

## AGENDA ITEM X

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| <b><u>AGENDA ITEM X</u></b> |           |  |  |
| <b>REPORT TO:</b>           |           | Full Council   |  |
| <b>DATE:</b>                |           | 1 <sup>st</sup> July 2021                                |  |
| <b>PORTFOLIO:</b>           |           | Cllr Joyce Plummer, Resources                            |  |
| <b>REPORT AUTHOR:</b>       |           | Rachael Walker, Customer Contact Manager                 |  |
| <b>TITLE OF REPORT:</b>     |           | COVID-19 National Non Domestic Rates Reliefs for 2021/22 |  |
| <b>EXEMPT REPORT:</b>       | <b>No</b> |  |  |
|                             |           |  |  |
| <b>KEY DECISION:</b>        | <b>No</b> | If yes, date of publication:                             |  |

### 1. **Purpose of Report**

- a) This report **updates** the Expanded National Non Domestic Rates Retail Discount Scheme approved in October 2020, extending provision of the 100% business rates relief for the first three months of 2021/22 from 1<sup>st</sup> April 2021 to 30<sup>th</sup> June 2021.
- b) This report also **updates** the National Non Domestic Rates Nursery Discount Scheme for 2021/22, extending provision of the 100% business rates relief for the first three months of 2021/22 from 1<sup>st</sup> April 2021 to 30<sup>th</sup> June 2021.
- c) This report presents a **new** Expanded National Non Domestic Rates Retail Discount Scheme for the period of 1<sup>st</sup> July 2021 to 31<sup>st</sup> March 2022 providing eligible businesses with a 66% rate relief on their business rates liability for this period.
- d) This report presents a **new** Nursery Discount Scheme for the period of 1<sup>st</sup> July 2021 to 31<sup>st</sup> March 2022 providing eligible businesses with a 66% rate relief on their business rates liability for this period.

### 2. **Recommendations**

- 2.1 It is recommended that the Expanded National Non Domestic Retail Discount Scheme 2020/21 and the Nursery Discount Scheme 2020/21 attached to this report are extended for the first three months of 2021/22 financial year.
- 2.2 It is recommended that the Expanded National Non Domestic Rates Retail Discount Scheme 2021/22 and the Nursery Discount Scheme 2021/22 attached to this report

are approved and applied to business rates bills as soon as is reasonably practicable in order to provide businesses with certainty around their business rates liabilities for 2021/22.

- 2.2 That the Deputy Chief Executive is given delegated power to undertake the calculation, collection, administration and recovery of National Non Domestic Rates in accordance with the Local Government Finance Act 1988, (as amended from time to time) and further government regulations that may be issued pursuant to the same.

### **3. Reasons for Recommendations and Background**

- 3.1 In its response to the Coronavirus (COVID-19) pandemic, the Government has announced a raft of measures to support business rates payers – deliverable via billing authorities using their existing discretionary powers under Section 47 of the Local Government Finance Act 1988.
- 3.2 Government has supported billing authorities and their preceptors by funding, in full, the discretionary reliefs awarded under these measures using grants delivered under Section 31 of the Local Government Act 2003.
- 3.3 The administration of all discount schemes within this report is subject to restrictions laid out in Section 47 of the Local Government Finance Act 1988 which stipulates that any variation or termination of a discount scheme under Section 47 that would result in an increased financial liability for the ratepayer must be done at the end of a financial year and with 12 months' notice. By extending the 2020/21 schemes and implementing new schemes from 1<sup>st</sup> July 2021, the Council's administration of business rates relief remains within the legal boundaries of our discretionary powers.

#### **Expanded Retail Discount Scheme 2021/22 Scheme**

- 3.4 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. On 3 March 2021 the Government confirmed that the Expanded Retail Discount would continue to apply in 2021/22 at 100% for three months, from 1 April 2021 to 30 June 2021.
- 3.5 For 2021/22, the Expanded Retail Discount is applied after mandatory reliefs and other discretionary reliefs funded by grants made under section 31 of the Local Government Act 2003 have been applied. Other locally applied discounts under section 47 of the Local Government Finance Act 1988 must be applied after the Expanded Retail Discount.
- 3.6 Expanded Retail Discount awards are made under section 47 of the Local Government Finance Act 1988 as amended.
- 3.7 For the extended 2020/21 scheme, a total of 311 businesses are set to benefit from 1<sup>st</sup> April to 30<sup>th</sup> June 2021 with a total of £1.1M in business rates relief awarded. For the new 2021/22 scheme, fewer businesses are due to accept the relief due to cash caps

and some national chains have requested relief to 30<sup>th</sup> June 2021 only. Our current estimate of relief to be paid under the 2021/22 scheme is £2.1M.

- 3.8 The Retail Discount Scheme provided by the Council, in line with guidance and funding provided via MHCLG has been updated to reflect changes made to policy on a national scale. The main differences in the schemes are laid out below:

| <b>Initial Retail Discount Scheme for 2020/21 prior to the pandemic</b> | <b>2020/21 Retail Discount Scheme changes announced in March 2020</b>  | <b>2020/21 Extension to the Retail Discount Scheme announced in March 2021</b>   |
|---|--|--|
| Rateable value limit of £51,000   | No rateable value limit  | No rateable value limit  |
| Maximum relief available 50% of the eligible bill                       | Maximum relief available 100% of the eligible bill   | Maximum relief available 100% of the eligible bill for the first three months of the financial 2021/22 year.   |
| Limited to retail, live music venues and cinemas                        | Included hotels, guest houses and boarding houses, leisure and assembly facilities, as well as other premises used for the provision of services to visiting members of the public, a full list is at section 2 of the Retail Discount scheme. | Continues to include hotels, guest houses and boarding houses, leisure and assembly facilities, as well as other premises used for the provision of services to visiting members of the public, a full list is at section 2 of the Retail Discount scheme. |

3.9 **Nursery Discount Scheme**

In response to the Coronavirus, in the Budget on 18<sup>th</sup> March 2020, the Government announced that all Early Years Foundation Stage childcare providers, registered with Ofsted and liable for business rates in 2020/21 would be given a 100% business rates discount for 2020/21.

