

The London Borough of Harrow's

Discretionary Retail Rate Relief Policy For 2024/25 Financial Year

This policy will replace any previous Retail Relief policies adopted

Introduction

Since 2019/20 the government has provided a Business Rates Retail Discount for Retail properties which, for 2020/21, it expanded, to include the leisure and hospitality sectors, in view of the evolving impact of the Covid 19 pandemic. On 17th November 2022, the Government announced that the extended scheme open to Retail, Hospitality and Leisure sector businesses, would continue from 1st April 2023, and be increased from 50% relief, in 2022/23, to 75% for 2023/24. In the Autumn Statement on 22nd November 2023, the Government announced that the extended scheme would continue from 1st April 2024 at 75% relief.

As the relief is a temporary measure for 2024/25 only, the government is not changing the legislation relating to the reliefs available to properties. Instead, the Government will reimburse local authorities that use their discretionary relief powers under section 47 of the Local Government Finance Act 1988 (as amended) to grant relief.

The scope of the relief returned to pre-COVID 19 eligibility criteria for Retail properties from 1st April 2022, but premises used for Hospitality and Leisure businesses, will remain in scope, as per the Expanded Retail Discount scheme that existed for 2020/21 2021/22, 2022/23 and 2023/24.

The level of relief will be 75% but, will be capped at a maximum amount of £110,000 per business. There will be no rateable value threshold limit, as there was in the pre-COVID 19 scheme, which limited entitlement to those properties with a rateable value of below £51,000.

This document sets out the Council's policy regarding the local discretionary Retail Relief Scheme for the financial year 1 April 2024 to 31 March 2025.

This policy is in accordance with the announcement made by Central Government on 22nd November 2023.

For the year 2024-25 the value of relief will be 75% for the period 1st April 2024 to 31st March 2025.

The Local Discretionary Retail Relief Scheme

This specific Local Discretionary Business Rate Retail Relief Scheme will apply for the year 2024/25 (i.e., 1 April 2024 to 31 March 2025). Under the scheme, support will be provided where the qualifying conditions are met on any day within that period, as set out below.

1. Which properties will benefit from relief?

Properties qualifying for relief under the scheme will be occupied hereditaments with a rateable value exceeding £1, that are wholly or mainly being used for a qualifying purpose of retail, hospitality or leisure.

The ratepayer must also not have refused the discount for the eligible hereditament. The ratepayer may refuse the discount for each eligible hereditament at any time up to 30 April 2025. A ratepayer cannot withdraw their refusal for either all or part of the financial year.

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

In accordance with the statutory provisions contained within section 47(8A) of the Local Government Finance Act 1988, local government hereditaments are excluded from this scheme. As such, the billing authority may not grant the discount to itself or a major precepting authority. A “major precepting authority” includes fire, police and parish councils or a functional body, within the meaning of the Greater London Authority Act 1999.

Hereditaments that meet the eligibility for Retail, Hospitality and Leisure scheme will be occupied hereditaments which are compliant with all the following conditions for the chargeable day:

- a) they are wholly or mainly being used:
 - i. as shops, restaurants, cafes, drinking establishments, cinemas or live music venues
 - ii. for assembly and leisure; or
 - iii. as hotels, guest & boarding premises, or self-catering accommodation

We consider shops, restaurants, cafes, drinking establishments, cinemas, and live music venues to mean the following:

i. Hereditaments that are being used for the sale of goods to visiting members of the public:

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- Shops (such as: florists, 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 which 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 for the purpose of

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business rates relief 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/supply 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. Although we would expect this would be clear in most circumstances, guidance on this may be found in [Chapter 16 of the statutory guidance \(https://www.gov.uk/government/publications/explanatory-memorandum-revised-guidanceissued-under-s-182-of-licensing-act-2003\)](https://www.gov.uk/government/publications/explanatory-memorandum-revised-guidanceissued-under-s-182-of-licensing-act-2003) issued in April 2018 under section 182 of the Licensing Act 2003.

