

REPORT TO	DATE
Chief Executive, in Consultation with the Deputy Leader of the Council	1 st April 2020



TITLE	PORTFOLIO	REPORT OF
Urgent Decision Under Section 35 of the Council's Constitution: Expanded Retail Discount 2020/21	Finance, Property & Assets	Director of Customer & Digital

Is this report a key decision? (i.e. more than £100,000 or a significant impact on more than 2 Borough wards)	Yes
Is this report confidential?	No

PURPOSE OF THE REPORT

1. The changes proposed in this report are aimed at extending the support we already offer to businesses with their business rates to include the recent announcements made by Government.

RECOMMENDATIONS

2. That the amended policy in Appendix A be approved.
3. That the Chief Executive and S151 Officer approve delegated authority for a responsible officer to decide upon any application for the discount made under this policy taking into account the contents of the policy, the council's priorities and policies and in addition the advice provided by the Ministry of Housing, Communities & Local Government's "Expanded Retail Discount & Nursery Discount Guidance". (This mirrors the provisions already contained within our existing Discretionary Rate Relief Policy).

REASONS FOR THE DECISION

4. The amended policy is in line with government requirements to apply and administer an expanded business rates retail discount to retail, leisure and hospitality and nursery properties affected by COVID19.

CORPORATE OUTCOMES

5. The report relates to the following corporate outcomes:

Excellence, Investment and Financial Sustainability	✓
Health, Wellbeing and Leisure	
Place, Homes and Environment	✓

Projects relating to People in the Corporate Plan:

Our People and Communities	✓
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BACKGROUND TO THE REPORT

6. The Government announced in the Budget on 29 October 2018 that it would provide a Business Rates Retail Discount, to apply in the years 2019/20 and 2020/21. In response to the coronavirus pandemic, in the Budget on 11 March the Government announced that it would increase the discount to 100% and extend it to include the leisure and hospitality sectors. Following the announcement on 23 March 2020 of further measures to limit the spread of coronavirus, the Government confirmed that some of the exclusions for this relief have been removed, so that retail, leisure, and hospitality properties that will have had to close as a result of the restriction measures will now be eligible for the relief. There will be no rateable value limit on the relief.
7. As an extraordinary response to the coronavirus, the Government also announced a business rates Nursery (childcare) Discount. This relief will apply to hereditaments occupied by providers on Ofsted's Early Years Register and wholly or mainly used for the provision of the Early Years Foundation Stage and which are subject to business rates in the year 2020/21. There will be no rateable value limit on the relief. Ofsted will ensure that all local authorities can access the Ofsted Early Years Register to help authorities identify eligible properties.

PROPOSALS (e.g. rationale, detail, finance, procurement)

8. As these are measures 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 the 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. It will be for individual local billing authorities to adopt a local scheme and determine in each individual case when, having regard to their guidance, to grant relief under section 47. Central government will fully reimburse local authorities for the local share of

the discretionary relief (using a grant under section 31 of the Local Government Act 2003).

9. Central government will reimburse billing authorities and major precepting authorities for the actual cost to them under the rates retention scheme of the relief that falls within the definitions in the policy. We have completed our NNDR1 for 2020/21 already. Therefore, South Ribble will be asked to provide a further and separate estimate of their likely total cost for providing the 100% extended relief in 2020/21 and this will be provided for finance sign off on 9th April 2020. The Government will provide payments to authorities to cover the local share, as per the usual process.
10. South Ribble 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 2020/21. Any required reconciliations will then be conducted at this point.

CONSULTATION CARRIED OUT AND OUTCOME OF CONSULTATION

11. There is no legal requirement to undertake formal consultation. All businesses will be formally notified of the amended discount as part of a rebilling process.

ALTERNATIVE OPTIONS CONSIDERED

12. The Government have requested that local authorities administer this amendment to the discount, there are therefore no alternatives.

AIR QUALITY IMPLICATIONS

13. .None

RISK MANAGEMENT IMPLICATIONS

14. South Ribble will not be able to provide the additional support contained within the Government's announcements to the businesses in our area without the approval of the policy. The process will mirror existing arrangements with reliefs/discounts and existing measures are in place to ensure occurrences of fraud are minimised.