- 3.10 At the Budget on 3 March 2021, the Chancellor announced that the Nursery Discount would continue to apply at 100% for eligible properties for the first three months of 2021 from 1 April 2021 to 30 June 2021.

- 3.11 In total, 12 Early Years Foundation Stage childcare providers are set to benefit from the 2020/21 scheme extension with a total of £17,000 being awarded from 1<sup>st</sup> April to 30<sup>th</sup> June 2021. The same 12 childcare providers are due to benefit from the new 2021/22 scheme with £33,000 in rate relief due to be awarded.

3.12 For both scheme extensions, as this is a measure for 2021/22 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.

3.13 **2021/22 Expanded Retail Relief and Nursery Discount Schemes**

In its guidance to local authorities issued in March 2021, Government has outlined future funding for both an Expanded Retail Discount Scheme and Nursery Discount Scheme to run from 1<sup>st</sup> July 2021 to 31<sup>st</sup> March 2022. For both schemes, business rates relief will be capped at 66% of the business rates liability (subject to cash caps) for 1<sup>st</sup> July 2021 to 31<sup>st</sup> March 2022, at which point the schemes will close.

3.14 For both 2021/22 schemes, ratepayers will be given the right to refuse the discount.

3.15 **Cash Caps**

For the Expanded Retail Relief 2022/21, a ratepayer may only receive relief up to the following cash caps, ignoring any relief for the period before 1 July 2021:

- a. £2 million for ratepayers meeting the eligibility for the ‘closed cash cap test’; this test identifies those businesses whose main in-person services were mandated to close based on law and guidance applicable on 5<sup>th</sup> Januarys 2021, further compensating those businesses that may have faced a steeper financial impact as a result of national and local restrictions. Or,
- b. £105,000 for all other ratepayers not subject to mandatory closures as outlined above.

3.16 For the Nursery Discount Scheme 2021/22, a cash cap of £105,000 per business is applicable, across all of their hereditaments.

3.17 **State Aid/Subsidy Control**

Whilst EU State Aid rules no longer apply within the UK following the end of the transition period on 31 December 2020, the UK still has several international obligations relating to subsidies. These include those arising from the UK’s continued membership of the World Trade Organisation, or from the UK-EU Trade and Cooperation Agreement. The Government considers that relief awarded under the schemes in this report is not a subsidy that falls foul of the new subsidy control principles. This means that local authorities may lawfully award relief to all eligible properties up to the caps specified in the guidance.

**4. Alternative Options Considered and Reasons for Rejection**

4.1 All schemes outlined in this report are provided to local ratepayers at no additional cost to the Council as discounts provided under the schemes are subsidised by Government. Written and published guidance allows for a consistent and fair application of the discount schemes.

- 4.3 The Council may extend the Expanded Retail Discount Schemes for each applicable time period to include more business types, however any expansion would be at additional cost to the authority and all business types are already covered within the Council’s broader discretionary powers via application and consideration on a case by case basis. A further expansion of the scheme is therefore considered not to be required.
- 4.4 Similarly, the Council may extend the Nursery Discount Scheme for 2021/22 to increase the level of discount available. Any expansion would be at additional cost to the authority and all business types are already covered within the Council’s broader discretionary powers via application and consideration on a case by case basis. A further expansion of the scheme is therefore considered not to be required.

5. **Consultations**

- 5.1 No formal consultation has taken place with the public on this scheme. Both schemes are temporary, are of limited scope and are based on Government guidelines.

6. **Implications**

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| <p><b>Financial implications (including any future financial commitments for the Council)</b></p> | <p>The collection of local taxes remains a priority for the Council and having relevant and up to date policies provides the necessary framework for officers. While there is no direct financial obligation for the Council as a result of these discount schemes, having a published scheme provides guidance and transparency for local ratepayers.</p> <p>The government will reimburse billing authorities and major precepting authorities for their loss of income under the rates retention scheme as a result of awarding the relief that falls within these policies. As billing authorities have completed their NNDR1’s for 2021/22 already, payments to major precepting authorities will be unaffected by the award of relief. Therefore, billing authorities only will be provided with “on-account” s.31 payments covering the full amount of relief awarded, in order to ensure that their cash flow is not affected. In the first instance, payments will cover the first three months relief and will be based on existing data.</p> |
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|  | <p>At the end of the year, billing authorities will also be asked to provide outturn data on the actual total cost for providing the relief, as per the usual process, via the National Non-Domestic Rate 3 (NNDR3) forms for 2021/22. Each billing and major precepting authority's loss of income from relief will be reconciled against the on-account payments made over the course of the year, and any difference paid or recovered.</p>   |
| <p><b>Legal and human rights implications</b></p>  | <p>The administration of business rates is done within legislative frameworks and guidance. Any and all legal and human rights implications have been considered and balanced against the rights of the individual and the obligations placed on the authority for the collection and administration of local taxes. The protection of vulnerable groups and individuals has been considered extensively as have the rights of our residents and customers. Legal implications and human rights have been considered at each stage and the policy intentions within this report are considered proportionate and justifiable when balanced against the rights of the individual.</p> |
| <p><b>Assessment of risk</b></p>   | <p>Having written guidance reinforces the Council's mandate to administer taxes on behalf of the Council and its preceptors and provides necessary transparency for rate payers – both of which lessens the risk of accusations of maladministration.</p>  |
| <p><b>Equality and diversity implications</b><br/> <i>A <a href="#">Customer First Analysis</a> should be completed in relation to policy decisions and should be attached as an appendix to the report.</i></p> | <p>The Council is subject to the public sector equality duty introduced by the Equality Act 2010. When making a decision in respect of the recommendations in this report Council must have regard to the need to:</p> <ul style="list-style-type: none"> <li>• eliminate unlawful discrimination, harassment and victimisation; and</li> <li>• advance equality of opportunity between those who share a relevant protected characteristic and those</li> </ul>   |