Assembly and leisure is considered 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

Hotels, guest & boarding premises, and self-catering accommodation are considered 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

To qualify for relief, the hereditament should be wholly or mainly being used for the above qualifying purposes. In a similar way to other reliefs (such as charity relief for example), the test will be applied to “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.

The list set out above is not intended to be exhaustive as it would be impossible to list the many and varied retail uses that exist. There will also be mixed uses. However, it is intended to be a guide for Harrow for the purposes of the scheme. Particular properties not listed, but broadly similar in nature to those above, may be considered eligible for the relief. However, any decision made by Harrow will be final.

2. Exclusions

The list below sets out the types of uses that the Government, and therefore Harrow, does not consider to be eligible for a reduction and which will not be eligible to apply under Harrow’s scheme. Any properties similar to those below, will therefore also not be eligible for the relief under Harrow’s local scheme.

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.

Additionally, no applications shall be awarded a reduction under this scheme where they relate to Show flats, Advertising Rights, Car parks and car park spaces, Communication stations and masts, land used for storage, and properties in the process of being redeveloped for domestic use, as these hereditaments are also specifically excluded under this scheme.

3. How much relief will be available?

Subject to the £110,000 cash cap per business, the total amount of government-funded relief available for each property for 2024/25 under this scheme is:

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a. For chargeable days from 1 April 2024 to 31 March 2025, 75% of the chargeable amount.

The relief should be applied after mandatory reliefs and other discretionary reliefs funded by section 31 grants have been applied but before those where the local authority has used their wider discretionary powers introduced by the Localism Act 2011, which are not funded by Section 31 grants.

However, as required in the NNDR3 return guidance notes, the former categories of discretionary relief available prior to the Localism Act 2011 (i.e., charitable / CASC / rural etc. top up and not for profit) should be applied first in the sequence of discretionary reliefs and, therefore, before Retail, Hospitality and Leisure relief.

Authorities may use their discretionary powers to offer further discounts outside this scheme or additional relief to hereditaments within the scheme. However, where an authority applies a locally funded relief under section 47, this should be applied after the Retail, Hospitality and Leisure relief.

Subject to the cash cap of £110,000, eligibility for the discount and the relief itself under the scheme, will be assessed and calculated applying the following formula:

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 funded by section 31 grants as set out within this scheme policy and subject to the order of application and calculation below.

The calculation will disregard any prior year adjustments in liabilities which fall to be liable on the day in question.

For the purposes of clarity, the order of applying and calculating relief will be as follows:

- 1) Transitional Relief
- 2) Mandatory Relief (as determined in legislation)
- 3) Section 47 discretionary reliefs in the following order
 - i. 2024 Supporting Small Business (SSB)
 - ii. Former categories of discretionary relief available before the Localism Act 2011 (i.e., charitable, CASC and rural top up, not for profit)
 - iii. Other discretionary (centrally funded)
 - iv. 2024/25 Retail Hospitality and Leisure relief scheme
 - v. Other locally funded schemes

Ratepayers that occupy more than one property will be entitled to relief for each of their eligible properties, subject to Subsidy Control Limits.

4. Limits – Cash Cap and Subsidy Control

Under the Cash Cap, no ratepayer can, in any circumstances, exceed a £110,000 cash cap across all of their hereditaments in England. Where a ratepayer has a

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qualifying connection with another ratepayer then those ratepayers should be considered as one ratepayer for the purpose of the cash caps. A ratepayer shall be treated as having a qualifying connection with another:

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

The Retail, Hospitality and Leisure Scheme is likely to amount to 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 contains guidance and information of the new UK subsidy control regime which commenced on 4th January 2023

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 allows an economic actor (e.g., a holding company and its subsidiaries) to receive up to £315,000 in a three-year period (consisting of the 2024/25 year and the two previous financial years). MFA subsidies cumulate with each other and other subsidies which fall within the category of 'Minimal or SPEI financial assistance'. Expanded Retail Discount granted in 2021/22 does not count towards the £315,000 allowance but BEIS business grants and any other subsidies claimed under the Small Amounts of Financial Assistance limit of the Trade and Co-operation Agreement should be counted.

