NON-DOMESTIC RATES: DISCRETIONARY RELIEF: RETAIL, LEISURE AND HOSPITALITY RATES RELIEF SCHEME 2023-24

1. Purpose of report

- 1.1 The purpose of the report is to seek approval for Cabinet to adopt the Welsh Government's Retail, Leisure and Hospitality Rates Relief Scheme 2023-24.

2. Connection to corporate well-being objectives / other corporate priorities

- 2.1 This report assists in the achievement of the following corporate well-being objective under the **Well-being of Future Generations (Wales) Act 2015**:

- **Supporting a successful sustainable economy** – taking steps to make the county borough a great place to do business, for people to live, work, study and visit, and to ensure that our schools are focussed on raising the skills, qualifications and ambitions for all people in the county borough.

- 2.2 The scheme aims to help businesses to reduce their business rates charges for the period 01/04/23 – 31/03/24 in order to support continued occupation of High Street and provide financial assistance to retail, leisure and hospitality premises.

3. Background

- 3.1 The Welsh Government has announced a temporary extension of the Retail, Leisure and Hospitality Rates Relief Scheme for 2023-24 to support eligible occupied properties by offering a discount of 75% on non-domestic rates bills for such properties within the retail, leisure and hospitality sector. The scheme will apply to all eligible businesses; however, the relief will be subject to a cap on the amount each business can claim across Wales. The total amount of relief available is £110,000 across all properties occupied by the same business. All businesses are required to make a declaration that the amount of relief they are seeking across Wales does not exceed this cap, when applying to individual local authorities. Also, they will need to declare that they shall not receive more than £315,000 in total of Minimal Financial Assistance (MFA) over three years (financial years 2021-22 to 2023-24 inclusive). The Scheme

sets out the various categories of retail, leisure and hospitality premises that will benefit from relief. These are detailed in **Appendix A** of the report, but broadly the premises included are occupied shops, pubs and restaurants, gyms, performance venues and hotels across Wales.

- 3.2 The Scheme will be administered by the Council as a 'reimbursing local authority' that uses discretionary relief powers (under section 47 of the Local Government Finance Act 1988). It will be for individual local billing authorities to decide to grant relief under section 47, but Welsh Government will reimburse local authorities for the relief that is provided.
- 3.3 The Welsh Government is providing 75% rates relief for eligible properties for the year 2023-24.
- 3.4 The Retail, Leisure and Hospitality Rates Relief Scheme for 2023-24 will run alongside the Small Business Rates Relief Scheme. Small Business Rates Relief is awarded automatically on a maximum of 2 occupied properties in the same business name in any local authority area where the property has a rateable value under £12,000. There are around 3,200 businesses that receive Small Business Rates Relief.
- 3.5 It is estimated that, due to the limit of £110,000 per business across Wales, there will be in the region of 940 eligible ratepayers across the borough that could potentially benefit from having only 25% rates to pay for the year 2023-24 under this Scheme.

4. Current situation/proposal

- 4.1 The Council can elect to adopt the Scheme but does not have discretion over any elements of the Scheme. It is proposed that the Council adopts the Scheme for 2023-24 by making the appropriate determination and decision, as required by Sections 47(1) (a) and 47(3) respectively of the Local Government Finance Act 1988.
- 4.2 Full details of the Retail, Leisure and Hospitality Rates Relief Scheme for 2023-24 and the guidance on the application of the Scheme have been received from Welsh Government. If the Scheme is adopted, application forms will be made available on Bridgend County Borough Council's website for all qualifying ratepayers to apply. Due to the limit of £110,000 per business throughout Wales and the £315,000 in total of MFA over three years including 2023-23, Welsh Government have stated that this scheme will need to be administered on an application basis only.
- 4.3 The Chief Executive has delegated power (under Scheme B2 paragraph 2.19 of the Scheme of Delegation) to award relief to all qualifying businesses in accordance with the Non-domestic Rates Relief Scheme that may be eligible following receipt of the information requested by Welsh Government. It is intended that, upon receipt of a valid application form, the decision to award relief will be made by the Revenues Manager providing all terms of the Scheme are met.

5. Effect upon policy framework and procedures rules

5.1 There is no direct impact on the Council's policy framework and procedure rules.

6. Equality Act 2010 implications

6.1 An initial EIA screening has identified that there would be no negative impact on those with one or more of the protected characteristics, on socio-economic disadvantage or the use of the Welsh language. It is therefore not necessary to carry out a full EIA on this policy or proposal.

6.2 Once adopted, the Council is obliged to comply with the Welsh Government's rules in applying the Scheme. These are detailed in **Appendix A**.

7. Well-being of Future Generations (Wales) Act 2015 implications

7.1 The well-being goals identified in the Act were considered in the preparation of this report. It is considered that there will be no significant or unacceptable impacts upon the achievement of well-being goals/objectives as a result of this report.

8. Financial implications

8.1 There are no direct financial implications to the Council in adopting the scheme. The full value of the Retail, Leisure and Hospitality Rates Relief awarded will be reimbursed by the Welsh Government.

9. Recommendation

9.1 It is recommended that Cabinet:

- adopts the Welsh Government's Non-Domestic Rates Retail, Leisure and Hospitality Rates Relief Scheme for 2023-24 as detailed within **Appendix A**

Carys Lord

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2 March 2023

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Background documents: NONE

APPENDIX A

Resolution

(a) The Council determines that, unless hereditaments are excepted under (b) below, Section 47(1)(a) (discretionary relief) of the Local Government Finance Act 1988 will apply as regards the hereditaments described in 'The Scheme' in accordance with the rules described in relation to those hereditaments.

It is reasonable for the Council to make this decision having regard to the interests of persons liable to pay business rates set by the Council.

