

SEVENOAKS DISTRICT COUNCIL

RETAIL, HOSPITALITY
AND LEISURE
BUSINESS RATES
RELIEF SCHEME

2022/2023

1. Introduction

- 1.1 The Government announced in the Budget on 27 October 2021 that it would provide a business rates relief scheme for **eligible** retail, hospitality and leisure properties for 2022/2023.
- 1.2 The value of the relief for 2022/2023 is 50% of the net rates liability, up to a cash cap limit of **£110,000 per business** (see para 2.11 for details of interaction between reliefs).
- 1.3 Government guidance states that it will be for each billing authority to adopt a local scheme for Retail, Hospitality and Leisure Business Rates Relief and decide in each individual case when to grant relief under Section 47 of the Local Government Finance Act 1988 (as amended).
- 1.4 This document:
- sets out the criteria that will be used when making a decision to award or refuse Retail, Hospitality and Leisure Business Rates Relief for 2022/2023;
 - sets out the delegated authority to award relief in appropriate circumstances as provided for in the Council's constitution;
 - establishes a review process for customers dissatisfied with the Council's decision.
- 1.5 All decisions made on awards of Retail, Hospitality and Leisure Business Rates Relief in respect of 2022/2023 will comply with these criteria.

2. General principles

2.1 All decisions in respect of awards of Retail, Hospitality and Leisure Business Rates 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 not require a formal application but in the first instance will identify all ratepayers who appear to fit the qualifying criteria.

2.3 In those cases where it is clear to the Council that the ratepayer is likely to breach the cash cap or the Small Amounts of Financial Assistance limit then the relief will be withheld.

2.4 Ratepayers identified as potentially eligible for relief will be contacted and invited to complete a declaration, either:

- Accepting the relief and declaring compliance with the cash cap and subsidy exemption threshold (see paras 2.20 – 2.23), or
- Refusing the relief because the cash cap or the subsidy exemption threshold has been exceeded.

2.5 This document will be published on the Council's website and any ratepayer that believes they may qualify for the Retail, Hospitality and Leisure Business Rates Relief can apply to be considered.

2.6 In cases where eligibility for the Retail, Hospitality and Leisure Business Rates Relief is in question, the Council will request such supporting evidence as it considers necessary to enable the application to be properly assessed.

Refusing the relief

2.7 Ratepayers may refuse the relief for each eligible property anytime up to 30 April 2023. Refusals cannot be withdrawn for either all or part of the financial year.

2.8 For the purposes of section 47 of the 1988 Act, hereditaments where the ratepayer has refused the relief are outside of the scheme and outside of the scope of the decision of which hereditaments qualify for the discount and are therefore ineligible for the relief.

Financial impact of awards of Retail, Hospitality and Leisure Business Rates Relief

2.9 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).

2.10 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, Hospitality and Leisure Business Rates Relief awarded that falls within the definitions given in the guidance referred to in paragraph 1.3.

Relationship to other forms of rate relief

2.11 Retail, Hospitality and Leisure Business Rates Relief will be applied after all other mandatory reliefs and Government funded discretionary reliefs have been accounted for. Locally funded reliefs such as Hardship Relief will be applied after the Retail, Hospitality and Leisure Business Rates Relief.

Authority to award Retail, Hospitality and Leisure Business Rates Relief

2.12 Decisions on the award or otherwise of Retail, Hospitality and Leisure Business Rates Relief will be taken by Officers under delegated authority (see paragraph 3.12)

Reviews and Appeals

2.13 These guidelines provide applicants who are refused Retail, Hospitality and Leisure Business Rates Relief with a review mechanism.

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

- an inconsistent or inappropriately harsh decision;
- 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 Business Rates Manager within four weeks of the date of the Council's decision letter. Reasons supporting each ground for review (see paragraph 2.12) 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.

2.15 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.

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.

2.17 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

2.18 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, Hospitality and Leisure Business Rates Relief application is pending. If payments are not kept up to date, the Council may continue with its normal recovery procedures to secure payment.

The cash cap

2.19 Under the cash cap, no ratepayer can in any circumstances exceed the £110,000 cash cap across **all of their hereditaments in England**.

2.20 Where ratepayer has a qualifying connection with another ratepayer then they shall be treated as one ratepayer for the purposes of the cash cap.

A qualifying connection exists where both ratepayers are companies, and one is a subsidiary of the other or both are subsidiaries of the same company.

Where only one ratepayer is a company, a qualifying connection can exist if the second ratepayer has such an interest in the company that, if it were incorporated, it would result in its being the holding company of the other.

