

London Borough of Harrow

Heat Network Business Rate Relief Policy

This discretionary rate relief policy is for Harrow's Heat Network Business Rate Relief Scheme applicable to the 2017 and 2023 Local Rating List (HNBRS) and shall apply to the period 1st April 2022 to 31st March 2024.

From the 1st of April 2024, the policy has become mandatory under The Non-Domestic Rating (Heat Networks Relief) (England) Regulations 2023, Statutory Instrument 1247 of 2023.

Introduction

At the Spring Statement in 2022, the Chancellor announced that the Heat Networks Business Rate Relief will apply from 1st April 2022.

As the relief is a temporary measure for 2022/23 to 2023/24 only, the government is not changing the legislation relating to the reliefs available to properties. 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.

This document sets out Harrow Council's local discretionary policy regarding the Heat Networks Relief Scheme that shall apply for the period 1st April 2022 to 31st March 2024.

This policy is made and issued in accordance with the announcement made by Central Government on 23rd March 2022 and subsequent guidance that was distributed to Local Authorities.

This HNBRS policy, is applicable to the financial years 1st April 2022 to 31st March 2023 and 1st April 2023 to 31st March 2024 with the amount of any relief being 100% of the chargeable amount for eligible Business Ratepayers.

The Local Discretionary Heat Networks Business Rate Relief Scheme (HNBRRS)

This policy is issued in compliance with Harrow delegated powers and refers to the discretionary Heat Networks Business Rate Relief scheme (HNBRRS). The policy will be applicable to the period 1st April 2022 to 31st March 2024.

Under the scheme, support may be given where the qualifying conditions are met on any day within the above period as further defined within this policy.

Which properties will benefit from HNBRRS?

Eligible properties for HNBRRS will be.

- a. wholly or mainly used for the purposes of a heat network, and
- b. the heat is over the next 12 months expected to be generated from a low carbon source (irrespective of whether that source is located on the hereditament or on a different hereditament).

It is anticipated that the test at “b” above being made based on a forecast at the start of each financial year and local authorities are not required to revisit that forecast and review the relief retrospectively for the same year.

Nevertheless, local authorities may still review the eligibility for relief mid-year if, for example, there are changes to the type of plant installed at the facility.

In accordance with the statutory provisions contained within section 47(8A) LGFA1988, local government hereditaments are excluded from this scheme. As such, the billing authority (i.e. London Borough of Harrow) may not grant HNBRRS to itself or a major precepting authority.

What is meant by wholly or mainly used for the purpose of a heat network?

For these purposes, a heat network is a **facility, such as a district heating scheme, which supplies thermal energy from a central source to consumers via a network of pipes for the purposes of space heating, space cooling or domestic hot water**. Hereditaments wholly or mainly providing heat for a different purpose (such as an industrial process) are not eligible. The government will keep under review the incidence of heat networks in any industrial process context and whether they should benefit from the relief.

The test should be applied to the hereditament as a whole and heat network relief is not available on part of a hereditament. Many small and medium scale heat networks, such as common heating systems in multi-occupied buildings or estates, do not give rise to a separate business rates bill. In these cases, the heat network forms part of the services of the properties which have a wider purpose (e.g., offices) and therefore would not be eligible for Heat Network Relief. We expect those networks eligible for the relief to be the larger facilities which have their own business rates assessment. Although some large heat networks may also be assessed as part of a wider hereditament such as a university.

The test is on thermal energy. This means that the purposes of generating electricity does not count towards meeting the wholly or mainly test and, as a result, the government does not anticipate hereditaments comprising power stations and a heat recovery and network system to qualify. A hereditament comprising a Combined Heat and Power (CHP) facility where the generation of electricity at the hereditament was more significant than the generation and supply of heat would not qualify for the relief. However, if a heat recovery and network system taking heat from a power station was, for whatever reason, in a separate hereditament from the power station then it may still qualify subject to meeting the other tests of eligibility.

