

**Decision Session – Executive Member
Finance & Performance**

9 March 2020

Report of the Assistant Director Customer & Digital Services

Retail Discount and Pub Relief Scheme 2020/21

Summary

1. The purpose of this paper is to set out the details of York's proposed new retail discount scheme 2020 – 21 including pub relief and approve the category of retail properties that will benefit (the scheme). These discounts will provide a reduction in business rates for qualifying businesses helping to sustain employment and encourage growth of the York economy.

Recommendations

2. The Executive Member is asked to consider and approve:
 - a) City of York Council's scheme for applying the retail discount and pub relief in line with central government guidance as set out at Annex A;
 - b) that properties not listed in the Government's guidance (and at Annex A) that may meet the qualifying criteria be considered on a case by case basis and awards made if deemed to meet the qualifying criteria by the Business Rates Team (Paragraph 9);
 - c) that properties not listed in the Government's guidance and at Annex A and are considered not to meet the stated qualifying criteria can be considered on a case by case basis and be declined by the Business Rates Team (Paragraph 10 & 11); and
 - d) that the council automatically awards this discount to all the businesses it identifies as meeting the qualifying criteria (Para 19).

Reason: To support local business in York protect employment and grow the local economy.

Background

3. The Government announced in the Budget on 29 October 2018 that it would provide a business rates scheme (Retail Discount) for occupied retail properties with a rateable value of less than £51,000 in each of the years 2019-20 and 2020-21. The value of discount would be one third of the bill.
4. In a written ministerial statement on 27th January 2020 the Government announced it would increase the value of retail discount from one third of the bill to 50% in 2020/21. It also extended the qualifying criteria to include cinemas and live music venues.
5. Recognising the important role pubs play in urban and rural communities the statement also announced a £1,000 discount for public houses with a rateable value of less than £100,000 for one year from April 2020.
6. The purpose of the relief provided is to support the 'high street' which has been affected by changes in consumer spending preferences such as online shopping.
7. There is no cost to the council in providing either discount which will be fully reimbursed by Central Government through the rates retention system.

Retail Discount

8. Properties that will benefit from the relief will be occupied hereditaments with a rateable value of less than £51,000 that are wholly or mainly being used as shops, restaurants, cafes, drinking establishments, cinemas and live music venues.
9. The council considers shops, restaurants, cafes, drinking establishments, cinemas and live music venues to mean:
 - i. **Hereditaments that are being used for the sale of goods to visiting members of the public:**

- Shops (such as: florist, bakers, butchers, grocers, greengrocers, jewellers, stationers, off licence, 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: hair dressers, nail bars, beauty salons, tanning shops, etc)
- Shoe repairs/ key cutting
- Travel agents
- Ticket offices e.g. for theatre
- Dry cleaners
- Launderettes
- PC/ TV/ domestic appliance repair
- Funeral directors
- Photo processing
- Tool hire
- Car hire

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

- Restaurants
- Takeaways
- Sandwich shops
- Coffee shops
- Pubs
- Bars

IV. Hereditaments that are being used as cinemas;

V. Hereditaments that are being used as live music venues:

- live music venues are hereditaments wholly or mainly used for the performance of live music for the purpose of entertaining an audience. Hereditaments cannot be considered a live music venue 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).
 - 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).
10. To qualify for the relief the hereditament should be wholly or mainly being used as a shop, restaurant, café, drinking establishment cinema or live music venue. In a similar way to other discounts 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 discount.
 11. 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 as to the types of uses that Government considers for this purpose to be retail. The council has the discretion to determine whether particular properties not listed are broadly similar in nature to those above and, if so, to consider them eligible for the discount. This report recommends that the Business Rates Team makes this decision on a case by case basis. Conversely, properties that are not broadly similar in nature to those listed above should not be eligible for the relief again with any decision being made by the Business Rates Team.
 12. The list below sets out the types of uses that the Government **does not consider to be retail use** for the purpose of this relief. The council has the discretion to determine whether particular

properties are broadly similar in nature to those below and, if so, to consider them not eligible for the relief under the 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, payday lenders, betting shops, pawn brokers)
- Other services (e.g. estate agents, letting agents, employment agencies)
- Medical services (e.g. vets, dentists, doctors, osteopaths, chiropractors)
- Professional services (e.g. solicitors, accountants, insurance agents/ financial advisers, tutors)
- Post office sorting offices

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

13. Generally speaking, the government also does not consider other assembly or leisure uses beyond those listed at paragraph 9 to be retail uses for the purpose of the discount. For example, theatres and museums are outside the scope of the scheme, as are nightclubs which are not similar in nature to the hereditaments described at paragraph 9 (iii) above. Hereditaments used for sport or physical recreation (e.g. gyms) are also outside the scope of the discount. Where there is doubt, City of York council's business rates team will exercise their discretion with reference to the above and knowledge of their local tax base.