Subsidy Controls

2.21 The Retail, Hospitality and Leisure Business Rates Relief Scheme is likely to amount to a subsidy. Any relief provided by local authorities under this scheme will need to comply with the UK's domestic and international subsidy control obligations (See the BEIS guidance for public authorities which explains the subsidies chapter of the UK-EU Trade and Cooperation Agreement (TCA), World Trade Organisation rules on subsidies, and other international subsidy control commitments).

2.22 To the extent that a local authority is seeking to provide relief that falls within the Small Amounts of Financial Assistance Allowance, Article 364 of the TCA allows an economic actor (e.g. a holding company and its subsidiaries) to receive up to 325,000 Special Drawing Rights (£343,000 as at 9 December 2021) in a three-year period (consisting of the 2022/23 year and the two previous financial years). Expanded Retail Discount granted in either 2020/21 or 2021/22 does not count towards the £343,000 allowance but BEIS business grants (throughout the 3 years) and any other subsidies claimed under the Small Amounts of Financial Assistance limit should be counted.

3. Properties intended to benefit from Retail, Hospitality and Leisure Business Rates Relief

3.1 Properties that benefit from the Retail, Hospitality and Leisure Business Rates Relief will be **occupied** hereditaments that are wholly or mainly i.e. where more than 50% of the property is being used:

- as shops, restaurants, cafes, drinking establishments, cinemas or live music venues,
- for assembly and leisure; or
- as hotels, guest & boarding premises or self-catering accommodation.

3.2 The Government considers 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 florist, 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 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 that 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 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 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. Guidance may be found in Chapter 16 of the statutory guidance issued in April 2018 under section 182 of the Licensing Act 2003.

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/705588/Revised_guidance_issued_under_section_182_of_the_Licensing_Act_2003_April_2018_.pdf

3.3 The Government considers assembly and leisure to mean:

- i) **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).**
- Sports grounds and clubs
 - Museums and art galleries
 - Nightclubs
 - Sport and leisure facilities

- Stately homes and historic houses
- Theatres
- Tourist attractions
- Gyms
- Wellness centres, spas, massage parlours
- Casinos, gambling clubs and bingo halls

ii) Hereditaments that are being used for the assembly of visiting members of the public.

- Public Halls
- Clubhouses, clubs and institutions

3.4 The Government consider hotels, guest & boarding premises and self-catering accommodation to mean:

i) 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

3.5 The list below sets out the types of uses that the Government does not consider to be retail use for the purpose of Retail, Hospitality and Leisure Business Rates 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, bureaux de change, short-term loan providers betting shops)
- Medical services (e.g. vets, dentists, doctors, osteopaths, chiropractors)
- Professional services (e.g. solicitors, accountants, insurance agents/financial advisers, employment agencies, estate agents, letting agents)
- Post Office sorting offices

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

3.6 The lists set out in paragraphs 3.2, 3.3, 3.4 and 3.5 are not exhaustive. Where the use of properties is not listed but is broadly similar in nature to those listed, Retail, Hospitality and Leisure Business Rates Relief will be awarded or refused as appropriate.

The decision making process

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

3.8 The Council will notify the applicant of the award and where Retail, Hospitality and Leisure Business Rates Relief is refused an explanation of the reasons for refusal will be given.

Period of discount

3.9 Retail, Hospitality and Leisure Business Rates Relief will be awarded for 2022/2023 only.

Calculation of Retail Discount

3.10 The maximum Retail, Hospitality and Leisure Business Rates Relief is 50% of the net business rates for 2022/2023, after the award of mandatory and Government funded discretionary reliefs (see para 2.11). 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, Hospitality and Leisure Business Rates Relief applies.

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, the relief will be increased proportionately.

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

Authority to award relief

3.14 The Business Rates Manager and Business Rates Team Leader are authorised to award or refuse Retail, Hospitality and Leisure Business Rates Relief in the following circumstances:

- Where the **use** of the property is clearly eligible for Retail, Hospitality and Leisure Business Rates Relief
- Where the **use** of the property is clearly not eligible for Retail, Hospitality and Leisure Business Rates Relief
- 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

In all other cases, the authority to determine an application is delegated to the Deputy Chief Executive Chief Officer – Customer and Resources.

4. Promotion of the availability of relief

4.1 The Council will proactively promote the availability of Retail, Hospitality and Leisure Business Rates Relief in the following ways:

- Council staff will be made aware of these guidelines and will actively promote the availability of Retail, Hospitality and Leisure Business Rates Relief 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

5.1 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 the Retail, Hospitality and Leisure Business Rates Relief Scheme

6.1 The scheme will be reviewed periodically in order to ensure it remains valid, effective and relevant.