(b) Relief is not available under this resolution in respect of any hereditament which is occupied by -

- the Welsh Ministers, a Minister of the Crown or government department,
- any public authority (including any local authority),
- the holder of any public office, or
- the Crown

(c) The Council decides, under Section 47(3) of the Local Government Finance Act 1988, that during the billing year 2023-24 'The Scheme' shall apply to the hereditaments described..

The Scheme to be Adopted

Introduction

This relief is aimed at businesses and other ratepayers in Wales in the retail, leisure and hospitality sectors, for example shops, pubs and restaurants, gyms, performance venues and hotels.

The Welsh Government will provide grant funding to all 22 local authorities in Wales to provide the Retail, Leisure and Hospitality Rates Relief scheme to eligible businesses for 2023-24. The scheme aims to provide support for eligible occupied properties by offering a discount of 75% on non-domestic rates bills for such properties. The scheme will apply to all eligible businesses, however the relief will be subject to a cap in the amount each business can claim across Wales. The total amount of relief available is £110,000 across all properties occupied by the same business. All businesses are required to make a declaration that the amount of relief they are seeking across Wales does not exceed this cap, when applying to individual local authorities.

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 below.

Relief should be granted to each eligible business as a reduction to its rates bill based on occupation between 1 April 2023 and 31 March 2024. 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 business was in occupation on or after the 1 April 2023, the local authority may use its discretion in awarding relief.

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).

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)

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, eg. for theatre
- Dry cleaners
- Launderettes
- PC, TV or domestic appliance repair
- Funeral directors
- Photo processing
- DVD or video rentals
- Tool hire
- Car hire
- Estate and letting agents

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

We consider assembly and leisure to mean the following.

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

Hereditaments 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 the following.

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

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.

The grant of the relief is discretionary. Should local authorities decide to exercise their discretion not to apply the relief to eligible businesses, they may wish to consider taking their

own legal advice upon any potential consequential legal issues which might arise from such a decision and on a case by case basis.

Businesses may view that they have not faced substantial impacts from the recent economic pressures and as such may be inclined to not apply for the relief.

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

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.

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

- Financial services (eg. banks, building societies, cash points, ATMs, bureaux de change, payday lenders, betting shops, pawnbrokers)
- Medical services (eg. vets, dentists, doctors, osteopaths, chiropractors)
- Professional services (eg. solicitors, accountants, insurance agents, financial advisers, tutors)
- Post Office sorting offices
- Day nurseries
- Kennels and catteries
- Casinos and gambling clubs
- Show homes and marketing suites
- Employment agencies

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 listed under *Which properties will benefit from relief?*

Hereditaments that are not occupied

Properties that are not occupied on 1 April 2023 should be excluded from this relief. However, under the mandatory Empty Property Rates Relief, empty properties will receive a 100% reduction in rates for the first three months (and in certain cases, six months) of being empty.

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?

The total amount of government funded relief available for each property under this scheme for 2023-24 is 75% of the relevant bill. This is subject to a cap of £110,000 per business across all their properties in Wales.

The relief should be applied to the net bill remaining after mandatory reliefs (including discretionary elements that are fully or partly local authority funded) 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 grants). The reliefs to be applied before Retail, Leisure and Hospitality Rates Relief include categories of discretionary relief available prior to the Localism Act 2011 (eg rates relief for charities, community amateur sports clubs, non-profit organisations, hardship, empty properties). Local authorities may use their wider discretionary powers to offer further discounts outside this scheme or additional relief to hereditaments within the scheme. Where a local authority applies a locally funded relief under section 47 of the Local Government Finance Act 1988, this should be applied after the Retail, Leisure and Hospitality Rates Relief.

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 = $V \times 0.75$, where
- V is the daily charge for the hereditament for the chargeable day after the application of any mandatory relief and any 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).

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

Businesses who occupy more than one property will be entitled to Retail, Leisure and Hospitality Rates Relief for each of their eligible properties, within the cap of £110,000 per business across Wales.

A business with a single property with a remaining liability (after reliefs) greater than £146,665 can use the entire allocation of relief. No other properties owned by that business will be eligible for the scheme.

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, subject to the cap being applied.

Changes to existing hereditaments, including change in occupier

Empty properties becoming occupied after 1 April 2023 will qualify for this relief from the time of occupation.

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 if they operate in the retail, leisure or hospitality sectors, on a pro-rata basis. This will be calculated based on

the remaining days of occupation using the formula used in the section titled How much relief will be available?

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.

The Cash Cap and Subsidy Control

No ratepayer can, in any circumstances, exceed the £110,000 cash cap across all of their hereditaments in Wales. Where a ratepayer has a qualifying connection with another ratepayer, 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 where:

- both ratepayers are companies and one is a subsidiary of the other, or both are subsidiaries of the same company; or
- only one ratepayer is a company and the other ratepayer has such an interest in that company as would, if the other ratepayer were a company, result in its being the holding company of the other.

As of 4 January 2023, the new UK subsidy control regime commenced with the coming into force of the Subsidy Control Act 2022. The RLHRR scheme is likely to be a subsidy under the new regime. Any relief provided by local authorities under this scheme will need to comply with the UK's domestic and international subsidy control obligations.

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 2022 allows an economic actor (eg 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 two previous financial years). Previous iterations of the RLHRR scheme in Wales were not provided as a subsidy. Local authorities should ask the ratepayers, on a self-assessment basis, to declare as part of their application for RLHRR that they are not in breach of the cash cap or MFA limit.

It is the responsibility of the local authority to comply with all relevant subsidy control provisions, including MFA procedure and transparency requirements. More information is available in the UK statutory subsidy control [guidance](#) from the Department for Business, Energy and Industrial Strategy.

For further advice, the Subsidy Control Unit at the Welsh Government can be contacted at:

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