

WIRRAL COUNCIL

CABINET

6 NOVEMBER 2014

SUBJECT:	NON DOMESTIC RATES DISCRETIONARY RATES RELIEF POLICY 2014/15 & 2015/16
WARD/S AFFECTED:	ALL
REPORT OF:	HEAD OF BUSINESS PROCESSES
RESPONSIBLE PORTFOLIO HOLDER:	COUNCILLOR PHIL DAVIES
KEY DECISION	YES

1.0 EXECUTIVE SUMMARY

1.1 This report seeks approval to retain the level of award given under the Discretionary Rate Relief Policy to support appropriate organisations that are current relief recipients with regard payment of Non Domestic Rates. The original eligibility criteria are proposed to be retained to 31st March 2016 for current recipients. A further report will follow early in 2015 on revised criteria to be immediately introduced for new applicants and for current recipients for 2016/17 giving this latter category the statutory 12 months notice of a change.

2.0 BACKGROUND AND KEY ISSUES

2.1 Wirral's policy for awarding discretionary rate relief for non domestic rate payers is based on Section 47 of the Local Government Finance Act 1988 and the NNDR (Discretionary Relief) Regulations 1989. Central government has periodically issued guidance urging local authorities to exercise their power of granting relief generously to organisations which satisfy the criteria and this has broadly been adopted by the Authority and is reproduced in Appendix 1.

2.2 Council policy has its foundation in a report to the then Policy and Resources Committee on 24 January 1990, as amended in December 1992, that 100% discretionary rate relief be given to certain non profit making voluntary or sporting organisations which broadly fit the criteria laid down. Members reviewed the policy in 2008 and in February 2011 amended criteria to take account of smaller properties being given Small Business Rates Relief.

2.3 Discretionary rate relief tends to be awarded to three different categories of organisation:-

- a. Charities that currently receive 80% mandatory relief may receive the additional 20% as top up discretionary relief.
- b. Organisations not established nor conducted for profit may receive up to 100% discretionary relief.

- c. Eligible ratepayers situated in a designated rural settlement area currently receive 50% mandatory relief topped up by the additional 50% rate relief at the discretion of the Council.
- 2.4 Discretionary Relief of 100% is awarded to non charity organisations such as Trusts, Sport and Hobby Clubs, Training Organisations and Community/ Resident Associations.
- 2.5 Discretionary Relief has been funded by the Council and Central Government as follows;
Where Mandatory Relief of 80% is awarded and topped up by 20% Discretionary Relief. The 20% discretionary rate relief element is funded 75% by the Council and 25% by Central Government. The Council thus paying 15% of the total rates bill.
Where Discretionary Relief of 100% is awarded the relief is funded 25% by the Council and 75% by Central Government.
- 2.6. The split of recipients at 31st March 2014 was;

Description	% relief awarded	£	Numbers *
Advice Centres	100	10,126.50	1
Bowling Clubs	100	361.15	1 (8)
Charity Shops	20	88,363.53	72
CASCs	20	7,747.95	9
Comm & Residents Assoc	20+100	70,783.75	43 (50)
Community Centres	100	0	(4)
Community Interest Comp	100	0	(1)
Cricket	100	7,969.50	1 (7)
Golf Club	100	0	0(1)
Housing Associations	20	2,896.65	3
Misc	20+100+50	65,502.05	21
Misc Sports Clubs	20+100	30,219.93	5 (10)
Museums	20	18,180.60	2
National Charities	20	24,518.91	44
Playgroups	20	480.42	1
Religious Groups	20	7,172.33	12
Rugby Clubs	100	30,047.55	6 (8)
Rural relief	50	565.20	1
Sailing Clubs	100	7083.25	8

Soccer Clubs	100	10,244.25	6
Tennis Clubs	100	1,389.22	1 (12)
Theatre	20+100	3,358.23	4 (5)
Training	20	19,757.22	4 (5)
Vol & Aided Schools	20	152,382.59	33
Welfare Organisations	20	132,669.65	110
Youth Organisations	20	24,029.84	48
		715,850.27	

Number in brackets refers to total claimants, the difference being those in receipt of a level of small business rates relief.