Similar considerations will apply where the heat is being taken from an incinerator or Energy from Waste (EfW) Plant. If the heat network forms part of the same hereditament as the incinerator or EfW plant then, unless it has been designed specifically as a heat network, it is unlikely to pass the wholly or mainly test (its primary purpose more likely being incineration of waste or generation of power). However, it may qualify (subject to the other tests of eligibility) if the heat network forms its own hereditament (i.e., if the heat is coming in from a different hereditament such as the case of a heat network which purchases heat from a separately assessed EfW plant).

What does the heat is generated from a low carbon source mean?

A low carbon source is a source of which at least:

- a. 50% is renewable as defined below,
- b. 50% is waste heat,
- c. 75% is cogeneration heat (where cogeneration' means the simultaneous generation in one process of thermal energy and electrical or mechanical energy), or
- d. 75% is a combination of the sources above.

A renewable source is any of the sources listed in Class 1(e) of the Schedule to the Valuation for Rating (Plant and Machinery) (England) Regulations 2000 (SI 2000 No. 540) as inserted by [regulation 2\(b\) of SI 2022 No. 405](#).

Waste heat includes heat or coolth unavoidably generated as a by-product of another process, which would be wasted if not used for the purposes of a district heating network. This may include heat generated through the incineration of waste (although as noted above hereditaments which are primarily for the purpose of the incineration of waste or generation of electricity from waste would not pass the first test as stated above under **Which properties will benefit from HNBRRS?**

Combined Heat and Power (CHP) sources will qualify as sources of cogeneration heat including gas CHP. However, as noted above, a hereditament comprising a CHP facility would still have to meet the first test of the relief – that the hereditament was wholly or mainly used for the purposes of a heat network (and not for example wholly or mainly for the purpose of generating and selling electricity).

This definition is largely based on [Article 2 of the Directive 2012/27/EU of the European Parliament and of the Council](#), is widely recognised and understood in the

heat network sector and used for other purposes (such as the [Heat Networks Investment Project \(HNIP\)](#)). Therefore, local authorities can expect the operators of potentially eligible heat networks to understand this definition and be able to declare and evidence whether they consider they meet the test of a low carbon source. For these purposes we would anticipate a much simpler declaration than the information provided as part of the HNIP application. Local authorities should seek such a declaration from the ratepayer to inform them as to whether they meet the low carbon test.

How much relief will be available?

Relief is available at 100% of the chargeable amount for the hereditament for any day on which the eligibility criteria are met. Therefore, for eligible hereditaments the rates liability will fall to nil from 1 April 2022.

As discussed above, Heat Network relief is not available on only part of the hereditament. If the eligibility criteria are met for the whole hereditament, full relief should be applied even if, for example, the hereditament contains some plant (such as a back-up boiler) which may not in isolation meet the low carbon tests. Equally, a hereditament which overall does not meet the eligibility criteria cannot receive partial relief on an individual item of plant which in isolation may have passed the tests.

Sequence of reliefs

The heat network relief should be applied after mandatory reliefs but before any other discretionary reliefs.

The HNBRRS will be calculated ignoring any prior year adjustments in liabilities which fall to be due on the day in question.

For the purposes of clarity, the sequence for applying and calculating HNBRRS relief shall be as follows:

- 1) Transitional Relief
- 2) Mandatory Relief (as specified by statute) For example, small business rates relief.
- 3) Section 47 LGFA1988 discretionary reliefs in the following order:
 - i. HNBRRS
 - ii. Supporting Small Business Relief (SSBR) 2023
 - iii. Former categories of discretionary relief available before the Localism Act 2011 (i.e., charitable, Community Amateur Sports Club ("CASC") and rural top up, not for profit)
 - iv. Other discretionary relief (central government funded)
 - v. 2022/23 and 2023/24 Retail Hospitality and Leisure relief scheme
 - vi. Other locally funded schemes

Business Ratepayers that occupy more than one property, may be entitled to relief for each of their eligible properties. However, they shall be subject to Subsidy Control Limits for the total of any such relief given. Please see the section below entitled "Limits – Cash Cap and Subsidy Control" and Annex A to this policy for further details.

