

SEVENOAKS DISTRICT COUNCIL

BUSINESS RATES
RETAIL DISCOUNT
GUIDELINES

1. Introduction and purpose of the guidelines

- 1.1 The Government announced in the Budget on 29 October 2018 that it would provide a business rates Retail Discount scheme for **occupied** retail properties with a rateable value of less than £51,000 in each of the years 2019/20 and 2020/21. The value of the discount will be one third of the net bill (see para 2.8 for details of interaction between reliefs).
- 1.2 On 30 November 2018 the Government produced detailed guidance which confirms that **occupied** properties below the rateable value threshold that are **wholly or mainly** used as shops, restaurants, cafes and drinking establishments will benefit from the Retail Discount.
- 1.3 The guidance states that it will be for each billing authority to adopt a local scheme for Retail Discount and decide in each individual case when to grant relief under Section 47 of the Local Government Finance Act 1988 (as amended).

The application and award criteria rules are set out below.

1.4 These guidelines:

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

1.5 These guidelines will apply to all decisions made on awards of Retail Discount in respect of 2019/20 and 2020/21.

2. General principles

1.6 All decisions in respect of awards of Retail Discount 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

1.7 The Council will not require a formal application but in the first instance will identify all ratepayers who appear to fit the qualifying criteria, as the intention is to make as many automatic awards as possible.

1.8 These guidelines will be published on the Council's website and any ratepayer that believes they may qualify for the Retail Discount can apply to be considered.

1.9 In cases where eligibility for the Retail Discount is in question, the Council will request such supporting evidence as it considers necessary to enable the application to be properly assessed (including a visit to the property).

Financial impact of awards of retail relief

1.10 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).

1.11 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 Discount awarded that falls within the definitions given in the guidance referred to in paragraph 1.2.

Relationship to other forms of rate relief

1.12 Retail Discount will be applied after all other mandatory reliefs and Government funded discretionary reliefs have been accounted for. Locally funded reliefs such as Hardship Relief and Town Centre Discretionary Relief will be applied after the Retail Discount.

Authority to award Retail Discount

1.13 Decisions on the award or otherwise of Retail Discount will be taken by Officers under delegated authority (see paragraph 3.12)

Publication of decisions and Data Protection

1.14 To ensure there is a fair and consistent approach to the award of Retail Discount, all cases will be considered with reference to these guidelines and the award of Retail Discount will be published on the Council's website www.sevenoaks.gov.uk

The Council publishes the following details:

- in the case of sole traders, property address, rateable value, type of relief, period of relief and amounts;
- in the case of companies, charities, LLP and other incorporated bodies, names, billing address, property address, rateable value, type of relief, period of relief and amounts.

The Council's Privacy Notice and General Data Protection Policy at www.sevenoaks.gov.uk/info/20044/transparency_and_freedom_of_information/383/privacy_notice_and_general_data_protection_policy/4 explains how it processes personal information.

Reviews and Appeals

1.15 These guidelines provide applicants who are refused Retail Discount with a review mechanism.

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.

1.16 A request for the review of a decision must be made in writing to the Business Rates Manager within four weeks of the date of the Council's decision letter. Reasons supporting each ground for review (see paragraph 2.10) 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 a company, charity or other incorporated body, the request for the review must be submitted by a person authorised to do so on their behalf.

1.17 The reviewing officer (not involved in the original decision and senior to the officer who made the original decision) will:

- consider the decision afresh having regard to the original information submitted by the applicant;
- 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.

1.18 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.

1.19 Any challenge to the Council's decision is by way of judicial review in the High Court.

Requirement to make payment of amounts falling due

1.20 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 a decision on their Retail Discount 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

1.21 European Union competition rules restrict Government subsidies to businesses. Relief from taxes, including business rates, may be considered as State Aid.

Retail Discounts will be provided to eligible occupied retail properties with a rateable value of less than £51,000 in 2019/20 and 2020/21. Current rates bills include the Retail Discount.

Awards such as Retail Discount are required to comply with the EU law on State Aid. In this case, this involves returning a 'de minimis declaration' to the Council where any other de minimis State Aid has been received, including any other Retail Discount being granted for premises other than the one to which the rates bill relates, confirming that the award of Retail Discount does not exceed the €200,000 that can be received under the de minimis Regulations EC 1407/2013.

In declaring previous de minimis State Aid, the Council is only interested in public support, which is de minimis aid (State Aid received under other exemptions or public support, which is not State Aid, does not need to be declared).