|  |   |
|--|---|
|  | <p>who don't; and</p> <ul style="list-style-type: none"><li>• foster good relations between those who share a relevant protected characteristic and those who don't.</li></ul> <p>For these purposes the relevant protected characteristics are: age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation. To assist the Council in this regard a Customer First Analysis has been carried out and is presented with this report at Appendix 5. Council is advised to consider the Customer First Analysis and associated obligations in respect of the public sector equality duty when making a decision in respect of the recommendations contained in this report.</p> |
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**7. Local Government (Access to Information) Act 1985:**

**List of Background Papers**

[National Non Domestic Rates Retail Discount Scheme report – Council 21<sup>st</sup> February 2019](#)

[National Non Domestic Rates Reliefs report – Council, 27<sup>th</sup> February 2020](#)

**8. Freedom of Information**

- 8.1 The report does not contain exempt information under the Local Government Act 1972, Schedule 12A and all information can be disclosed under the Freedom of Information Act 2000.



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# Non Domestic Rates Expanded Retail Discount Scheme 2020/21

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March 2020, updated in April 2021

## 1 Introduction

- 1.1 This guidance is intended to support businesses in their application for and understanding of the Expanded Business Rates Retail Discount for 2020/21.
- 1.2 The Government announced in the Budget in October 2018 that it will provide a Business Rates Retail Discount Scheme for occupied retail premises with a rateable value of less than £51,000 in each of the years 2019/20 and 2020/21.
- 1.3 In response to the Coronavirus, in the Budget on 11<sup>th</sup> March 2020, the Government announced that it would increase the discount to 100% and extend it to include the leisure and hospitality sectors.
- 1.4 For 2020/21, the Expanded Retail Discount is applied after mandatory reliefs and other discretionary reliefs funded by grants made under section 31 of the Local Government Act 2003 have been applied. Other locally applied discounts under section 47 of the Local Government Finance Act 1988 must be applied after the Expanded Retail Discount.
- 1.5 Expanded Retail Discount awards are made under section 47 of the Local Government Finance Act 1988 as amended.
- 1.6 In March 2021, the Government announced an extension to this scheme and in April 2021, this scheme was extended for three months from 1<sup>st</sup> April 2021 to 30<sup>th</sup> June 2021. The scheme end date is now 30<sup>th</sup> June 2021.

## 2 Eligibility

- 2.1 Eligibility criteria for the Expanded Retail Discount includes occupied hereditaments that are wholly or mainly being used:
  - 2.1.1 for the provision of services to visiting members of the public, shops, restaurants, cafes, drinking establishments, cinemas and live music venues;
  - 2.1.2 for assembly and leisure;

2.1.3 as hotels, guest and boarding premises and self-catering accommodation.

2.2 We consider hereditaments used for the provision of services to visiting members of the public, shops, restaurants, cafes, drinking establishments, cinemas and live music venues to mean:

2.2.1 Hereditaments that are being used for the sale of goods to visiting members of the public such as:

- a) Shops (such as: florists, bakers, butchers, grocers, greengrocers, jewellers, stationers, off licences, chemists, newsagents, hardware stores, supermarkets etc.);
- b) Charity shops;
- c) Opticians;
- d) Post Offices;
- e) Furnishing Shops/display rooms (such as carpet shops, double-glazing, garage doors);
- f) Car/caravan show rooms;
- g) Second hand car showrooms or lots;
- h) Markets;
- i) Petrol stations;
- j) Garden centres;
- k) Art Galleries (where art is for sale/hire)

2.2.2 Hereditaments that are being used for the provision of the following services to visiting members of the public:

- a) Hair and beauty services (such as hairdressers, nail bars, beauty salons, tanning shops etc.);
- b) Shoe repair/key cutting;
- c) Travel Agents;
- d) Ticket offices i.e. for theatres;
- e) Dry cleaners;
- f) Launderettes;
- g) PC/TV/Domestic appliance repair;
- h) Funeral directors;
- i) Photo processing;
- j) Tool hire;
- k) Car hire;
- l) Employment agencies;
- m) Estate agents and letting agents;
- n) Betting shops.

2.2.3 Hereditaments that are being used for the sale of food and/or drink to visiting members of the public:

- a) Restaurants;

- b) Takeaways;
- c) Sandwich shops;
- d) Coffee shops;
- e) Pubs;
- f) Bars.

