

Business Rates Policy 2017-18 onwards

Business Rates –
New Discretionary Relief Scheme (Public
Houses)

1 Introduction

- 1.1 The Chancellor in the Spring Statement on 3rd March 2017 announced that the government would provide Council's with additional Section 31 grant to assist businesses affected by the April 2017 revaluation of Business Rates.
- 1.2 In the Spring 2017 budget there were three schemes announced, one of which was for Public Houses with an Rateable Value below £100,000.
- 1.3 There was no definition or guidance proposed by central government on the basis that local authorities would be best placed to determine the parameters of the scheme as they knew their area.
- 1.4 As the legislation has been amended to introduce this change under the discretionary powers, this means that each Local Authority needs to develop a policy to deal with the operation and delivery of the relief up to State Aid De Minimis limits.

2. How the relief will be provided?

- 2.1 As this is a temporary measure for 2017-18 onwards, the government is not changing the legislation; instead the government will reimburse local authorities that use their discretionary relief powers, under section 47 of the Local Government Finance Act 1988, as amended, to grant relief.
- 2.2 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.
- 2.3 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.

3. Who will be eligible for Relief

- 3.1 This policy applies 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 (see section 5 of this policy).
- 3.2 There is no definitive description of a traditional pub or public house in law which could be readily used to determine eligibility. The government therefore carried out a consultation exercise and based on this consultation exercise the following guidance was issued.
- 3.3 The objective by central government was to adopt a definition that makes the design and eligibility of the scheme easy to implement in a clear and consistent way, is widely accepted by the industry and which is consistent with the government's policy intention.
- 3.4 Slough Borough Council will follow the defined definition which is

- 3.5 That eligible pubs should:
- 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
- 3.6 For these purposes, it will exclude:
- restaurants
 - cafes
 - nightclubs
 - hotels
 - snack bars
 - guesthouses
 - boarding houses
 - sporting venues
 - music venues
 - festival sites
 - theatres
 - museums
 - exhibition halls
 - cinemas
 - concert halls
 - casinos
- 3.7 The exclusions in the list at para 3.6 is not intended to be exhaustive.
- 3.8 Slough Borough Council will determine those cases where eligibility is unclear, under section 3.5 and 3.6.
- 3.9 The scheme will be implemented with regard to their business rates base and existing collection practices.
- 3.10 Where eligibility is unclear Slough Borough Council will consider broader factors in their considerations – i.e., in meeting the stated intent of policy that it demonstrates the characteristics that would lead it to be classified as a pub, for example being owned and operated by a brewery.
- 3.11 Additionally, Slough Borough Council will also consider other methods of classification, such as the planning system and the use classes order to decide whether a property is a pub or not. However, permission for a particular use class will not necessarily mean that the property meets the definition of a pub
- 3.12 If an award is made and a subsequent award of another discount, exception or relief is awarded the award of the new discretionary relief / revaluation support will be reviewed to ensure that the award remains in line with the current policy
- 3.13 As the grant of the relief is discretionary, Slough 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.

- 3.14 Properties that will benefit are those with a rateable value below £100,000
- 3.15 As with all other reliefs as a precepting authority, Slough Borough Council will not be able to benefit from this relief for any property that they are responsible (defined as the name on the account).

4. How much relief will be available?

- 4.1 The total amount of Government-funded relief available for 2017/18 under this scheme is up to £1,000 for each eligible property. There is no relief available under this scheme for properties with a rateable value of £100,000 or more.
- 4.2 Eligibility for the relief and the relief itself will be assessed and calculated on a daily basis.
- 4.3 Relief will be available for up to one year (2017-18) and reviewed taking into consideration the government guidelines and grant awards.
- 4.4 The scheme applies only to properties based on the value shown for 1/4/17 or the substituted day in the cases of splits mergers and appeals.
- 4.5 Recalculations of Relief

The amount of relief awarded will be recalculated in the event of a change of circumstances. This could include, for example, a backdated change to the rateable value or the hereditament, or where the occupier moves out of the premises. This change of circumstances could arise during the year in question or during a later year.

- 4.6 The Non-Domestic Rating (Discretionary Relief) Regulations 1989 (S.I. 1989/1059) require authorities 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, local authorities may still make decisions which are conditional upon eligible criteria or rules for calculating relief which allow the amount of relief to be amended within the year to reflect changing circumstances.
- 4.7 In addition the policy formally notes and provides notice that as the grant income is currently for one year only that relief will be awarded for one year and therefore no annual notice will be provided. Though new bills will be issued each year of the scheme showing the revised amounts.