If any other de minimis State Aid has not been received, including any other Retail Discount being granted for premises other than the one to which the rates bill relates, the 'de minimis declaration' does not need to be completed.

If the Retail Discount granted in relation to the premises to which the rates bill relates, is being refused (particularly relevant to those premises that are part of a large retail chain, where the cumulative total of Retail Discount received could exceed €200,000) the 'Refusal of Retail Discount' form is to be completed and returned to the Council. The 'de minimis declaration' does not need to be completed.

Where Retail Discount is refused, reference to Retail Discount will be removed from the business rate account.

Information on State Aid must be supplied to any other public authority, the European Commission or agency asking for information on 'de minimis' aid for the next three years.

- 1.22 Retail Discount 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 Discount could constitute State Aid.

3. Properties intended to benefit from Retail Discount

1.23 Properties that benefit from the Retail Discount will be occupied hereditaments with a rateable value of less than £51,000, that are wholly or mainly i.e. where more than 50% of the property is being used as shops, restaurants, cafes and drinking establishments.

1.24 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 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
- 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

1.25 The list below sets out the types of uses that the Government does not consider to be retail use for the purpose of Retail Discount:

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

iii) The following are also considered by Government to be outside of the scope of Retail Discount

- Cinemas
- Theatres
- Museums
- Nightclubs
- Music Venues
- Hereditaments used for sport or physical recreation (e.g.gyms)

1.26 The lists set out in paragraphs 3.2 and 3.3 are not exhaustive. Where the use of properties is not listed but is broadly similar in nature to those listed, Retail Discount will be awarded or refused as appropriate.

The decision making process

1.27 Each case will be considered on an individual basis and on its merits.

1.28 The Council will notify the applicant of the award and where Retail Discount is refused an explanation of the reasons for refusal will be given.

Period of discount

1.29 Retail Discount will be automatically awarded initially for 2019/20 only. For 2020/21, the Council will follow the same process to consider eligibility. All applicants must make the 'de minimis declaration' as they will be in receipt of some form of State Aid (see paragraph 2.16 above).

Calculation of Retail Discount

1.30 The maximum Retail Discount is one third of the net business rates for each financial year, after the award of mandatory and Government funded discretionary reliefs (see para 2.7). Where the net rate liability after the application of all other reliefs is zero (e.g. full Small Business Rates Relief has been applied), no Retail Discount applies.

1.31 Where the rates bill reduces within the period of an award of discretionary retail rate relief, the relief will be reduced proportionately.

1.32 If the rates bill increases during the period of an award of discretionary retail rate relief, the relief will be increased proportionately. If the rateable value increases beyond the qualifying threshold of £51,000, full rates will be due from the date the rateable value exceeds the threshold.

1.33 If the property becomes empty, full empty rates will be due after any appropriate period of exemption.

Authority to award relief

1.34 The Business Rates Manager and Business Rates Team Leader are authorised to award or refuse Retail Discount in the following circumstances:

- Where the **use** of the property is clearly eligible for Retail Discount and there is no reason to believe that State Aid De Minimis limits are likely to be exceeded
- Where the **use** of the property is clearly not eligible for Retail Discount
- Where the **use** of the property was initially in doubt (due to the need to be wholly or mainly used for a qualifying purpose) but investigations have indicated that the use is eligible and there is no reason to believe that State Aid De Minimis limits are likely to be exceeded
- Where the applicant has returned a 'Refusal of Retail Discount' form or a 'de minimis declaration'.

In all other cases, the authority to determine an application is delegated to the Chief Finance Officer.

4. Promotion of the availability of relief

4.1 The Council will proactively promote the availability of Retail Discount in the following ways:

- Council staff will be made aware of these guidelines and will actively promote the availability of Retail Discount when responding to enquiries;
- Information regarding the availability of reliefs will be published on the Council's website www.sevenoaks.gov.uk;

A copy of these guidelines will be made available on request by contacting revenues@sevenoaks.gov.uk or by calling the Business Rates team on 01732 227000. Calls via Typetalk are welcomed.

If required the guidelines can be made available in large print, audio, Braille, alternative format or in a different language.

5. Complaints

1.1 Applicants who are dissatisfied with the standard of service are encouraged to initially raise their complaint directly and informally with the Business Rates team via revenues@sevenoaks.gov.uk or by calling on 01732 227000.

Applicants, who remain dissatisfied, may make a formal complaint under the Council's Corporate Complaints Procedure.

Guidance on how to complain can be found at www.sevenoaks.gov.uk/info/20043/complaints_and_compliments/110/complaints

6. Review of these guidelines

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