Pub Relief

14. This section describes the Pubs Discount 2020/21 scheme. The scheme will be available to eligible occupied properties with a rateable value of less than £100,000. The majority of pubs are independently owned or managed and will not be part of chains. Where pubs are part of a chain, relief will be available for each eligible property in the chain, subject to meeting State Aid requirements.
15. There is no definitive description of a traditional pub or public house in law which could be readily used to determine eligibility. Government guidance sets out that to qualify a pub should be:

- be open to the general public
- allow free entry other than when occasional entertainment is provided
- allow drinking without requiring food to be consumed
- permit drinks to be purchased at a bar.

For these purposes, it should exclude:

- restaurants
- cafes
- nightclubs
- hotels
- snack bars
- guesthouses
- boarding houses
- sporting venues
- music venues
- festival sites
- theatres
- museums
- exhibition halls
- cinemas
- concert halls
- casinos

16. The proposed exclusions in the list at paragraph 15 is not intended to be exhaustive and it will be for the local authority to determine those cases where eligibility is unclear. Where eligibility is unclear the authority may consider broader factors in their considerations.

Level of award

17. Retail Discount - The total amount of Government-funded relief available for each property for 2020/21 under the retail discount scheme is 50% of the bill, after mandatory reliefs (including discretionary reliefs funded by section 31 grants e.g. Small business rate relief). With the exception of the 2020/21 pubs discount (which is applied after the award of retail relief) and excluding those where the council has used its discretionary relief powers introduced by the Localism Act. There is no relief available under the retail discount scheme for properties with a rateable value of £51,000 or more

18. Pub Relief - City of York Council will apply Pub relief of £1,000 for eligible properties with an rateable value of under £100,000 alongside the retail discount under section 47 in line with the guidance published by the Ministry of Housing, Communities & Local Government in January 2020.
19. Ratepayers that occupy more than one property will be entitled to relief for each of their eligible properties, subject to State Aid De Minimis limits.

State Aid

20. The retail discount and pub relief will be considered as state funding and as such is subject to European state aid rules. The De Minimis Regulations allow an undertaking to receive up to €200,000 of state aid in a three year period. It will be necessary for any business wishing to claim this relief to make an application to the council and complete a state aid declaration form.

Options

21. There are no options associated with this paper.

Analysis

22. There are approximately 1,500 hereditaments that could qualify for retail discount and in the region of 150 public houses that may qualify for the pub relief. The numbers applying and qualifying may not be as high as this as some remain unoccupied, some belong to national chains that for state aid reasons will not apply and some will not meet the qualifying criteria e.g. banks & building societies.
23. In the case of unoccupied properties this relief may act as an incentive to new business. As the relief is been fully funded by Central Government and could bring in significant additional income to the York economy as well as incentivising new business, it is recommended that the policy is approved.
24. Depending on the numbers applying this will potentially create additional administrative pressure on the Business Rates Team. It is hoped that this can be minimised through the implementation and application of efficient processes to manage applications. To

put this pressure into context there are now 14 different Mandatory, Discretionary and Temporary rate reliefs to be administered by the council.

25. As businesses applying for retail discount or pub relief will want to have a prompt response to their application the power to make individual awards should be delegated to the Head of Customer & Exchequer Services.
26. As with the previous schemes businesses often fail to apply so the council will automatically award the discount to all the properties that can be identified as meeting the criteria. It will be the responsibility of the business to complete and return state aid forms or risk the award being rescinded.

Council Plan 2019 - 23

27. The award of the new retail discount will positively impact on the Council Plan 2019 – 23 specifically:
 - Well-paid jobs and an inclusive economy

Implications

28.
 - (a) **Financial** – As the Government will fully reimburse any awards made by the council there are no financial implications.
 - (b) **Human Resources (HR)** - There are no implications
 - (c) **Equalities** – There are no direct implications
 - (d) **Legal** – The award of retail rate relief has state aid implications.
 - (e) **Crime and Disorder** - There are no implications
 - (f) **Information Technology (IT)** - There are no implications
 - (g) **Property** - There are no implications

Risk Management

29. There are no high risks associated with retail discount or pub relief. The only risks are in relation to managing the state aid implications and additional work pressures.

Contact details:

Author:

David Walker
Head of Customer &
Exchequer Services
Phone No. 01904 552261

**Executive Member and Chief Officer
responsible for the report:**

Pauline Stuchfield
Assistant Director Customer & Digital
Services
Telephone: 01904 551706

David Wright
Revenues Benefits and
Subsidy Manager
Phone No. 01904 552234

Report **Date** 26/02/20
Approved

Specialist Implications Officer(s) None

Wards Affected: All

For further information please contact the authors of the report

Background Papers

Retail Relief Guidance – Ministry of Housing Communities and Local Government.

Pubs Discount 2020/21 – Ministry of Housing Communities and Local Government.

Annexes

Annex A – City of York Council's Retail Discount and pub relief Scheme 2020-21

Glossary

Hereditament– A premise where business can be undertaken. The technical term used in business rate law.