- 2.7 Businesses can be granted relief under Small Business Rate Relief scheme. This is funded 100% by Central Government and is awarded in 2014/15. Recipients get all rates paid where a property is under 6,000 Rateable Value. From 6,000 up to 12,000 Rateable Value a sliding scale of relief from 100% to 0% applies. This assists Wirral by awarding £33,000 of this relief rather than under the Discretionary Relief Scheme. If Small Business Relief was to be stopped this sum would be borne by the authority if the eligibility criteria are unaltered.
- 2.8. In a change in legislation concerning Business Rates Income Retention that took effect from 1 April 2013 any new Mandatory or Discretionary Relief cases are funded 50% by the Council and 50% by Central Government. The authority receives grant in respect of existing recipients using the “old” funding levels and this impact on any new recipients from April 2013.
- 2.9 The issue of the size of the ongoing relief budget was consulted on under the What Really Matters budget consultation in 2012/13. 76.75% supported the proposal to reduce the discretionary relief budget. The Interim Director of Finance at the time proposed to reduce the net budget by £320,000 by the removal of discretionary rate relief from the non schools budget. Budget Cabinet on 21 February 2013 (minute 198) agreed to reduce this budget by £320,000 for 2014/15. However due to revisions in the Collection Fund arrangements, which include Non Domestic Rates, the impact of awarding Discretionary Relief on Council budgets is lessened.
- 2.10. Twelve months statutory notice was served on the 426 recipients that were in receipt of each type of Discretionary Relief in March 2013 which alerted that the level of awards would alter and they would be advised in due course of the decision. This was followed up in March 2014 by a further letter stating that consideration of the new levels of award would only take place in the new financial year and that any change would not be retrospectively applied prior to the new levels being agreed. This report details full year position along side identifying the additional one off funding for the intervening period will be need to be agreed to be met from reserves.

- 2.11 Academy Schools were the largest recipients of this Discretionary Relief in 2012/13 with 16 schools receiving £289,951, some 29% of the £1,008,661 awarded. The funding arrangements for Academies were changed from 1 April 2013 with funding being paid directly by Central Government. This had the effect of removing them from Discretionary Relief for 2013/14 and reduced expenditure from £1,008,661 to £715,850 with Wirral seeing a reduction of £189,190.
- 2.12. The Wirral Schools Forum previously agreed to match fund discretionary rate relief paid by the authority, so the reduction in gross expenditure did not help meet the savings as income is reduced. Thus the proposed budget cut falls only on non schools applicants and remaining schools retain relief on an overall non cost basis to the discretionary relief budget.
- 2.13. In 2013/14 the expenditure on non school relief was approximately £360,000, split £35,225 discretionary only cases and £325,000 on the top up discretionary relief used for charities.
- 2.14 For 2014/15 a residual sum of £40,000 remained after the budget reduction of £320,000. This is equivalent to the support for all current 100% discretionary awards but giving no support to any charity in receipt of 80% mandatory relief. Those organisations would then have to pay 20% directly having previously received 100% support. Such a reduction in awards would have a significant impact on the many categories of individual organisations and could affect their viability.
- 2.15 After careful consideration of the impact of these proposals on many organisations across a wide range of sectors that are important to the authority's ongoing work and the residents they support it is now proposed to continue support at the current level for the rest of this financial year and for 2015/16 for current recipients. Thereafter the annual budget for non schools relief will be reduced as initially proposed to £40,000.
- 2.16. All current recipients will be alerted to this and this will allow additional time to review and put in place how organisations will meet their increased liability in 2016/17. Revised criteria for new applicants will be proposed to a future Cabinet that will apply immediately to new applicants. This rescheduling of the withdrawal of relief is to be funded as a one off from balances.

3.0 RELEVANT RISKS

- 3.1 If a decision is not made all previous discretionary relief recipients would be required to pay the full amount without any relief.

