

# Portfolio Holder for Finance, Countryside and Transport

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## NOTICE OF INTENDED PORTFOLIO HOLDER DELEGATED DECISION

The Portfolio Holder has received the following report for a decision to be taken under delegated authority. The decision will be taken on **1 April 2020** (i.e. 3 clear days after the date of this note). The decision will be published on the Council's website but will not be implemented until 5 clear days after the date of publication of the decision) to comply with the call-in process set out in Rule 7.36 of the Constitution.

1.	<b>RETAIL, LEISURE AND HOSPITALITY RATES RELIEF SCHEME IN WALES 2020-21</b>
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**CYNGOR SIR POWYS COUNTY COUNCIL****Delegated Decision Port Folio Holder - Finance  
30<sup>th</sup> March 2020****REPORT AUTHOR: David Morris – Income & Awards Senior Manager****SUBJECT: Retail, Leisure and Hospitality Rates Relief Scheme in  
Wales 2020-21**

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**REPORT FOR: Decision**

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**1. Purpose**

- 1.1 To adopt a Business Rates Retail, Leisure and Hospitality Rates Relief scheme for financial year 2020-21 that meets the requirements to maximise funding available, to support local businesses during the coronavirus pandemic by granting rate relief which is compliant with Welsh Government guidance.

**2. Background**

- 2.1 Due to the coronavirus pandemic the Welsh Government have introduced several fiscal measures to support businesses through these unprecedented times. The current High Street & Retail Rates Relief scheme, adopted by Cabinet on 3 March 2020 has been extended with a temporary Business Rates Retail, Leisure and Hospitality Rates Relief scheme for the financial year 2020-21.
- 2.2 The Welsh Government have announced that an enhanced Business Rates relief scheme will be available for the financial year 2020-21 to support businesses within the retail, leisure and hospitality sector in Wales. Properties that will benefit from this relief will be occupied properties such as shops, pubs, restaurants, gyms, performance venues, hotels and guest houses. with a rateable value of £500,000 or less on 1 April 2020.
- 2.3 The funding will be provided by way of a Welsh Government Grant, and it is estimated that **1,100** Powys businesses will be granted 100% rates relief, thus removing the requirement to pay Business Rates for these Powys businesses for the financial year 2020-21.

**3. Proposal**

- 3.1 The Welsh Government will provide relief of 100% to eligible businesses occupying premises with a rateable value of up to £500,000 in the financial year 2020-21. Relief is available from 1 April 2020 to 31 March 2021. The proposal as to how the scheme is to be operated is detailed below in 3.2-3.15.

3.2 The total amount of Retail, Leisure and Hospitality Rates Relief granted to each property is 100% of the remaining bill, after Small Business Rates Relief, Mandatory reliefs and other discretionary reliefs have been applied, excluding those where wider discretionary reliefs have been granted under the Localism Act 2011. The relief will be applied against the net bill after other reliefs have been applied.

3.3 The eligibility for this relief and the relief itself will be assessed and calculated on a daily basis. The following formula will be used to determine the amount of relief to be granted to a property 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.

3.4 This should be calculated ignoring any prior-year adjustments in liabilities which fall to be liable on the day.

3.5 Ratepayers who occupy more than one property will be entitled to Retail, Leisure and Hospitality Rates Relief for each of their eligible properties. 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.

3.6 As this is a temporary scheme, Welsh Government will provide the relief by reimbursing local authorities that use their discretionary relief powers under section 47 of the Local Government Finance Act 1988. 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.

3.7 The Retail, Leisure and Hospitality Rates Relief scheme qualifying criteria being:

- The rateable value is between £1 and £500,000 for the financial year 2020-21, and
- The property is **occupied** for retail, leisure or hospitality purposes between 1 April 2020 and 31 March 2021, and
- The property is being used for the sale of goods to visiting members of the public, or
- The property is being used for the provision of services to visiting members of the public (as contained within 13 ii of guidance) or
- Properties that are being used for the sale of food and/or drink to visiting members of the public, or

- Properties 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, or
- Properties that are being used for the assembly of visiting members of the public, or
- Properties, where the non-domestic part is being used for the provision of living accommodation as a business.

3.8 To qualify for the relief, the property must 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, properties which are occupied but not wholly or mainly used for the qualifying purpose will not qualify for the relief. For the avoidance of doubt, properties which closed temporarily due to the government's advice on Covid-19 should be treated as occupied for the purposes of this relief.

3.9 There are certain types of properties that, in compliance with the Welsh Government guidance, the Council will exclude the ratepayer from Retail, Leisure and Hospitality Relief, these are as follows:

- The property is not occupied for any period between 1 April 2020 and 31 March 2021.
- The property is not reasonably accessible to visiting members of the public (even if there is ancillary use of the property which is retail)
- Properties that are owned, rented or managed by a local authority.

