

SEVENOAKS DISTRICT COUNCIL

# BUSINESS RATES RETAIL RELIEF GUIDELINES

## **1. Introduction and purpose of the guidelines**

- 1.1 The Government announced in the Autumn Statement on 5 December 2013 that it would provide a relief of up to £1,000 to all occupied retail properties with a rateable value of £50,000 or less in each of the years 2014-15 and 2015-16.
- 1.2 As this is a measure for 2014-15 and 2015-16 only, the Government is not changing the legislation around the reliefs available to properties.
- 1.3 Government guidelines published in January 2014 set out the detailed criteria which Central Government will use to determine funding relief for retail properties.
- 1.4 The guidelines state that it will be for each billing authority to adopt a local scheme for retail relief and decide in each individual case when to grant relief under Section 47 of the Local Government Finance Act 1988 as amended by Section 69 of the Localism Act 2011.

The application and award criteria rules are set out below.

### 1.5 These guidelines:

- set out the criteria that will be used when making a decision to award or refuse relief;
- set out the delegated authority to award relief in appropriate circumstances as provided for in the Council's constitution;
- establish a review process for customers dissatisfied with the Council's decision.

### 1.6 These guidelines will apply to all decisions made on applications received by the Council in respect of 2014/15 and 2015/16.

## **2. General principles**

2.1 All decisions in respect of applications for retail rate relief will be taken by the Council in accordance with statutory requirements and with due regard to any guidance issued by the Secretary of State.

### **Requirement for Applications**

2.2 The Council will issue an application form to every business where it appears that the ratepayer may be eligible for retail rate relief.

2.3 Applications must be made on the form supplied by the Council. The form must be signed by the applicant or where the applicant is an organisation, by a person properly authorised to make an application on behalf of the organisation.

2.4 The application form must be returned even if, after considering the accompanying guidance notes, the applicant wishes to refuse the offer of retail relief.

2.5 The Council will request such supporting evidence as it considers necessary to enable the application to be properly assessed.

### **Financial impact of awards of retail relief**

2.6 The business rates retention systems requires the Council fund 40% of any discretionary relief granted with the remainder being shared between the Government and the major preceptors (excluding the Police).

2.7 The Government has committed to reimbursing billing authorities and those major precepting authorities within the rates retention system for the actual cost to them of any retail rate relief awarded that falls within the definitions given in the guidance referred to in paragraph 1.3.

### **Relationship to other forms of rate relief**

2.8 Retail rate relief is to be applied after all other reliefs have been applied.

### **Authority to award relief**

2.9 Decisions on the award or otherwise of retail rate relief will be taken by designated Officers under delegated authority (see paragraph 3.13)

### **Timescale for decisions**

2.10 The Council will aim to make a decision within four weeks of receiving the application and all supporting evidence considered necessary to enable the application to be considered.

## **Publication of decisions and Data Protection**

- 2.11 To ensure there is a fair and consistent approach to the award of retail rate relief, all applications will be considered with reference to these guidelines and the outcome of all applications will be published on the Council's website [www.sevenoaks.gov.uk](http://www.sevenoaks.gov.uk) Personal data will be will processed in accordance with the Data Protection Act 1998 and the publication of information will be compliant with the 1998 Act.

## **Reviews and Appeals**

- 2.12 These guidelines provide unsuccessful applicants with a review mechanism. Any challenge to the Council's decision would be by way of judicial review in the High Court.

- 2.13 A decision may only be reviewed on one or more of the following grounds:

- an inconsistent or inappropriately harsh decision;
- extenuating circumstances;
- significant procedural flaw(s) in the decision making process (it is incumbent on an unsuccessful applicant to specify precisely what the significant procedural flaw(s) consists of);
- new evidence subsequently coming to light

- 2.14 A request for the review of a decision must be made in writing to the Revenues Manager within four weeks of the date of the Council's decision letter. Reasons supporting each ground for review (see paragraph 2.13) must be fully set out. Any request for a review received outside of the four week period, will only be considered if the Council is satisfied that exceptional circumstances led to the delay in submitting the request.

Where the unsuccessful applicant is an organisation, the request for the review must be submitted by a person authorised on behalf of the organisation.

- 2.15 The reviewing officer (who will not be the same officer who made the original decision) will:

- consider the decision afresh having regard to the original documents submitted by the applicant and/or associated with the application;
- check that the decision has been made in accordance with the relevant sections in these guidelines;
- consider any new evidence submitted;
- consider whether an interview with the applicant is necessary;
- make a determination either:
  - upholding the original decision
  - substituting a revised decision
- prepare a written response for the applicant setting out the review decision and reasons.