4.0 OTHER OPTIONS CONSIDERED

- 4.1 The option of staying at the reduced budget level for ongoing discretionary rates relief was not considered appropriate given the impact on recipients.

5.0 CONSULTATION

- 5.1 The decision to reduce the budget was taken as part of the What Really Matters consultation in 2012.

6. OUTSTANDING PREVIOUSLY APPROVED ACTIONS

- 6.1. This report relates to the implementation of a savings option agreed for 2014/15.

7.0 IMPLICATIONS FOR VOLUNTARY, COMMUNITY AND FAITH GROUPS

- 7.1 These changes will see organisations currently in receipt of discretionary relief see that relief reduce from 2016/17.

8.0 RESOURCE IMPLICATIONS: FINANCIAL; IT; STAFFING; AND ASSETS

- 8.1 Under the previous policy recipients could be given up to 100% relief of the amount due. Of the amount awarded, 75% used to be borne by Government and 25% was met by the Council. In 2013/14 the scheme saw awards of £715,850 of which the Council met £466,440. The Council gave due notice that the level of support was to be reduced from April 2014 and the Discretionary Relief Budget was set at £40,000 for 2014/15.
- 8.2 The proposed level of discretionary relief for 2014/15 is for all qualifying recipients to continue to receive the previous full level of support. This has a total cost in 2014/15 of £330,000. This takes account of the annual increase in business rates as well as discretionary rate relief recipients that will receive small business or retail rates relief. However small business rates relief is set to be withdrawn in 2015/16 and this would see a discretionary relief requirement of approximately £350,000 required in 2015/16 unless new criteria is adopted for new applicants.
- 8.3. The total awards for 2014/15 and 2015/16 are estimated at £610,000 which will be £530,000 over original budget. This is to be funded from the Business rates Equalisation Reserve created to cover the impact of business rates changes and government funding initiatives.
- 8.4. The revision to the Collection Fund arrangements means this relief is now counted in the Collection Fund calculation which will help mitigate the impact on the authority.
- 8.5. Small Business Rates Relief, Retail Relief and Retail Reoccupation Relief costs are all met in full by central government. The first is set to end 31 March 2015 the latter two on 31 March 2016.
- 8.6. There are no asset implications arising from this change.

9.0 LEGAL IMPLICATIONS

- 9.1 There are none arising directly from this report.

10.0 EQUALITIES IMPLICATIONS

- 10.1 The Equality Impact Assessment link shown;

<https://www.wirral.gov.uk/my-services/community-and-living/equality-diversity-cohesion/equality-impact-assessments/eias-april-2014>

11.0 CARBON REDUCTION IMPLICATIONS

- 11.1 There are none arising directly from this report.

12.0 PLANNING AND COMMUNITY SAFETY IMPLICATIONS

12.1 There are none arising directly from this report.

13.0 RECOMMENDATION

13.1. That the discretionary rate relief policy (appendix 1) to this report be approved as the authority policy from 2014/15 for current relief recipients.

13.2. That the level of Discretionary Rate Relief to be awarded for current qualifying recipients is a maximum level of support of 100% for discretionary relief only cases and in cases where mandatory relief of 80% is awarded the additional discretionary top up is 20%. This will be the case in 2014/15 and 2015/16.

13.3. That the qualifying criteria will be reviewed at a future meeting to best utilise the available budget for current applicants from 2016/17 and for new applications from the revised criteria's adoption.

14.0 REASON FOR RECOMMENDATIONS

14.1 To allow members to agree how discretionary rate relief is awarded.

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APPENDIX

1 – Proposed Discretionary Rate Relief Policy 2014/15

REFERENCE MATERIAL

Department for Communities & Local Government
Reoccupation Relief Guidance March 2014

SUBJECT HISTORY

Meeting	Dates
Cabinet (minute 306)	3 February 2011
Cabinet (minute 202)	18 February 2013
Cabinet (minute 165)	13 March 2014
Cabinet (minute 197)	19 June 2014

APPENDIX 1

DISCRETIONARY RELIEF POLICY 2014

The following is an extract of Policy and Resources Committee Report (FNCE/4/90) approved by min 386 (P&R) of 24 January 1990 as amended by minute 185 (P&R) of 15 December 1992, then by Cabinet 3 February 2011 (minute 306) which details the criteria that has been used to assess applications.

