

DECISION NOTICE OF AN INDIVIDUAL MEMBER OF GWYNEDD COUNCIL CABINET

DATE OF DECISION 20 May 2020

DATE DECISION PUBLISHED 20 May 2020

DATE DECISION WILL COME INTO FORCE and implemented,
unless the decision is called in, in accordance with section 7.25 of
the Gwynedd Council Constitution **27 May 2020**

Councillor Ioan Thomas, Cabinet Member for Finance

SUBJECT

Local Discretionary Scheme to provide Non Domestic Rate Relief following receipt of a specific grant.

DECISION

To adopt a Local Discretionary Scheme to provide Non Domestic Rate Relief following receipt of a specific grant.

Adopt a **Local Discretionary Scheme to provide Retail, Leisure and Hospitality Rates Relief** for 2020/21 that applies relief to every retail hereditament in Gwynedd, as defined within the Welsh Government guidance'

REASON WHY THE DECISION IS NEEDED

Please see attached officer report

DECLARATIONS OF PERSONAL INTEREST AND ANY RELEVANT DISPENSATIONS APPROVED BY THE COUNCIL'S STANDARDS COMMITTEE

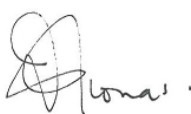
None

ANY CONSULTATIONS UNDERTAKEN PRIOR TO MAKING THE DECISION

Consultation with
Gwynedd Council Statutory Officers

The results of the consultations are reported upon in the attached report

**DECISION NOTICE OF AN INDIVIDUAL MEMBER OF GWYNEDD COUNCIL
CABINET – OFFICER REPORT**

Name and title of Cabinet Member/s:	Councillor Ioan Thomas, Cabinet Member for Finance
Name and title of Report Author :	Dewi Morgan, Assistant Head of Finance (Revenues and Risk)
Date of Decision :	20/05/2020
Signature of Cabinet Member/s :	

Subject :

Local Discretionary Scheme to provide Non Domestic Rate Relief following receipt of a specific grant.

Recommendation for the Decision :

Adopt a **Local Discretionary Scheme to provide Retail, Leisure and Hospitality Rates Relief** for 2020/21 that applies relief to every retail hereditament in Gwynedd, as defined within the Welsh Government guidance (found in the Appendix).

Reason why Decision is needed :

The Welsh Government has agreed to provide grant funding to the 22 Billing Authorities to deliver a Retail, Leisure and Hospitality Rates Relief scheme to eligible ratepayers. A decision is needed because technically, under the requirements of Section 47 of the Local Government Finance Act 1988, every individual billing authority needs to introduce its own local scheme, despite this relief scheme being a Welsh Government initiative.

Background

In general, two factors are used to calculate the annual business rates bill:

$$\text{Business Rates bill} = \text{Rateable Value} \times \text{National multiplier}$$

The Valuation Office Agency (VOA) is part of HM Revenue and Customs, with a statutory function of assessing all business and non-domestic premises in England and Wales to determine their rateable value and place these in rating lists so that the relevant local authorities can charge the business rates.

The Welsh Government already has a scheme that offers Rates Relief to Small Business. With a few exceptions, this scheme offers full business rates relief on properties with a rateable value of less than £6,000, and tapered partial relief on properties with a rateable value of £6,001 up to £12,000.

In response to the Covid-19 crisis, the Minister for Finance and Trefnydd has announced the expansion of existing relief schemes on a temporary basis for 2020/21.

Retail, Leisure and Hospitality Rates Relief Scheme

The Retail, Leisure and Hospitality Rates Relief Scheme aims to provide support for eligible retail businesses by offering full relief on the non-domestic rates of eligible properties.

Since almost every relevant property with a rateable value of £6,000 or less already receives full Small Business Rates Relief and pays no rates, the ratepayers eligible for the Retail, Leisure and Hospitality Rates Relief Scheme will be relevant businesses in properties with a rateable value between £6,001 and £500,000.

The Welsh Government guidance is found in the Appendix. They detail the type of businesses that should be eligible for the support, and which ones are not, but there is recognition in the guidance itself that it cannot be exhaustive, and local authorities must use their wisdom when deciding whether a property is eligible for the relief.

Reason and justification behind the Decision :

Over 4,500 out of approximately 7,500 hereditaments in Gwynedd are already eligible for full Small Business Rates Relief in 2020/21.

Nevertheless, the opportunity to offer support to retail businesses is one that offers clear support for businesses in Gwynedd. We will issue the relief on the bills of eligible businesses and an application will not be needed.

We estimate that 1,603 businesses in Gwynedd will take advantage of this scheme, receiving a total of £17,663,715 of relief.

Funding Source

The grant will finance 100% of the rate relief for the businesses that qualify.

Declarations of personal interest by any Cabinet Member consulted with and any relevant dispensations approved by the Standards Committee

None

Any consultations undertaken prior to making the decision :

Head of Finance – I have worked with the Cabinet Member in preparing this notice and can confirm the accuracy of its content.

Monitoring Officer – The report highlights that this decision implements a scheme Financed by the Welsh Government for Non Domestic rates relief, It confirms that the scheme will be implemented in accordance with Government guidance which sets out quite detailed parameters in relation to qualification. I am therefore content with the propriety of the recommendation.

Local Member/s - The overall scheme is not considered to be a local matter.