2.2.4 Hereditaments which are being used as cinemas;

2.2.5 Hereditaments which are being used as live music venues;

- a) 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 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).
- b) 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).
- c) 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 found in Chapter 16 of the statutory guidance issued in April 2018 under section 182 of the Licensing Act 2003 may be used to help make a determination as to the eligibility for this relief.

2.3 We consider assembly and leisure to mean hereditaments that are being used wholly or mainly for the provision of sport, leisure and facilities to visiting members of the public (including for the viewing of such activities):

- a) Sports grounds and clubs;
- b) Museums and art galleries;
- c) Nightclubs;
- d) Sport and leisure facilities;
- e) Stately homes and historic houses;
- f) Theatres;
- g) Tourist attractions;
- h) Gyms;
- i) Wellness centre, spas, massage parlours;
- j) Casinos, gambling clubs and bingo halls.

- 2.4.1 Hereditaments that are being used for the assembly of visiting members of the public:
- a) Public halls;
  - b) Club houses, clubs and institutions.
- 2.5 We consider hotels, guest and boarding premises and self-catering accommodation to mean:
- a) Hotels, guest and boarding houses;
  - b) Holiday homes;
  - c) Caravan parks and sites.
- 2.6 The above lists are not exhaustive and we will consider representations from individual businesses that believe they have similar characteristics to those listed above but who have not been included to date.
- 2.7 Eligibility for Expanded Retail Discount Scheme is a test on use rather than occupation. Therefore, hereditaments which are unoccupied or which are occupied but not wholly or mainly used for the qualifying purposes will not qualify for this discount.
- 2.8 For the avoidance of doubt, hereditaments which have closed temporarily due to the Government's advice on COVID-19 will be treated as occupied for the purposes of this relief.
- 2.9 Hereditaments occupied for mixed use will be considered with qualification being determined by the main use of the property.
- 2.10 Expanded Retail Discount Relief award will not be available for hereditaments being used for the provision of the following services:
- a) Financial services (e.g. banks, building societies, cash points, bureaux de change, payday lenders, pawn brokers);
  - b) Medical services (e.g. vets, dentists, doctors, osteopaths, chiropractors);
  - c) Professional Services (e.g. solicitors, accountants, insurance agents/financial advisors,);
  - d) Post Office sorting offices;
  - e) Other assembly or leisure uses beyond those listed in 2.2.3 to 2.2.5 above (e.g. theatres, museums, nightclubs and gyms)
- 2.11 In addition, the Retail Discount Scheme will not be available for premises that are not reasonably accessible to the public.
- 2.12 The relief will be applied on a daily basis. 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 be considered afresh for relief on that day.

### **3 Amount and Duration of Relief**

- 3.1 The total amount of government-funded discount available for each hereditament under this scheme is 100% of the bill. This discount is applied after mandatory reliefs and, with the exception of the 2020/21 pubs discount, other discretionary reliefs funded by grants provided under section 31 of the Local Government Act 2003.
- 3.2 The Retail Discount will be applied as a reduction to the overall business rates liability for 2020/21 and for the first three months of 2021/22 (1<sup>st</sup> April 2021 to 30<sup>th</sup> June 2021); no cash alternative is available.
- 3.3 Ratepayers who occupy more than one hereditaments may be entitled to the Retail Discount for each of their eligible hereditaments.

### **4. State Aid/Subsidy Control**

- 4.1 Whilst EU State Aid rules no longer apply within the UK following the end of the transition period on 31 December 2020, the UK still has several international obligations relating to subsidies. These include those arising from the UK's continued membership of the World Trade Organisation, or from the UK-EU Trade and Cooperation Agreement. The Government considers that relief awarded under this scheme is not a subsidy.

### **5. Scheme Review**

- 5.1 The discount scheme will be reviewed in line with any changes made by Government in order to ensure that eligibility remains within Government guidance and relevant legislation.

### **6. Data Protection**

- 6.1 Details of our data privacy policy can be found at [www.hyndburnbc.gov.uk/privacy-notice](http://www.hyndburnbc.gov.uk/privacy-notice)

### **7. Equality and Diversity**

- 7.1 The Council remains committed to its obligations under the Public Sector Equality Duty and a 'Customer First Analysis' has been provided with this scheme.

### **8. Appeals and complaints**

- 8.1 As a discretionary power, appeals against decisions made under this Discount Scheme are by way of judicial review and all complaints made directly to the authority will be handled in line with the Council's complaints policy available at [www.hyndburnbc.gov.uk/complaints](http://www.hyndburnbc.gov.uk/complaints)



# Non Domestic Rates Nursery Discount Scheme 2020/21

March 2020, Updated April 2021

## 1 Introduction

- 1.1 This guidance is intended to support businesses in their application for and understanding of the Nursery Discount Scheme for 2020/21.
- 1.2 In response to the Coronavirus, in the Budget on 18<sup>th</sup> March 2020, the Government announced that all Early Years Foundation Stage childcare providers, registered with Ofsted and liable for business rates in 2020/21 would be given a 100% business rates discount for 2020/21.
- 1.3 As this is a measure for 2020/21 only, the Government is not changing the legislation relating to the reliefs available to properties. Instead the Government will, in line with the eligibility criteria set out in this guidance, reimburse local authorities that use their discretionary relief powers under section 47 of the Local Government Finance Act 1988 (as amended), to grant relief.
- 1.4 In March 2021, the Government announced an extension to this scheme to 30<sup>th</sup> June 2021. This scheme will now apply from 1<sup>st</sup> April 2021 to 30<sup>th</sup> June 2021 and will now end on 30<sup>th</sup> June 2021

## 2 Eligibility

- 2.1 Properties that will benefit from the relief will be hereditaments occupied by providers on Ofsted's Early Years Register and wholly or mainly used for the provision of the Early Years Foundation Stage.
- 2.2 To qualify for the relief the hereditament should be wholly or mainly being used for the above qualifying purpose. In a similar way to other reliefs (such as charity relief), 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 have closed temporarily due to the government's advice on COVID19 should be treated as occupied for the purposes of this relief.