1. **ACCESS**

- 1.1. Is membership open to all sections of the community? There may be legitimate restrictions placed on membership which relate for example to ability in a sport or the achievement of a standard in the field covered by the organisation or where the capacity of the facility is limited. Clubs or organisations should not be considered if they have membership rates set at such a high level as to exclude the general community. In general, the club or organisation must be prepared to show that the criteria by which it considers applications for membership are consistent with the principle of open access.
- 1.2. Does the organisation actively encourage membership from particular groups in the community e.g. young people, women, older age groups, persons with disability, ethnic minorities, etc? An organisation which encouraged such membership might expect more sympathetic consideration than one which made no effort to attract members from groups which the Authority considered to be particularly deserving of support.
- 1.3. Are the facilities made available to people other than members, e.g. schools, casual public sessions etc? The wider use of facilities should be encouraged and rate relief might be one form of recognition that an organisation was promoting its facilities more widely.

2. **PROVISION OF FACILITIES**

- 2.1. Does the organisation provide training or education for its members? Are there schemes for particular groups to develop their skills e.g. young people, the disabled, retired people? An organisation providing such facilities might deserve more support than one which did not.
- 2.2. Have the facilities available been provided by self-help or grant aid? The fact that a club uses or has used self-help for construction or maintenance or had facilities funded by grant aid might be an indicator.
- 2.3. Does the organisation run a bar? The mere existence of a bar should not in itself be a reason for not granting relief. The Authority should look at the main purpose of the organisation. In sports clubs for example the balance between playing and non-playing members might provide a useful guide as to whether the main purpose of the club is sporting or social activities. A social club whose main aim is to bring together people with similar interests should not be excluded from relief just because of the existence of a licensed bar.

- 2.4. Does the organisation provide facilities which indirectly relieve the Authority of the need to do so, or enhance and supplement those which it does provide? Authorities should not refuse relief on the grounds that an organisation is in competition with the Authority itself, but should look at the broader context of needs of the community as a whole. A new need, not being provided by the Authority itself but identified as a priority for action, might be particularly deserving of support.

3. **OTHER CONSIDERATIONS**

- 3.1. Is the organisation affiliated to local or national organisations e.g. local sports or arts councils, national representative bodies, i.e. are they actively involved in local/national development of their interests?
- 3.2. If the organisation is a sporting club and its main activities are a recognised eligible sport the club will be encouraged to register with the Inland Revenue as a Community Amateur Sports Club (CASC).
- 3.3. Is the membership drawn from people mainly resident in the charging authority's area? Although authorities will have in mind that 25% of the cost of any relief given will be borne by the Council Taxpayers in their area, particular difficulties may arise with hereditaments which straddle local authorities boundaries and which under Regulation 6 of the Non-Domestic Rating (Miscellaneous Provisions) Regulations 1989 (S.I. 1989 No. 1060) will now fall to be shown in one list. In these cases and in those where hereditaments are situated close to an authority's boundary, a proportion of the membership may come from another charging authority area. Also for geographical reasons, or because of the nature of the terrain, particular facilities may be the only ones available for a wide area. In such cases the joint use of facilities by one or more similar organisations is not uncommon. In most cases there will be a measure of reciprocity between the memberships of organisations from different areas.
- 3.4. Authorities may wish to add further criteria or substitute relevant alternative criteria, which are appropriate to the furthering of their policies and the needs of the community such as development programmes. They should also bear in mind the need to encourage new activities in the wide range of organisations for which relief from rates is available.
- 3.5. The manner in which charities or organisations are funded should also be considered. In cases of full or substantial funding from central government; either directly or through an agency, council or similar body, which is funded or established by central government, consideration should be given to the merit of awarding relief.
- 3.6. Are members paid to participate? The Authority may wish to consider whether to award relief where payments or other significant benefits are provided to players. Exceptions may be the reimbursement of reasonable travel expenses or reasonable provision and maintenance of club owned equipment. The Authority may look favourably on clubs whose paid players

contribute more to the club than just playing e.g. by coaching younger members.

