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Lewes District Council



Working in partnership with **Eastbourne Homes**

Business Rates Retail Discount Policy

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1. Introduction

- 1.1. Central government announced in the Autumn Budget on 29 October 2018 that it would provide a new discount scheme for retail properties that have a rateable value of below £51,000. In March 2020 the discount was extended to eligible properties with any rateable value for the 2020/21 financial year.
- 1.2. Properties that will benefit are those that are occupied hereditaments that are wholly or mainly used as shops, restaurants, cafes and drinking establishments. For the 2020/21 financial year occupied properties being wholly or mainly used for assembly and leisure or as hotels, guest & boarding premises and self-catering accommodation will also benefit.
- 1.3. In 2019/20 eligible ratepayers will receive a one third discount of the daily chargeable amount. For the 2020/21 financial year eligible ratepayers will receive 100% discount of the daily chargeable amount.
- 1.4. The grant of the discount is discretionary and local authorities are expected to use their powers, introduced by the Localism Act (under section 47 of the Local Government Finance Act 1998) to grant the new discount.
- 1.5. Central government will reimburse authorities and major precepting authorities within the rates retention scheme for the actual costs to them under the rates retention scheme for discounts that fall under this scheme.
- 1.6. The decision to grant or not to grant retail discount is a matter purely for the council. The council's policy for granting other discounts can be found on the council's website www.lewes-eastbourne.gov.uk

2. Qualifying Properties

- 2.1. The Government, whilst not changing the legislation around the discounts available to properties, has set out eligibility criteria.
- 2.2. Their guidance considers qualifying properties to mean:

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

- Shops (such as florists, bakers, greengrocers, butchers, greengrocers, jewellers, stationers, off licenses, 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 showrooms
- Second hand car lots
- Markets
- Petrol stations
- Garden centres
- Art galleries (where art is for sale or hire)
- Licensed sex shops

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, tanning shops, tattoo parlours and body-piercing services)
- Shoe repairs/key cutting
- Travel agents
- Ticket offices e.g for theatre
- Dry cleaners
- Launderettes
- Funeral directors
- Photo processing
- Tool hire
- Car hire

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

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

Additionally, in the 2020/21 financial year, hereditaments that are being used as cinemas, live music venues, for assembly and leisure or as hotels, guest & boarding premises and self-catering accommodation are also included.

- 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).

We consider assembly and leisure to mean:

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

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

- Public halls
- Clubhouses, clubs and institutions

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

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

2.3. The above lists are not exhaustive and it is for authorities to determine if particular properties not listed are broadly similar in nature those above and, if so, to consider them eligible for discount.

3. Non-qualifying Properties

3.1. Properties 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, pawn brokers)

- Gambling establishments (e.g. betting shops and amusement arcades)
- 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)
- Headshops or those selling legal highs and similar paraphernalia and Vape and e-cigarette shops
- Royal Mail sorting offices

4. Amount of discount available

4.1 Over the last few years a number of schemes have been led by central government but without specific legislative changes. These are administered under s47 of the Local Government Finance Act 1988 and guidance is often provided. The councils are keen to support such initiatives especially when they are designed to support local businesses and will look to maximise both the discounts given as well as maximising any grants receivable. However, the council reserves the right to vary its approach where thought appropriate.

4.2 In 2019/20 eligible ratepayers received a one third discount of their of their net rates bill. From 01 April 2020/21 eligible ratepayers will receive a 100% discount of their net rates bill for one year. There is no discount available under the scheme for properties with a rateable value above £51,000 for the 2019/20 financial year. Discount is only applicable in respect of occupied properties and is calculated on a daily basis.

4.3 The discount is applied against the net bill after all other Mandatory and Discretionary reliefs are taken into account.

4.4 Ratepayers that occupy more than one property will be entitled to discount for each eligible property (subject to State Aid de minimis levels in 2019/20).

4.5 European Union competition rules generally prohibit Government subsidies to businesses. Relief from taxes, including non-domestic rates, can constitute state aid. Rate discount for charities and non-profit making bodies is not generally considered to be State Aid, because the recipients are not in market competition with other businesses. However, where other bodies receive relief and are engaged in commercial activities or if they are displacing an economic operator, or if they have a commercial partner, rate discount could constitute state aid.

4.6 Discount will be State Aid compliant where it is provided in accordance with the de minimis regulations (1407/2013). The regulations allow an undertaking to receive

up to 200,000 euros of de minimis aid in a three year period (consisting of the current financial year and the two previous financial years).

Whilst the UK left the EU on 31 January 2020, the Withdrawal Agreement negotiated by the Government and the EU provides that during an implementation period State aid rules will continue to apply as now and will be subject to control by the EU Commission as at present.

Due to the coronavirus crisis, subject to approval, the state aid rules will be waived for the 2020/21 financial year.

4.7 Where the relief or discount to any one business is greater than the de minimis level, then permission will need to be obtained from the European Commission. In such cases the matter will be referred to the MHCLG (Ministry of Housing Communities and Local Government) for advice and then referred back to the council for consideration. It will be for the ratepayer to provide confirmation as to whether the State Aid provisions apply to them.

4.8 In all cases, where retail discount is to be granted or where liability is to be reduced, ratepayers will be required to provide the council with sufficient information to determine whether these provisions are applicable in their case.

5. Applications

5.1 Initially the discount will be applied to all properties considered eligible through the information held on the Business Rates database held by Eastbourne Borough Council and Lewes District Council.

5.2 Ratepayers will be required to notify the council if they do not meet state aid requirements, or the level of discount exceeds the de-minimis threshold (for 2019/20).

5.3 Eligible ratepayers will be notified of the amount of Retail discount awarded by the issue of a new bill. The discount will be awarded by means of a reduction shown on the bill to the ratepayer. Where this puts the account in credit for the year, a refund will be made by the Council.

6. Appeals

6.1. Where the council receives an appeal from the ratepayer regarding the granting, non-granting or the amount of any retail discount, the case will be reviewed by the Senior Specialist Advisor. Where a decision is revised then the ratepayer shall be informed, likewise of the decision is upheld.

6.2. Ultimately the formal appeal process for the ratepayer is Judicial Review although the council will endeavour to explain any decision fully and openly with

the ratepayer.

7. Variation and amendment of Discount

- 7.1. Where any award is granted to a ratepayer, the council will require any changes in circumstances which may affect discount to be reported as soon as possible. This will be important where the change would result in the amount of the award being reduced or cancelled e.g. where the premises become unoccupied or is used for another purpose other than that determined by the council as eligible for discount.
- 7.2. Where a change of circumstances is reported, the discount will, if appropriate be revised or cancelled.
- 7.3. The Non-Domestic Rating (Discretionary Relief) Regulations 1989 (S.I. 1989/1059) requires the council to provide ratepayers with at least one year's notice in writing before any decision to revoke or vary a decision so as to increase the amount the ratepayer has to pay takes effect. Such a revocation or variation of a decision can only take effect at the end of a financial year but within these regulations, the council may still make decisions which are conditional upon eligibility criteria or rules for calculating relief which allow the amount of relief to be amended within the year to reflect changing circumstances. The Retail Discount is due to end on 31/3/2021 unless extended by central government.

8. Fraud

- 8.1. Where a ratepayer falsely claims a discount, falsely provides information, makes false representation, or deliberately withholds information in order to gain a discount, prosecutions will be considered under the Fraud Act (2006).