- 2.3 The relief will be applied on a daily basis. 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 be considered afresh for relief on that day.

### **3 Amount and Duration of Relief**

- 3.1 The total amount of government-funded discount available for each hereditament under this scheme is 100% of the bill. This discount is applied after mandatory reliefs and other discretionary reliefs funded by grants provided under section 31 of the Local Government Act 2003.
- 3.2 The Nursery Discount will be applied as a reduction to the overall business rates liability for 2020/21 and for the first three months of the 2021/22 financial year from 1<sup>st</sup> April 2021 to 20<sup>th</sup> June 2021; no cash alternative is available.
- 3.3 Ratepayers who occupy more than one hereditaments may be entitled to the Retail Discount for each of their eligible hereditaments.

### **4. State Aid/Subsidy Control**

- 4.1 Whilst EU State Aid rules no longer apply within the UK following the end of the transition period on 31 December 2020, the UK still has several international obligations relating to subsidies. These include those arising from the UK's continued membership of the World Trade Organisation, or from the UK-EU Trade and Cooperation Agreement. The Government considers that relief awarded under Nursery Discount Scheme is not a subsidy.

### **5. Scheme Review**

- 5.1 The discount scheme will be reviewed in line with any changes made by Government in order to ensure that eligibility remains within Government guidance and relevant legislation.

### **6. Data Protection**

- 6.1 Details of our data privacy policy can be found at [www.hyndburnbc.gov.uk/privacy-notice](http://www.hyndburnbc.gov.uk/privacy-notice)

### **7. Equality and Diversity**

- 7.1 The Council remains committed to its obligations under the Public Sector Equality Duty and a 'Customer First Analysis' has been provided with this scheme.

### **8. Appeals and complaints**

- 8.1 As a discretionary power, appeals against decisions made under this Discount Scheme are by way of judicial review and all complaints made directly to the authority will be handled in line with the Council's complaints policy available at [www.hyndburnbc.gov.uk/complaints](http://www.hyndburnbc.gov.uk/complaints)



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## Non Domestic Rates Expanded Retail Discount Scheme 2021/22

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April 2021

### **2 Introduction**

3.3 The Government announced in the Budget in March 2021 that it will provide a Business Rates Retail Discount Scheme for occupied retail premises, subject to cash cap limits, of 66% from 1<sup>st</sup> July 2021 to 31<sup>st</sup> March 2022.

3.4 The Expanded Retail Discount 2021/22 is applied after mandatory reliefs and other discretionary reliefs funded by grants made under section 31 of the Local Government Act 2003 have been applied. Other locally applied discounts under section 47 of the Local Government Finance Act 1988 must be applied after the Expanded Retail Discount.

3.5 Expanded Retail Discount awards are made under section 47 of the Local Government Finance Act 1988 as amended.

### **4 Eligibility**

4.1 Eligibility criteria for the Expanded Retail Discount for 2021/22 includes occupied hereditaments that are wholly or mainly being used:

4.1.1 for the provision of services to visiting members of the public, shops, restaurants, cafes, drinking establishments, cinemas and live music venues;

4.1.2 for assembly and leisure;

4.1.3 as hotels, guest and boarding premises and self-catering accommodation.

4.2 We consider hereditaments used for the provision of services to visiting members of the public, shops, restaurants, cafes, drinking establishments, cinemas and live music venues to mean:

4.2.1 Hereditaments that are being used for the sale of goods to visiting members of the public such as:

- a) Shops (such as: florists, bakers, butchers, grocers, greengrocers, jewellers, stationers, off licences, chemists, newsagents, hardware stores, supermarkets etc.);
- b) Charity shops;
- c) Opticians;
- d) Post Offices;
- e) Furnishing Shops/display rooms (such as carpet shops, double-glazing, garage doors);
- f) Car/caravan show rooms;
- g) Second hand car showrooms or lots;
- h) Markets;
- i) Petrol stations;
- j) Garden centres;
- k) Art Galleries (where art is for sale/hire)

4.2.2 Hereditaments that are being used for the provision of the following services to visiting members of the public:

- a) Hair and beauty services (such as hairdressers, nail bars, beauty salons, tanning shops etc.);
- b) Shoe repair/key cutting;
- c) Travel Agents;
- d) Ticket offices i.e. for theatres;
- e) Dry cleaners;
- f) Launderettes;
- g) PC/TV/Domestic appliance repair;
- h) Funeral directors;
- i) Photo processing;
- j) Tool hire;
- k) Car hire;
- l) Employment agencies;
- m) Estate agents and letting agents;
- n) Betting shops.

4.2.3 Hereditaments that are being used for the sale of food and/or drink to visiting members of the public:

- a) Restaurants;
- b) Takeaways;
- c) Sandwich shops;
- d) Coffee shops;
- e) Pubs;
- f) Bars.