- 3.7. The Authority may wish to consider the extent to which the organisation's activities contribute to local community strategies or authority objectives for developing neighbourhood identity, community building or social inclusion.
- 3.8. Housing Associations, universities, further education colleges and independent schools are specifically excluded from receiving discretionary rate relief as per Cabinet decision dated 10 January 2008.
- 3.9. All future discretionary rate relief applications in respect of properties with a rateable value of less than £18,000 are accompanied by a Small Business Rate Relief (SBRR) application to encourage SBRR take up and to continue to reduce the reliance on the Discretionary Rate Relief budget.
- 3.10. With effect from 1 April 2014, Community Interest Companies and social welfare organisations that occupy properties with rateable values under £7,000 be entitled to full discretionary rate relief and those occupying properties of £7,000 or more be considered by Members on a case by case basis.
- 3.11. **RETAIL RELIEF PROVISIONS**

Retail relief eligibility from 1st April 2014 will be administered in line with the Department for Communities and Local Government Retail Relief Guidance of January 2014 as set out below.

How will the relief be provided?

1. As this is a measure for 2014-15 and 2015-16 only, the Government is not changing the legislation around 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, introduced by the Localism Act (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 decide in each individual case when 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). The Government expects local government to grant relief to qualifying ratepayers.
2. Central government will reimburse billing authorities and those major precepting authorities within the rates retention system for the actual cost to them under the rates retention scheme of the relief that falls within the definitions in this guidance. Local authorities will be asked to provide an estimate of their likely total cost for providing the relief in their National Non Domestic Rate Return 1 (NNDR1) for 2014-15 and 2015-16. Central government will provide payments of the local authorities' share to authorities over the course of the relevant years.

Which properties will benefit from relief?

3. Properties that will benefit from the relief will be occupied hereditaments with a rateable value of £50,000 or less, that are wholly or mainly being used as shops, restaurants, cafes and drinking establishments.

4. We consider shops, restaurants, cafes and drinking establishments 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, chemists, stationers, off licence, newsagents, hardware stores, supermarkets)
- 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)
- Shoe repairs/ key cutting
- Travel agents
- Ticket offices e.g. for theatre
- Dry cleaners
- Launderettes
- PC/ TV/ domestic appliance repair
- Funeral directors
- Photo processing
- DVD/ video rentals
- 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

5. To qualify for the relief the hereditament should be wholly or mainly being used as a shop, restaurant, cafe or drinking establishment. 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.
6. The list set out above is not intended to be exhaustive as it would be impossible to list the many and varied retail uses that exist. There will also be mixed uses. However, it is intended to be a guide for authorities as to the types of uses that government considers for this purpose to be retail. 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.
7. As the grant of the relief is discretionary, authorities may choose not to grant the relief if they consider that appropriate, for example where granting the relief would go against the authority's wider objectives for the local area. We would encourage councillors to be consulted on the final scheme that the local authority adopts, so there is a clear line of accountability in case of a dispute on the final local scheme that is adopted.
8. The list below sets out the types of uses that government does not consider to be retail use for the purpose of this relief. Again, it is for local authorities to determine for themselves whether particular properties are broadly similar in nature to those below and, if so, to consider them not eligible for the relief under their 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, bureau 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 office

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

How much relief will be available?

9. The total amount of government-funded relief available for each property for each of the years under this scheme is £1,000. The amount does not vary with rateable value and there is no taper. There is no relief available under this scheme for properties with a rateable value of more than £50,000.