In addition, and in compliance with the Welsh Government guidance, the Council will deem that the types of uses below (or those similar in use) are not considered to be retail, leisure or hospitality use for the purpose of this relief, and as such they would not be eligible for the relief. Excluded uses are:

- Financial services (e.g. banks, building societies, cash points / ATMs, bureau de change, payday lenders, betting shops, pawn brokers)
- Medical services (e.g. vets, dentists, doctors, osteopaths, chiropractors)
- Professional services (e.g. solicitors, accountants, insurance agents / financial advisers, tutors)
- Post office sorting office
- Day nurseries
- Kennels and catteries
- Casino & gambling clubs
- Show homes and marketing suites
- Employment agencies
- Self-storage units

3.10 The Council will be reimbursed in full by Welsh Government for any relief that is awarded, in other words if correctly applied there will be no direct cost to the Council.

3.11 Empty properties becoming occupied after 1 April 2020 will qualify for this relief

- 3.12 If there is a change in occupier part way through the financial year, after relief has already been provided to the property, 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 3.3 above.
- 3.13 The discount will be applied on a day-to-day basis using the formula set out above. A new property 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.
- 3.14 Having regard to the extreme challenges Powys businesses now face during the coronavirus pandemic, it is essential that the 100% relief to businesses is granted at the earliest opportunity, therefore it is proposed that:
- Relief is automatically granted to retailers, leisure and hospitality businesses where the council is content that the qualifying criteria is met, based on the information held.
  - Those not automatically granted the relief, will be encouraged to complete a simple on-line form. Applications (upon receipt of a valid application form for Retail Leisure and Hospitality rates relief 2020-21) the decision to award relief be made by the Portfolio Holder for Finance in consultation with the Head of Finance (sct 151 officer), provided all terms of the scheme are met.
- 3.15 Guidance notes regarding the scheme are shown in **Appendix 1** to this report.

#### **4 Resource Implications**

- 4.1 There are no financial implications to the Council as Welsh Government will reimburse in full for any relief that is awarded, in other words if correctly applied there will be no direct cost to the Council.
- 4.2 The Head of Financial Services (section 151 officer) acknowledged that there are no direct financial implications to the Council in adopting the scheme as long as Welsh Government guidelines in terms of qualifying ratepayers, are adhered to. The full value of discretionary awards is reimbursed by the Welsh Government.
- 4.3 There are no workforce implications to the Council, as majority of businesses that would receive this relief will have it automatically granted to their 2020-21 Business Rates bill with no manual intervention by staff.
- 4.4 Furthermore there are no known ICT, customer services or physical implications. Front line services have been made fully aware of the temporary scheme to operate during the financial year 2020-21 and how ratepayers, where appropriate, submit an application to be considered for the relief.
- 4.5 Corporate Communications Commented, "This relief is of significant public interest and will be promoted widely through all channels including media release and social media".

## **5 Legal Implications Options Considered/Available**

- 5.1 The report was shared with legal who commented “The recommendations can be supported from a legal point of view”.
- 5.1 The Head of Legal and Democratic Services (Monitoring Officer) has commented as follows: “I note the legal comment and have nothing to add to the report, I am not aware of any specific interests that may arise in relation to this report”.

## **6 Data Protection**

- 6.1 It is recommended that the relief for 2020-21 will be automatically granted to those businesses that meet the criteria, thus minimising the handling and transferring of personal data.
- 6.2 New applications will be submitted by way of an on-line form, on Councils website, thus minimising the handling and transferring of personal data.

## **7 Local Member(s)**

- 7.1 The relief scheme in respect of Business Rates will apply equally across the whole County. No comments have been received from local members.

## **8 Integrated Impact Assessment**

- 8.1 An impact assessment has not been undertaken, as the relief scheme will apply equally to all businesses that meet the criteria set out in section 3 and **appendix 1**.

## **9 Recommendation**

- 9.1 That a Business Rates Retail, Leisure and Hospitality Rates Relief scheme 2020-21 be established in accordance with section 3 of this report.
- 9.2 Ratepayers that meet the qualifying conditions and remain in occupation as at 1 April 2020 be automatically granted this relief for financial year 2020-21.
- 9.3 New applications for Business Rates retail, leisure and hospitality rates relief 2020-21 under the scheme referred to above shall be delegated to and determined by the Portfolio holder for Finance in consultation with the Head of Financial services (Section 151 Officer).

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**Head of Service:** Jane Thomas  
**Corporate Director:** Ness Young

**Background Papers used to prepare Report:**

**Appendix 1**

Non-Domestic Rates Retail, Leisure and Hospitality Rate Relief in Wales 2020-21  
Guidance Note





Llywodraeth Cymru  
Welsh Government

## Non-Domestic Rates

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

#### Guidance

## **Contents**

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# 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](mailto: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 grants<sup>1</sup>. 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

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<sup>1</sup> 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.

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