4.2.4 Hereditaments which are being used as cinemas;

4.2.5 Hereditaments which are being used as live music venues;

- d) 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 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).
- e) 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).
- f) 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 found in Chapter 16 of the statutory guidance issued in April 2018 under section 182 of the Licensing Act 2003 may be used to help make a determination as to the eligibility for this relief.

4.3 We consider assembly and leisure to mean hereditaments that are being used wholly or mainly for the provision of sport, leisure and facilities to visiting members of the public (Including for the viewing of such activities):

- a) Sports grounds and clubs;
- b) Museums and art galleries;
- c) Nightclubs;
- d) Sport and leisure facilities;
- e) Stately homes and historic houses;
- f) Theatres;
- g) Tourist attractions;
- h) Gyms;
- i) Wellness centre, spas, massage parlours;
- j) Casinos, gambling clubs and bingo halls.

2.5.1 Hereditaments that are being used for the assembly of visiting members of the public:

- a) Public halls;
- b) Club houses, clubs and institutions.

2.6 We consider hotels, guest and boarding premises and self-catering accommodation to mean:

- a) Hotels, guest and boarding houses;
  - b) Holiday homes;
  - c) Caravan parks and sites.
- 2.6 The above lists are not exhaustive and we will consider representations from individual businesses that believe they have similar characteristics to those listed above but who have not been included to date.
- 2.9 Eligibility for Expanded Retail Discount Scheme is a test on use rather than occupation. Therefore, hereditaments which are unoccupied or which are occupied but not wholly or mainly used for the qualifying purposes will not qualify for this discount.
- 2.10 For the avoidance of doubt, hereditaments which have closed temporarily due to the Government's advice on COVID-19 will be treated as occupied for the purposes of this relief.
- 2.9 Hereditaments occupied for mixed use will be considered with qualification being determined by the main use of the property.
- 2.10 Expanded Retail Discount Relief award will not be available for hereditaments being used for the provision of the following services:
- a) Financial services (e.g. banks, building societies, cash points, bureaux de change, payday lenders, pawn brokers);
  - b) Medical services (e.g. vets, dentists, doctors, osteopaths, chiropractors);
  - c) Professional Services (e.g. solicitors, accountants, insurance agents/financial advisors,);
  - d) Post Office sorting offices;
  - e) Other assembly or leisure uses beyond those listed in 2.2.3 to 2.2.5 above (e.g. theatres, museums, nightclubs and gyms)
- 2.11 In addition, the Retail Discount Scheme will not be available for premises that are not reasonably accessible to the public.
- 2.12 The relief will be applied on a daily basis. 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 be considered afresh for relief on that day.
- 2.13 For 2021/22, any ratepayer may refuse the discount for each eligible hereditament anytime up to 30 April 2022. The ratepayer cannot withdraw their refusal for either all or part of the financial year. For the purposes of section 47 of the Local Government Finance Act 1988, 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.

## 5 Amount and Duration of Relief

- 5.1 The total amount of government-funded discount available for each hereditament under the 2021/22 scheme is 66% of the eligible bill for the remainder of the financial year from 1<sup>st</sup> July 2021 to 31<sup>st</sup> March 2022. This discount is applied after mandatory reliefs and, with the exception of the 2020/21 pubs discount, other discretionary reliefs funded by grants provided under section 31 of the Local Government Act 2003.
- 5.2 The Retail Discount will be applied as a reduction to the overall business rates liability for 2021/22 from 1<sup>st</sup> July 2021 to 31<sup>st</sup> March 2022; no cash alternative is available.
- 5.3 From 1<sup>st</sup> July 2021, the retail discount will be capped at £105,000 per business or £2 million per business where the business is in occupation of a property that was required, or would have been required, to close, based on the law and guidance applicable on 5 January 2021.
- 5.4 For the 2021/22 scheme, ratepayers who occupy more than one hereditaments may be entitled to the Retail Discount for each of their eligible hereditaments subject to the cash cap as outlined in section 4 below.
- 5.5 The standard payment arrangement for business rates is for the liability for the year to be paid in 10 or 12 instalments. However, for those eligible for the two Extended Retail Discount Schemes applicable in 2021/22, this would mean those ratepayers having to make instalments in the first three months of the year when 100% relief is available. Therefore, we will ensure in accordance with Part 1, Schedule 1 of The Non-Domestic Rating (Collection and Enforcement) (Local Lists) (Regulations) 1989 (SI 1989/1058), as amended, that ratepayers eligible for the Extended Retail Discount 2020/21 and 2021/22 are not asked to make an instalment in respect of 2021/22 for the three month period of 100% relief is available for. An alternative instalment arrangement will be implemented for ratepayers which spreads the liability for the period from 1 July 2021 to 31 March 2022 over some or all of the remaining nine months of the year.

## 4. 2021/22 Scheme Cash Caps

- 4.1 Under the cash caps, a ratepayer may only receive up to the following cash caps of Expanded Retail Discount in 2021/22 ignoring any relief for the period before 1 July 2021 under the 2020/21 Scheme as extended:
- a. £2 million for ratepayers meeting the eligibility for the closed cash cap test set out in [Annex B of the Government's guidance on this discount](#) (subject to paragraphs 21-23), or
  - b. £105,000 for all other ratepayers ([subject to paragraphs 21-23 of the same guidance](#)).