Llywodraeth Cymru
Welsh Government

Non-Domestic Rates

Retail, Leisure and Hospitality Rates Relief in Wales – 2020-21

Guidance

Contents

About this guidance.....	1
Introduction	1
Retail, Leisure and Hospitality Relief Scheme.....	2
How will the relief be provided?	2
How will the scheme be administered?	2
Which properties will benefit from relief?.....	2
How much relief will be available?	5
Changes to existing hereditaments, including change in occupier.....	6
State Aid	6

Non-Domestic Rates – Retail, Leisure and Hospitality Rates Relief

Guidance

About this guidance

1. This guidance is intended to support county and county borough councils (“local authorities”) in administering the Retail, Leisure and Hospitality Rates Relief scheme (“the relief”). On 18 March, the Minister for Finance and Trefnydd announced the expansion of the relief on a temporary basis for 2020-21. This guidance applies to Wales only.
2. This guidance sets out the criteria which the Welsh Government will use to determine the funding for local authorities for relief provided to retail, leisure and hospitality properties. The guidance does not replace any existing non-domestic rates legislation or any other relief.
3. Enquiries about the scheme should be sent to:
localtaxationpolicy@gov.wales
4. The relief is being offered from 1 April 2020 and will be available until 31 March 2021.

Introduction

5. This relief is aimed at businesses in Wales in the retail, leisure and hospitality sectors, for example shops, pubs and restaurants, gyms, performance venues and hotels.
6. The Welsh Government will provide grant funding to the 22 local authorities in Wales to provide the Retail, Leisure and Hospitality Rates Relief scheme to eligible ratepayers for 2020-21. The scheme aims to provide support for eligible occupied properties by offering a discount of 100% on the non-domestic rates bill for a property, to all eligible premises. The scheme will apply to all eligible ratepayers with a rateable value of £500,000 or less.
7. This document provides guidance on the operation and delivery of the scheme.

Section 1

Retail, Leisure and Hospitality Rates Relief

How will the relief be provided?

8. As this is a temporary measure, we are providing the relief by reimbursing local authorities that use their discretionary relief powers under section 47 of the Local Government Finance Act 1988. It will be for individual local authorities to adopt a scheme and decide in each individual case when to grant relief under section 47. The Welsh Government will reimburse local authorities for the relief that is provided in line with this guidance via a grant under section 31 of the Local Government Act 2003 and 58A of the Government of Wales Act 2006.

How will the scheme be administered?

9. It will be for local authorities to determine how they wish to administer the scheme to maximise take-up and minimise the administrative burden for ratepayers and for local authority staff.
10. Local authorities are responsible for providing ratepayers with clear and accessible information on the details and administration of the scheme. If, for any reason, an authority is unable to provide this relief to eligible ratepayers from 1 April 2020, consideration should be given to notifying eligible ratepayers that they qualify for the relief and that their bills will be recalculated.

Which properties will benefit from relief?

11. 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 in paragraphs 13 to 20.
12. Relief should be granted to each eligible business as a reduction to its rates bill based on occupation between 1 April 2020 and 31 March 2021. 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 ratepayer was in occupation on or after the 1 April 2020, the local authority may use its discretion in awarding relief.
13. 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).
 - i. **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)

ii. 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
- Cinemas
- Estate and letting agents

iii. 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

14. We consider 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) 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,

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

- Public halls,
- Clubhouses, clubs and institutions

15. We 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

Other considerations

16. 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.

17. 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.

18. As the grant of the relief is discretionary, local authorities may choose not to grant the relief if they consider that appropriate, for example where granting the relief would go against the local authority's wider objectives for the local area.

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

19. Any hereditament with a rateable value over £500,000.

20. 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.

i. 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, pawn brokers),
- Medical services (eg. vets, dentists, doctors, osteopaths, chiropractors),
- Professional services (eg. solicitors, accountants, insurance agents, financial advisers, tutors),
- Post Office sorting offices
- Children's play centres
- Day nurseries
- Kennels and catteries
- Casino and gambling clubs
- Show homes and marketing suites
- Employment agencies

There are a number of further types of hereditament which the Welsh Government believes should not be eligible for the relief.

ii. 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 in paragraphs 13 to 15.

iii. Hereditaments that are not occupied

Properties that are not occupied on 1 April 2020 should be excluded from this relief. However, under the mandatory Empty Property Relief, empty properties will receive a 100% reduction in rates for the first three months (and in certain cases six) of being empty.

iv. 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?

21. The total amount of government funded relief available for each property under this scheme for 2020-21 is 100% of the remaining bill, after mandatory reliefs 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 grants¹. Retail, Leisure and Hospitality Rates Relief should be applied against the net bill after other reliefs have been applied.

22. 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 , 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.

23. This should be calculated ignoring any prior-year adjustments in liabilities which fall to be liable on the day.
24. Ratepayers who occupy more than one property will be entitled to Retail, Leisure and Hospitality Rates Relief for each of their eligible properties.
25. 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.

Changes to existing hereditaments, including change in occupier

26. Empty properties becoming occupied after 1 April 2020 will qualify for this relief.
27. 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 on a pro-rata basis based on the remaining days of occupation using the formula in paragraph 22 of this guidance.
28. 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.

State Aid

29. Whilst the UK left the EU on 31 January 2020, the Withdrawal Agreement negotiated by the UK Government and the EU provides that during a transition period State Aid rules will continue to apply as now and will be subject to control by the EU Commission as at present.
30. The UK Government has notified the EU of its intention to bring forward an immediate change to the UK's tax treatment of non-domestic property, in response to the ongoing Covid-19 emergency, and to seek clearance under Article 107(3)(b) of the Treaty on the Functioning of the European Union. Subject

¹ As required in the NDR3 guidance notes, the former categories of discretionary relief prior to the Localism Act 2011 (ie. charitable/CASC top-up) should be applied first in the sequence of discretionary reliefs and, therefore, before the retail, leisure and hospitality rates relief.

to this approval, the Expanded Retail Discount Scheme will become a notified state aid scheme. Once the notification has been approved by the European Commission, it will supersede the de minimis regulation as the appropriate cover for awarding the discount, meaning existing de Minimis limits will no longer restrict the provision of support.