3.12. BUSINESS RATES REOCCUPATION RELIEF

Government Guidance used as Eligibility Guidance for Wirral Council award of relief for 2014/15 and 2015/16

1. This guidance is intended to support local authorities in administering the “Reoccupation Relief” announced in the Autumn Statement on 5 December 2013. This Guidance applies to England only. This guidance sets out the detailed criteria which central government will use to determine funding in respect of Reoccupation Relief. The Guidance does not replace existing legislation on retail properties, any other relief, or development control.
2. The government wants to encourage thriving and diverse town centres and wants to see the number of vacant shops decrease. This relief is intended to encourage reoccupation of shops that have been empty for a long period of time and reward businesses that make this happen.
3. The government announced in the Autumn Statement on 5 December 2013 that it would provide a 50% business rates discount for 18 months for businesses moving into previously empty retail premises between 1 April 2014 and 31 March 2016, up to State Aid De Minimis limits.

How will the relief be provided?

4. As this is a temporary measure that applies to ratepayers moving into previously empty retail premises between 1 April 2014 and 31 March 2016 only, the government is not changing the legislation around 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, introduced by the Localism Act (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 decide in each individual case when 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). The government expects local government to grant relief to qualifying ratepayers.
5. Central government will reimburse billing authorities and those major precepting authorities within the rates retention system for the actual cost to them under the rates retention scheme of the relief that falls within the definitions in this guidance. Local authorities will provide an estimate of their likely total cost for providing the relief in their National Non Domestic Rate Return 1 (NNDR1) for 2014-15, 2015-16, 2016-17 and 2017-18. Central government will provide payments of the local authorities’ share to authorities at the end of the relevant years.

Which properties will benefit from the relief?

6. Properties that will benefit from the relief will be occupied hereditaments that:
When previously in use, were wholly or mainly used for retail as set out in paragraph 11 below

- ~ Were empty for 12 months or more immediately before their reoccupation
 - ~ Become reoccupied between 1 April 2014 and 31 March 2016
 - ~ Are being used for any use (ie not just retail use) except as set out in paragraph 10 below
7. There is no rateable value limit for the hereditament in respect of either the previous or reoccupied use. However, State Aid De Minimis limits may limit the amount of relief given.

What is retail use?

8. In relation to a premises' previous use for the purposes of Reoccupation Relief we consider retail to mean:

i. Hereditaments that were 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)

~ 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 were being used for the provision of the following services principally to visiting members of the public:

~ Hair and beauty services (such as: hair dressers, nail bars, beauty salons, tanning shops)

~ Shoe repairs/ key cutting

~ Travel agents

~ Ticket offices e.g. for theatre

~ Dry cleaners

~ Launderettes

~ PC / TV / domestic appliance repair

~ Funeral directors

~ Photo processing

~ DVD/ video rentals

~ Tool hire

~ Car hire

iii. Hereditaments that were being used for the provision of the following services principally to visiting members of the public:

~
Financial services (e.g. banks, building societies, bureaux de change, payday loan shops, betting shops, pawn brokers)

~
Other services (e.g. estate agents, letting agents, employment agencies)

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

~
Restaurants

~
Takeaways

~
Sandwich shops

~
Coffee shops

~
Pubs

~
Bars

9. The list set out above is not intended to be exhaustive as it would be impossible to list the many and varied retail uses that exist. There will also be mixed uses. However, it is intended to be a guide for authorities as to the types of uses that government considers for this purpose to be retail. Authorities should determine for themselves whether particular properties not listed were broadly similar in nature to those above and, if so, to consider them to be retail. Conversely, properties that were not broadly similar in nature to those listed above should not be considered to be retail.

Reoccupied use

10. The new use of the reoccupied premises can be for any use (i.e. not just retail uses) except for hereditaments wholly or mainly being used as betting shops, payday loan shops, and pawn brokers

In the context of the public debate about the cumulative impact of betting shops, payday loan shops and pawn brokers the Government does not consider it the best use of public funds to offer tax relief that would encourage and incentivise the proliferation of these types of uses.

11. As the grant of the relief is discretionary, authorities may choose not to grant the relief if they consider that appropriate, for example where granting the relief would go against the authority's wider objectives for the local area or where it would not help a shopping area to thrive. We would encourage councillors to be consulted on the final scheme that the local authority adopts, so there is a clear line of accountability in case of a dispute on the final local scheme that is adopted.