EQUALITY & DIVERSITY IMPACT

15. The discount will be available to all eligible/qualifying businesses.

COMMENTS OF THE STATUTORY FINANCE OFFICER

16. The amended policy is in line with government requirements to apply and administer an expanded business rates retail discount to retail, leisure and hospitality properties affected by COVID19.
17. The council will receive compensatory S31 grant reliefs for the changes outlined in this report. There will be cash flow implications for both South Ribble and the other preceptors from these changes, these will be quantified and reported to relevant stakeholders when the information becomes available.

COMMENTS OF THE MONITORING OFFICER

18. The urgent need for this decision is self-evident. The council must act promptly (in line with Government advice) to provide the relief as outlined in this decision. We are making use of existing discretionary rate relief powers as outlined in paragraph 7 above.

BACKGROUND DOCUMENTS

Local Government Finance Act 1988 (as amended).
Local Government Act 2003 (as amended)
Local Government Finance Act 2012 (as amended)
Ministry for Housing, Communities & Local Government - "Expanded Retail Discount Guidance"

APPENDICES TO THIS REPORT

Appendix A - Draft Local Discount Discretionary Rate Relief Policy

Paul Hussey
Director of Customer & Digital

Approval of Urgent Decision

I confirm that I consider this decision is one of genuine urgency in accordance with section the Council's constitution:



Councillor David Howarth
Chair of the Scrutiny Committee

Dated: 07/04/2020

Following careful consideration and assessment of the contents of the report, I approve the recommendations contained in the report in accordance with the Council's constitution in consultation with the Deputy Leader of the Council:



Gary Hall
Chief Executive

Dated: 07/04/20



Councillor Mick Titherington
Deputy Leader of the Council

Dated: 07/04/20

South Ribble Borough Council

Local Discount Discretionary Rate Relief Policy



Effective 1st April 2020

The Government announced in the Budget on 29 October 2018 that it would provide a Business Rates Retail Discount, to apply in the years 2019/20 and 2020/21. In response to the coronavirus pandemic, in the Budget on 11 March the Government announced that it would increase the discount to 100% and extend it to include the leisure and hospitality sectors. Following the announcement on 23 March 2020 of further measures to limit the spread of coronavirus, the Government confirmed that some of the exclusions for this relief have been removed, so that retail, leisure, and hospitality properties that will have had to close as a result of the restriction measures will now be eligible for the relief.

The Council has adopted a new Local Discount Discretionary Rate Relief Policy in response to these statements. This policy is in addition to the existing Discretionary Rate Relief policy effective from 1st April 2013. This policy only covers the announcements made in the above statements, it makes no additions or amendments to our existing policy. All awards will be made under Section 47 of the Local Government Finance Act 1988 (as revised). This policy relates to the following area only:-

Expanded Retail & Nursery Discount 2020/21

South Ribble has taken into account all the guidance issued by the Ministry of Housing, Communities & Local Government therefore:-

Which properties will benefit from relief?

Properties that will benefit from the relief will be occupied hereditaments that are wholly or mainly being used:

- (a) as shops, restaurants, cafes, drinking establishments, cinemas and live music venues,
- (b) for assembly and leisure,
- (c) as hotels, guest & boarding premises and self-catering accommodation; or
- (d) as nurseries (childcare).

(a) South Ribble consider 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: florists, bakers, butchers, grocers, greengrocers, jewellers, stationers, off licences, chemists, newsagents, hardware stores, supermarkets, etc)
- Charity shops
- Opticians
- Post offices
- Furnishing shops/ display rooms (such as: carpet shops, double glazing, garage doors)
- Car/caravan show rooms
- Second-hand car lots
- Markets
- Petrol stations
- Garden centres
- Art galleries (where art is for sale/hire)

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

- Hair and beauty services (such as: hairdressers, nail bars, beauty salons, tanning shops, etc)
- Shoe repairs/key cutting
- Travel agents
- Ticket offices e.g. for theatre
- Dry cleaners
- Launderettes
- PC/TV/domestic appliance repair
- Funeral directors
- Photo processing
- Tool hire
- Car hire
- Employment agencies
- Estate agents and letting agents
- Betting shops

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

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

iv. Hereditaments which are being used as cinemas

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

– Live music venues are hereditaments wholly or mainly used for the performance of live music for the purpose of entertaining an audience. Hereditaments cannot be considered a live music venue for the purpose of business rates relief where a venue is wholly or mainly used as a nightclub or a theatre, for the purposes of the Town and Country Planning (Use Classes) Order 1987 (as amended).