- 4.3 No ratepayer can in any circumstances exceed the £2 million cash cap across all of their hereditaments in England. Where a ratepayer eligible for the closed cash cap also occupies hereditaments which do not meet the criteria for the closed cash cap and the value of the discount on the closed hereditaments is less than £2 million then they may also claim the discount on other eligible hereditaments but only up to the cap of £105,000 in respect of those other eligible hereditaments. For example, such a ratepayer whose rate bill from 1 July 2021 onwards on hereditaments eligible for the closed cash cap is £1 million and also occupies other eligible hereditaments with a rates bill of £3 million is able to claim up to £1,105,000 in discount from 1 July 2021 onwards (£1million on their closed hereditament and then up to the £105,000 cash cap on their other eligible hereditaments).
- 4.4 Where a ratepayer has a qualifying connection with another ratepayer then those ratepayers should be considered as one ratepayer for the purposes 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.
- 4.5 In those cases where it is clear to us that the ratepayer is likely to breach the cash caps then we will automatically withhold the discount. In all cases, we will ask the ratepayers, on a self-assessment basis, to inform us if they are in breach of the cash caps.

## **5. State Aid/Subsidy Control**

- 5.1 Whilst EU State Aid rules no longer apply within the UK following the end of the transition period on 31 December 2020, the UK still has several international obligations relating to subsidies. These include those arising from the UK’s continued membership of the World Trade Organisation, or from the UK-EU Trade and Cooperation Agreement. The Government considers that relief awarded under this scheme is not a subsidy. This means that local authorities should award relief to all eligible properties up to the caps specified in the guidance.

## **6. Scheme Review**

- 6.1 The discount scheme will be reviewed in line with any changes made by Government in order to ensure that eligibility remains within Government guidance and relevant legislation.

## **7. Data Protection**

- 7.1 Details of our data privacy policy can be found at [www.hyndburnbc.gov.uk/privacy-notice](http://www.hyndburnbc.gov.uk/privacy-notice)

## **8. Equality and Diversity**

- 8.1 The Council remains committed to its obligations under the Public Sector Equality Duty and a 'Customer First Analysis' has been provided with this scheme.

## **9. Appeals and complaints**

- 9.1 As a discretionary power, appeals against decisions made under this Discount Scheme are by way of judicial review and all complaints made directly to the authority will be handled in line with the Council's complaints policy available at [www.hyndburnbc.gov.uk/complaints](http://www.hyndburnbc.gov.uk/complaints)



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# Non Domestic Rates Nursery Discount Scheme 2021/22

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April 2021

## **1 Introduction**

- 1.1 This guidance is intended to support businesses in their application for and understanding of the Nursery Discount Scheme for 2021/22.
- 1.2 This relief applies to hereditaments which are occupied by providers on Ofsted's Early Years Register and which are wholly or mainly used for the provision of the Early Years Foundation Stage. There is no rateable value limit on the relief, however the relief is subject to a cash cap. Ofsted has ensured that all local authorities can access the Ofsted Early Years Register to support authorities identify eligible properties.
- 1.3 As this is a measure for 2021/22 only, the Government is not changing the legislation relating to the reliefs available to properties. Instead the Government will, in line with the eligibility criteria set out in this guidance, reimburse local authorities that use their discretionary relief powers under section 47 of the Local Government Finance Act 1988 (as amended), to grant relief.

## **2 Eligibility**

- 2.1 Properties that will benefit from the relief will be hereditaments occupied by providers on Ofsted's Early Years Register and wholly or mainly used for the provision of the Early Years Foundation Stage.
- 2.2 To qualify for the relief the hereditament should be wholly or mainly being used for the above qualifying purpose. In a similar way to other reliefs (such as charity relief), 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 have closed temporarily due to the government's advice on COVID19 should be treated as occupied for the purposes of this relief.
- 2.3 The relief will be applied on a daily basis. 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 be considered afresh for relief on that day.

### **3 Amount and Duration of Relief**

- 3.1 Subject to the cash cap outlined in section 4 of this scheme, the total amount of government-funded relief available for each property for 2021/22 under this scheme is for chargeable days from 1 July 2021 to 31 March 2022: 66% of the chargeable amount.
- 3.2 The relief will be applied 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 which are not funded by section 31 grants.
- 3.3 The Nursery Discount will be applied as a reduction to the overall business rates liability for 2021/22; no cash alternative is available.
- 3.4 Ratepayers who occupy more than one hereditaments may be entitled to the Retail Discount for each of their eligible hereditaments subject to the cash cap outlined in section 4 of this scheme.
- 3.5 The standard payment arrangement for business rates is for the liability for the year to be paid in 10 or 12 instalments. However, for those eligible for the Nursery Discount for 2021/22 and 2020/21 Scheme, this would mean those ratepayers having to make instalments in the first three months of the year when 100% relief is available. Therefore, we will ensure in accordance with Part 1, Schedule 1 of The Non-Domestic Rating (Collection and Enforcement) (Local Lists) (Regulations) 1989 (SI 1989/1058), as amended, that ratepayers eligible for the Extended Nursery Discount are not asked to make an instalment in respect of 2021/22 for the three month period of 100% relief is available for. An alternative instalment arrangement will be implemented for ratepayers which spreads the liability for the period from 1 July 2021 to 31 March 2022 over some or all of the remaining nine months of the year.

### **4. Cash Cap**

- 4.1 From 1 July 2021, a person may only receive Nursery Discount relief of up to £105,000 in 2021/22, ignoring any relief for the period before 1 July 2021.
- 4.2 No person can in any circumstance exceed the £105,000 cash cap across all of their hereditaments.
- 4.3 Where a ratepayer has a qualifying connection with another ratepayer then those ratepayers should be considered as one ratepayer for the purposes 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.