How much relief will be available?

12. Relief will be available for 18 months from the first day the hereditament becomes occupied as long as the first day falls between 1 April 2014 and 31 March 2016, subject to the hereditament remaining continuously occupied.
13. The eligibility for the relief and the relief itself will be assessed and calculated on a daily basis.
14. Under this scheme the relief available for each property is 50% of the business rates liability after any mandatory or other discretionary reliefs (other

than retail relief) have been applied, up to State Aid De Minimis limits. The relief should be calculated ignoring any prior year adjustments in liabilities which fall to be liable on the day.

15. Councils may use their discretionary powers to offer further discounts outside this scheme (and under local rate retention, 50 per cent of the cost would be locally funded and 50 per cent funded by central government).

State Aid

16. 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. However Reoccupation Relief will be State Aid compliant where it is provided in accordance with the De Minimis Regulations (1407/2013).

Detailed State Aid guidance can be found at:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/15277/National_State_Aid_Law_Requirements.pdf

17. The De Minimis Regulations allow an undertaking to receive up to €200,000 of De Minimis aid in a three year period (consisting of the current financial year and the two previous financial years). Local authorities should familiarise themselves with the terms of this State Aid exemption, in particular the types of undertaking that are excluded from receiving De Minimis aid (Article 1), the relevant definition of undertaking (Article 2(2)3) and the requirement to convert the aid into Euros⁴.
18. To administer De Minimis it is necessary for the local authority to establish that the award of aid will not result in the undertaking having received more than €200,000 of De Minimis aid. Note that the threshold only relates to aid provided under the De Minimis Regulations (aid under other exemptions or outside the scope of State Aid is not relevant to the De Minimis calculation). Section 3 of this guidance contains a sample De Minimis declaration which local authorities may wish to use. Where local authorities have further questions about De Minimis or other aspects of State Aid law, they should seek advice from their legal department in the first instance⁵.

Splits, mergers, and changes to existing hereditaments

19. Where a new hereditament has been created by a split or merger of hereditament(s), the new hereditament will be eligible for the Reoccupation Relief where at least half of the floor area of the new hereditament is made up of retail hereditaments that have been empty for 12 months or more (subject to meeting the other criteria in paragraphs 9 and 13).
20. Where a hereditament in receipt of Reoccupation Relief splits or merges to form new hereditaments, the new hereditaments will not be eligible for the remaining term of Reoccupation Relief.
21. Where a hereditament in receipt of Reoccupation Relief becomes unoccupied for any period of time less than 12 months it will not be eligible for any further Reoccupation Relief on occupation. However, if a hereditament that has

previously received Reoccupation Relief becomes empty for 12 months or more it will be eligible for an additional 18 months Reoccupation Relief if the criteria are met.

Change of ratepayer

22. The relief will run with the property rather than the ratepayer. So if a hereditament is in receipt of Reoccupation Relief and a new ratepayer becomes liable for the property they will benefit from the remaining term of the relief, subject to the new ratepayer's State Aid de minimis limits.

How will the relief work in Enterprise Zones?

23. Where a property is eligible for Enterprise Zone relief, that relief should be granted and this will be funded under the rates retention scheme by a deduction from the central share. If a property in an Enterprise Zone is not eligible for Enterprise Zone relief, or that relief has ended, Reoccupation Relief may be granted in the normal way, and this would be reimbursed by grant under section 31 of the Local Government Act 2003. Local authorities should not claim funding for Reoccupation Relief on properties which would otherwise qualify for Enterprise Zone government funded relief.

- 3.13. The level of Discretionary Rate Relief to be awarded for current qualifying recipients is a maximum level of support of 100% for discretionary relief only cases and in cases where mandatory relief of 80% is awarded the additional discretionary top up is 20%. This will be the case in 2014/15 and 2015/16. From 2016/17 the qualifying criteria will be amended and revised criteria will be decided upon current applicants and may be applied for new applications from the revised criteria's adoption.