In those cases where it is clear to the local authority that the ratepayer is likely to breach the cash cap or the MFA limit, then the authority should automatically withhold the relief.

Otherwise, local authorities may include the relief in bills and ask the ratepayers, on a self-assessment basis, to inform the authority if they are in breach of the cash caps or MFA limit.

As part of Harrow's policy to minimise the administration burden of this scheme for the initial bills for 2024-25, the RHL will be granted for any businesses receiving pre-existing discount for the purposes of the 2023/24 year where it reasonably appears that they are eligible. A "refusal" template will be available on our website for businesses to complete and submit if they do not wish to receive the discount and may be uploaded via the web evidence upload at www.harrow.gov.uk/bratesevidence.

For any new applications, the application form will refer to guidance on the Harrow Council website (www.harrow.gov.uk) including this policy and require a declaration to be completed to confirm compliance with the cash cap and subsidy controls.

5. Splits, mergers, and changes to existing hereditaments

The relief will be calculated and applied on a day-to-day basis using the formula as set out in Section 3 above for the scheme. A new hereditament created as a result of a split or merger during the financial year, or where there is a change of use, will need to be considered afresh for the relief on that day.

6. Recalculations of Relief

The amount of relief awarded should be recalculated in the event of a change of circumstances. This could, for example, include a backdated change to the rateable value of the hereditament. This change could arise during the year in question or during a later year.

Regulation 16 of The Non-Domestic Rating (Consequential and Other Amendments etc.) (England) Regulations 2023 (SI 1251 of 2023) revoked the Non-Domestic Rating (Discretionary Relief) Regulations 1989 (SI 1050 of 1989).

This means that from 1st April 2024, the approach to be applied in determining applications for discretionary rate relief, shall be a matter for each Local Authority to consider.

In the case of London Borough of Harrow making a determination to vary or revoke its scheme, it shall give at least 1 year's prior notice. To comply with that requirement, the authority will, each year, issue a formal notice notifying the applicant of the period and amount of the award. This will be by way of a Business Rate Bill and the relief period will be shown on the front of the notice and further explained on the reverse.

For transparency purposes this scheme is conditional on the relief being subject to the property's continuing eligibility.

7. Right of Appeal

There is no statutory right of appeal to a decision regarding discretionary rate relief made by the Council. However, the Council recognises that ratepayers should be entitled to have their entitlement objectively reviewed, if they are dissatisfied with the outcome.

The Council therefore intends to provide a non-statutory appeals process, as set out below, and ratepayers should submit any such representations in accordance with the process outlined.

Ratepayers will be given written notification of the appeals process at the time that they are notified of the outcome of their application for relief.

This appeals process does not affect a ratepayer's rights to seek alternative legal redress.

8. Appeal Process

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Appeals may be made by the applicant (i.e., the appellant) within 14 days of receiving notification of their entitlement and must identify their name and address, the grounds on which the appeal is made and may include any new or additional information, provided it is relevant to the decision-making process.

An appellant may appoint an agent or third party to act on their behalf, but in such instances, the Council will require their prior written authorisation before entering into any correspondence with an agent or third party.

Appeals concerning a decision, must be submitted in writing to the Divisional Director / Head of Service who will then consider the Appeal in consultation with the Portfolio Holder. A decision made by the Divisional Director in consultation with the Portfolio Holder will be final.

Each appeal application will be considered individually and on its own merits.

An appeal shall only be permissible if it is received in the format required under this policy by Harrow Council between the period 1st April 2024 and 15th April 2025.

8. Period of Rate Relief

This policy shall apply for one financial year commencing 1st April 2024 and ending on 31st March 2025.

Ratepayers will be notified that any relief awarded under this policy, is subject to their eligibility being within that specific period only.