– Hereditaments can be a live music venue even if used for other activities, but only if those other activities (i) are merely ancillary or incidental to the performance of live music (e.g. the sale/supply of alcohol to audience members) or (ii) do not affect the fact that the primary activity for the premises is the performance of live music (e.g. because those other activities are insufficiently regular or frequent, such as a polling station or a fortnightly community event).

– There may be circumstances in which it is difficult to tell whether an activity is a performance of live music or, instead, the playing of recorded music. Although we would expect this would be clear in most circumstances, guidance on this may be found in Chapter 16 of the statutory guidance issued in April 2018 under section 182 of the Licensing Act 2003.

(b) South Ribble 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).

- Sports grounds and clubs
- Museums and art galleries
- Nightclubs
- Sport and leisure facilities
- Stately homes and historic houses
- Theatres
- Tourist attractions
- Gyms
- Wellness centres, spas, massage parlours
- Casinos, gambling clubs and bingo halls

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

- Public halls
- Clubhouses, clubs and institutions

(c) South Ribble 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

(d) South Ribble consider a nursery (childcare) to mean:

Properties occupied by providers on Ofsted's Early Years Register and wholly or mainly used for the provision of the Early Years Foundation Stage

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

The list set out above is not intended to be exhaustive as it would be impossible to list the many and varied uses that exist within the qualifying purposes. There will also be mixed uses. However, it is intended to be a guide for potential recipients as to the types of uses that the South Ribble Borough Council considers for this purpose to be eligible for relief. South Ribble Borough Council will determine 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.

Which properties will not qualify for this relief?

The list below sets out the types of uses that South Ribble Borough Council does not consider to be retail use for the purpose of this relief. Again, South Ribble Borough Council will determine whether particular properties are broadly similar in nature to those below and, if so, to consider them not eligible for the relief under our local scheme.

i. Hereditaments that are being used for the provision of the following services to visiting members of the public

- Financial services (e.g. banks, building societies, cash points, bureaux de change, short-term loan providers)
- Medical services (e.g. vets, dentists, doctors, osteopaths, chiropractors)
- Professional services (e.g. solicitors, accountants, insurance agents/ financial advisers)
- Post office sorting offices

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

How much relief will be available?

The total amount of government-funded relief available for each property for 2020/21 under this scheme is 100% of the bill, after mandatory reliefs and, other discretionary reliefs have been applied. There will be no rateable value limit on the relief.

Awards of this discount will only be made after entitlement to all other reliefs has been determined. The eligibility for the relief and the relief itself will be assessed and calculated on a daily basis.

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. It is the responsibility of the applicant to ensure they do not receive relief which result in rules governing State Aid being broken.

State Aid

State Aid law is the means by which the European Union regulates state funded support to businesses. Providing discretionary relief to ratepayers is likely to amount to State Aid. Whilst the UK left the EU on 31 January 2020, the Withdrawal Agreement negotiated by the 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.

The 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 to this approval, the Expanded Retail Discount scheme will become a notified State aid.

South Ribble will not require an application for any relief awarded under these provisions, but do still require that all businesses that receive the relief must declare that any benefit they receive under these powers does not exceed the State Aid restrictions. **It is the businesses' sole responsibility to ensure these limits are not exceeded.**

An appropriate/responsible officer within the council has the authority to decide upon any application for this relief made under this policy taking into account the contents of this policy, the council's priorities and policies and in addition the guidance provided by the Ministry of Housing, Communities & Local Government (Expanded Retail Discount 2020/21 Guidance).