- 2.16 The review decision will be issued within four weeks of the date of receipt by the Council of the review request. The review decision will be final.

### **Requirement to make payment of amounts falling due**

- 2.17 Business rate payments remain legally due and payable in accordance with the most recent bill, until such time as any relief is awarded. Applicants must therefore continue to pay any business rates that fall due whilst an application is pending. If payments are not kept up to date, the Council may continue with its normal recovery procedures to secure payment.

### **State Aid**

- 2.18 European Union competition rules restrict Government subsidies to businesses. Relief from taxes, including business rates, could be considered as state aid.
- 2.19 Retail rate relief for charities and non-profit making bodies is not normally considered state aid because the recipients are not in market competition with other businesses. However, if they are engaged in commercial activities, compete with commercial bodies or have a commercial partner, retail rate relief could constitute state aid. In such cases, it would be unlikely that an application for retail rate relief would be considered by the Council.
- 2.20 Retail rate relief will not be awarded in any circumstances where it appears that an award will result in the applicant receiving state aid above the current de minimis level. Each application must be accompanied by a signed statement setting out the amount of state aid, including but not limited to retail rate relief, which the applicant has received within the previous three years (of the application date). Applications will not be considered until this statement is received.

### 3. Properties intended to benefit from retail rate relief

3.1 Properties that will benefit from the relief will be **occupied** hereditaments with a rateable value of £50,000 or less, that are wholly or mainly being used as shops, restaurants, cafes and drinking establishments.

3.2 Mainly will be taken to mean that more than 50% of the property is being used as a shop, restaurant, café or drinking establishment.

3.3 The Government considers shops, restaurants, cafes and drinking establishments to mean:

**i) Hereditaments 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)

**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 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
- DVD/video rentals
- 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

3.4 The list below sets out the types of uses that the Government does not consider to be retail use for the purpose of retail rate relief:

**i) Hereditaments 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, payday lenders, betting shops and pawnbrokers)
- 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)
- Post office sorting office

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

3.5 The lists set out in paragraphs 3.3 and 3.4 are not exhaustive. Where the use of properties is not listed but is broadly similar in nature to those listed, relief will be awarded or refused as appropriate.

**The decision making process**

3.6 Each application will be considered on an individual basis.

3.7 The Council will notify the applicant of the decision in writing and where retail relief is refused, an explanation of the reasons why will be given.

3.8 The Council will not consider applications where the applicant has failed to provide a completed application form or where the State Aid declaration has not been completed. The applicant will be notified in writing that the application has been refused.

**Period of relief**

3.9 Retail rate relief will initially be awarded for 2014/15 only. Existing recipients will be asked to apply for relief for 2015/16 prior to the start of that financial year.

### **Calculation of retail rate relief**

- 3.10 The maximum retail rate relief is £1000.00 for each financial year. Where the net rate liability after all other reliefs have been applied is less than £1000.00, retail rate relief will be limited to the value of the net rate liability.
- 3.11 Where the rates bill reduces within the period of an award of discretionary retail rate relief, the relief will be reduced proportionately.
- 3.12 If the rates bill increases during the period of an award of discretionary retail rate relief will be increased subject to the maximum value of an award.

### **Authority to award relief**

- 3.13 The Revenues Manager shall be authorised to determine an application for retail rate relief in the following circumstances:

#### **Where the use of the property is clearly eligible for retail relief and either:**

- No state aid is declared and there is no reason to believe the declaration to be inaccurate
- State aid is declared but it falls within the de minimis limits

#### **Where the use of the property is clearly not eligible for retail relief and either**

- The ratepayer has refused the retail rate relief
- State aid has been declared above the de minimis limits

In all other cases, the authority to determine an application will fall to the Chief Officer for Finance.



## **4. Promotion of the availability of relief**

4.1 The Council will proactively promote the availability of discretionary retail rate relief in the following ways:

- Council staff will be made aware of these guidelines and will actively promote the availability of relief when responding to enquiries;
- Information regarding the availability of reliefs will be published on the Council's website [www.sevenoaks.gov.uk](http://www.sevenoaks.gov.uk);
- A copy of these guidelines will be made available on request by contacting [revenues@sevenoaks.gov.uk](mailto:revenues@sevenoaks.gov.uk) or by calling the Business Rates team on 01732 227000.

## **5. Review of these guidelines**

5.1 These guidelines will be reviewed periodically in order to ensure they remain valid, effective and relevant.