5 State Aid

- 5.1 There are European Union regulations which restrict the award of state aid and under certain circumstances the award of discretionary relief could be considered to be state aid. However Reoccupation Relief will be State Aid compliant where it is provided in accordance with the De Minimis Regulations (1407/2013)

- 5.2 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).
- 5.3 These circumstances in which the EU regulations need to be considered will be where the organisation engages in commercial activities or competes with commercial bodies because of an activity it carries out. For example a not for profit training organisation that also provides training services to businesses.
- 5.4 If the organisation undertakes any commercial activity it must be commercially insignificant and localised so that there is no potential impact on intra-community trade, otherwise the regulations governing state aid will apply.
- 5.5 All applicants will be required to complete a declaration form to confirm that they have not received more than the De Minimis amount of State Aid.
- 5.6 Guidance on State Aid is available via the government web site at <https://www.gov.uk/government/publications/enterprise-zones-state-aid-and-business-rate-discounts>

6 Administration

- 6.1 Slough Borough Council will administer the scheme under the Local Government Finance Act 1988 as amended, the Local Government Finance Act 1992 as amended, the Business Rates Information letter (4/2017) and the policy defined.
- 6.2 To avoid any unnecessary administrative problems, or confusion for ratepayers, in relation to state aid, the relief will be initially awarded in the following circumstances
- where the description of the property is “public house”
 - Where there are any other description we will expect the ratepayer to contact us to discuss whether they should be included or not) and the RV is under £100,000:
 - to any ratepayer who is an individual the award will be automatically calculated and awarded sending a letter informing them that the relief has been awarded for one year only (and will be apportioned if they move out before 1st April, 2018)
 - to any ratepayer who appears to be a limited company that is not part of a national chain, relief will be calculated and awarded sending a letter informing them it is for one year only, it will be apportioned if they move out before 1st April, 2018 and they must advise us if this relief takes them over the de minimis state aid limit.
 - to any ratepayer who appears to be part of a national chain relief will not be awarded automatically but a letter will be sending asking them to apply for the relief. (This is in order to ensure that State Aid rules are adhered to).
- 6.3 The scheme is fully funded by central Government.

- 6.4 The reliefs awarded will be administered by the Business Rates team who will provide an annual report to the Section 151.
- 6.5 If there are any disputes with regard to the decision made there is a right of appeal.

7 Right of Appeal

7.1 There is no statutory right of appeal against a decision regarding discretionary rate relief made by the Council. However, the Council recognises that ratepayers should be entitled to have a decision reviewed objectively if they are dissatisfied with the outcome.

7.2 The Council agrees to abide by the following appeals process and aggrieved ratepayers should make an appeal in accordance with the process.

8 Appeals Process

8.1 Appeals may only be made by the original applicant. An appellant may appoint an agent to act on their behalf and in such cases the Council will require written authorisation from the appellant before dealing with their agent.

8.2 Appeals against decisions will be considered by the Members Appeal Panel.

8.3 Decisions on appeals made by the Members Appeals Panel will be final.

8.4 Applicants must make an appeal within four weeks of the issue of the letter notifying them of the Council's decision.

8.5 Applicants will be notified of the date on which the appeal will be considered, which will be within twelve weeks of receipt of the appeal or as soon as reasonably practicable thereafter.

8.6 Applicants may appeal against the decision to award or not award relief, or against the level of relief awarded.

8.7 Appeals must be made in writing and must give the reasons why it is believed the decision should be amended. New or additional information may be included, but only if it is relevant to the decision making process.

8.8 The appellant does not have a right to appear in person but may make a request to present evidence in person. Such requests will be considered at the discretion of the Members Appeal Panel as appropriate.

8.9 The Members Appeal Panel can request a meeting with either the applicant and/or the appropriate Revenues and Benefits officer to hear evidence in person. The Members Appeal Panel may nominate a representative or representatives to attend such meetings on its behalf.

8.10 Each application will be considered individually on its merit.

8.11 The appeal decision may be adjourned if further information is required from either party.

8.12 The applicant will be informed of the final decision, and the reasons for the decision within four weeks of the hearing.

8.13 Submitting an appeal does not affect the appellant's legal rights to challenge a decision made by the Council through the Judicial Review process.

9 Discontinuation of Applications or Appeals

9.1 If the Council has requested further evidence from the ratepayer and this has not been received within four weeks the application or appeal will be deemed to have been discontinued.

9.2 Ratepayers will be notified in writing in these circumstances.

9.3 The ratepayer can reapply for Public House Relief at a later date but the application will only be assessed from the date of the new application