4.4 In those cases where it is clear to us that the ratepayer is likely to breach the cash caps then we will automatically withhold the discount. In all cases, we will ask the ratepayers, on a self-assessment basis, to inform us if they are in breach of the cash caps.

## **5. State Aid/Subsidy Control**

5.1 Whilst EU State Aid rules no longer apply within the UK following the end of the transition period on 31 December 2020, the UK still has several international obligations relating to subsidies. These include those arising from the UK's continued membership of the World Trade Organisation, or from the UK-EU Trade and Cooperation Agreement. The Government considers that relief awarded under this scheme is not a subsidy. This means that local authorities should award relief to all eligible properties up to the caps specified in the guidance.

## **6. Scheme Review**

6.1 The discount scheme will be reviewed in line with any changes made by Government in order to ensure that eligibility remains within Government guidance and relevant legislation.

## **7. Data Protection**

7.1 Details of our data privacy policy can be found at [www.hyndburnbc.gov.uk/privacy-notice](http://www.hyndburnbc.gov.uk/privacy-notice)

## **8. Equality and Diversity**

8.1 The Council remains committed to its obligations under the Public Sector Equality Duty and a 'Customer First Analysis' has been provided with this scheme.

## **9. Appeals and complaints**

9.1 As a discretionary power, appeals against decisions made under this Discount Scheme are by way of judicial review and all complaints made directly to the authority will be handled in line with the Council's complaints policy available at [www.hyndburnbc.gov.uk/complaints](http://www.hyndburnbc.gov.uk/complaints)

# Non Domestic Rates Retail Discount and Nursery Discount Scheme Customer First Analysis

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## 1. Purpose

- What are you trying to achieve with the policy / service / function?

This analysis covers the Expanded and New National Non Domestic Rates Discount Schemes payable in the financial year 2021/22. The schemes provide guidance to local businesses which may be eligible to a discount on their business rates. The schemes are delivered locally by billing authorities.

- Who defines and manages it?

The discount schemes are based on eligibility guidance provided by the Ministry of Housing, Communities and Local Government in March 2020 and 2021. Hyndburn's schemes are managed by the Benefits, Revenues and Customer Contact department under its remit to administer and collect business rates on behalf of the Council and preceptors.

- Who do you intend to benefit from it and how?

It is intended that eligible local businesses will benefit from the discount schemes and that in turn will generate benefit for the local high street, local residents and visitors to the area. It is intended that businesses can divert their existing business rates liabilities into support for staff during business closures and disruptions.

- What could prevent people from getting the most out of the policy / service / function?

The schemes are clear on eligibility and the Council will be applying both discounts proactively in order to prevent any business not applying through lack of awareness.

- How will you get your customers involved in the analysis and how will you tell people about it?

The schemes have both followed Government guidelines and as such customer involvement is not considered necessary at this stage. Customers will be informed via normal communication methods and the schemes will be available online as well as in hard copy.

## 2. Evidence

- How will you know if the policy delivers its intended outcome / benefits?]

Eligible businesses will benefit from a lower business rates bill which may support their staff and the viability of their business during the Government's COVID-19 response efforts.

- How satisfied are your customers and how do you know?

In relation to these schemes, it is not possible to say at this stage, these schemes have to be implemented as quickly as is reasonably possible.

- What existing data do you have on the people that use the service and the wider population?

We hold relevant data on our Business Rates customers which allows us to identify eligible businesses and make awards.

- What other information would it be useful to have? How could you get this?

None at this stage.

- Are you breaking down data by equality groups where relevant (such as by gender, age, disability, ethnicity, sexual orientation, marital status, religion and belief, pregnancy and maternity)?

Not relevant to this scheme.

- Are you using partners, stakeholders, and councillors to get information and feedback?

Not relevant to this scheme.

### **3. Impact**

- Are some people benefiting more – or less - than others? If so, why might this be?

Each scheme closely follows guidance set out by Government.

### **4. Actions**

- If the evidence suggests that the policy / service / function benefits a particular group – or disadvantages another - is there a justifiable reason for this and if so, what is it?

It is considered that smaller high street retailers and childcare providers are in greater need of these discounts than larger retailers and industrial businesses – however rateable value limits have been raised for some businesses making the schemes more encompassing of the range of local businesses.

- Is it discriminatory in any way?

No – the only defining criteria is the size of the hereditament and the type of business, none of which are based on any protected characteristics of the businesses or the customers.

- Is there a possible impact in relationships or perceptions between different parts of the community?

The discount is available to a broad range of businesses throughout Hyndburn.

- What measures can you put in place to reduce disadvantages?

n/a

- Do you need to consult further?

Not at this stage.

- Have you identified any potential improvements to customer service?

The discounts will be administered proactively with an opt-out declaration for those who may not be eligible or who wish to refuse the discounts. It is intended that this will provide immediate financial support to eligible businesses, eliminate any application delays and provide the discounts to ratepayers who may be ignorant of the schemes and would therefore miss out by not applying.

- Who should you tell about the outcomes of this analysis?

This analysis forms part of the submission of the discount scheme to Council.

- Have you built the actions into your Business Plan with a clear timescale?

n/a

- When will this assessment need to be repeated?

With any major changes to the scheme in the future.

**Name: Rachael Walker**

**Service Area: Benefits, Revenues and Customer Contact**

**Dated: June 2021**