From 1st April 2024, statutory provisions regulating, in particular, the award and period for which discretionary rate relief shall be considered, are revoked and all such matters shall instead be subject to local authority policy and determination.. Details of each Discretionary Rate Relief type and policy are available on our webpages at www.harrow.gov.uk/brates

As a general rule, Discretionary Rate Relief applications will be considered for the preceding financial year (i.e. 1st April to 31st March), if an application is determined on or before the 30th of September of the following year. For example, a discretionary relief application determined on 30th September 2024, may be awarded from 1st April 2023.

To clarify, however, a blanket policy shall not apply to the scheme, with each case being considered on its own merits. For example, where a new Business Rates liability is created retrospectively due to a single property being converted into two units, resulting in a new ratepayer being responsible for the Business Rates for one of the units, if an application is received within a reasonable time frame of the initial Business Rates bill being issued to the new party, a retrospective award from the effective date of the Business Rates liability may be considered, providing there is evidence of entitlement to the relevant discretionary rate relief.

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For transparency purposes this scheme is conditional on the relief being subject to the property's continuing eligibility.

9. Cancellation of Relief

Relief will be cancelled if:

1. The applicant ceases to be the ratepayer
2. The property becomes unoccupied ("empty")
3. The use of the property changes
4. A split or merger of the premises has occurred
5. It is established that the ratepayer was ineligible for this relief

Where relief is cancelled for reason (2), an applicant may make an application as soon as the property becomes re-occupied, subject to meeting the eligibility criteria for the scheme.

Where relief is cancelled for reasons (3) or (4), a new application may be made immediately after, so long as the property remains occupied and subject to meeting the eligibility criteria for the scheme.

10. Notification of Award

The Council will consider applications within four weeks of the application and all supporting information being received, or as soon as reasonably practicable thereafter.

Notification of the outcome of the decision will be made in writing within fourteen days of the decision being determined.

See section 4 above whereas part of Harrow's policy to minimise the administration burden of this scheme for the initial bills for 2024-25, the RHL will be granted for any businesses receiving pre-existing discount for the purposes of the 2023/24 year where it reasonably appears that they are eligible, the notification of the award will be the issued bill showing the reduction given.

11. ACTION TO RECOVER UNPAID RATES WHILST A DECISION IS PENDING

Receipt of an application for relief under this policy, will not negate in any way, a ratepayer's obligation to pay Business Rates, which shall continue unless and until a revised bill has been issued for an award made

Annex A - £110,000 Cash Cap/Minimal Financial Assistance or Small Amount of Financial Assistance Subsidy

In line with the conditions prescribed by the government, a ratepayer may only claim up to £110,000 of support under the 2024/25 Retail, Hospitality and Leisure Relief Scheme for all of their eligible hereditaments. The cash cap applies at a Group company level (i.e., holding companies and subsidiaries cannot claim up to the cash cap for each company) and to organisations which, although not a company, have an interest in a company such that they would, if they were a company, result in its being the holding company.

Furthermore, the Retail, Hospitality and Leisure Relief Scheme is subject to the Minimal Financial Assistance limits under the Subsidy Control Act. This means no recipient can receive over £315,000 over a 3-year period (consisting of the current financial year and the 2 previous financial years). Extended Retail Discounts granted in 2021/22 do not count towards the limit.

Covid business grants received from local government and any other subsidy claimed under the Minimal Financial Assistance or Small Amounts of Financial Assistance limit over the 3-year period should be counted.

Therefore, to claim the Retail, Hospitality and Leisure relief the ratepayer must not have exceeded either the £110,000 cash cap for 2024/25 or the Minimal Financial Assistance limit of £315,000 over 3 years (including 2024/25)). Further details of the cash cap and subsidy control can be found at:

<https://www.gov.uk/government/publications/business-rates-relief-202324-retail-hospitality-and-leisure-scheme-local-authority-guidance>

The government and London Borough of Harrow will not tolerate any business falsifying their records or providing false evidence to gain this discount, including claiming support above the cash cap or the exemption threshold. A ratepayer who falsely applies for any relief, or provides false information or makes false representation in order to gain relief may be prosecuted for fraud under the Fraud Act 2006