Splits, mergers, and changes to existing hereditaments

HNBRRS shall apply to hereditaments where there is a continuing eligibility of the whole and main use of the hereditament. If there is a change to the rating list which impacts on this use, then the ratepayer must declare this to the local authority.

Recalculations of Relief

The amount of HNBRRS shall be recalculated in the event of a change of circumstances. This could, for example, include a retrospective change to the rateable value of the hereditament and could arise during the year in question, or a subsequent year.

Regulation 16 of The Non-Domestic Rating (Consequential and Other Amendments etc.) (England) Regulations 2023 (SI 1251 of 2023) revoked the Non-Domestic Rating (Discretionary Relief) Regulations 1989 (SI 1050 of 1989).

This means that from 1st April 2024, the approach to be applied in determining applications for discretionary rate relief, shall be a matter for each Local Authority to consider.

In the case of London Borough of Harrow making a determination to vary or revoke its scheme, it shall give at least 1 year's prior notice. To comply with that requirement, the authority will, each year, issue a formal notice notifying the applicant of the period and amount of the award. This will be by way of a Business Rate Bill and the relief period will be shown on the front of the notice and further explained on the reverse.

For transparency purposes, the HNBRRS scheme is conditional upon continued eligibility. For example, if a property is merged or split so that the whole or main use of the property changes then they may fall out of the HNBRRS scheme.

Appeals

There is no statutory right of appeal against a decision regarding discretionary rate relief determinations made. However, Harrow Council recognises that Business Ratepayers should be entitled to have their entitlement objectively reviewed if they are dissatisfied with the outcome.

A non-statutory appeals process will therefore be applied, as set out in the section below, and any representation submitted accordingly, should be in accordance with the process outlined.

Business Ratepayers will in any case be given written notification of the appeals process at the time that they are notified of their eligibility / entitlement to HNBRRS.

This appeals process does not affect a Business Ratepayer's rights to seek alternative legal redress.

Appeal Process

Appeals may be made by the Business Ratepayer or their nominated representative (the “appellant”) within 14 days of receiving notification of their entitlement and must identify the name and address of the Business Ratepayer, the grounds on which the appeal is made and may include any new or additional information, provided it is relevant to the decision.

An appellant may appoint an agent or third party to act on their behalf, but in such instances, the Council will require their prior written authorisation before exchanging any correspondence with them.

Appeals against a decision will need to be submitted in writing or by email to the Divisional Director/Head of Service who will then consider the Appeal in consultation with the Portfolio Holder. A decision made by the Divisional Director in consultation with the Portfolio Holder will be final.

Appeals will be considered individually on their own merits.

Period of Rate Relief

This policy shall apply to eligible Business Ratepayers who remain in the HNBRRS scheme for either 2 years or until a change is made that means they cease to be eligible.

From 1st April 2024, statutory provisions regulating, in particular, the award and period for which discretionary rate relief shall be considered, are revoked and all such matters shall instead be subject to local authority policy and determination.. Details of each Discretionary Rate Relief type and policy are available on our webpages at www.harrow.gov.uk/brates

As a general rule, Discretionary Rate Relief applications will be considered for the preceding financial year (i.e. 1st April to 31st March), if an application is determined on or before the 30th of September of the following year. For example, a discretionary relief application determined on 30th September 2024, may be awarded from 1st April 2023.

To clarify, however, a blanket policy shall not apply to the scheme, with each case being considered on its own merits. For example, where a new Business Rates liability is created retrospectively due to a single property being converted into two units, resulting in a new ratepayer being responsible for the Business Rates for one of the units, if an application is received within a reasonable time frame of the initial Business Rates bill being issued to the new party, a retrospective award from the effective date of the Business Rates liability may be considered, providing there is evidence of entitlement to the relevant discretionary rate relief.

For transparency purposes, awards made under the HNBRRS scheme are conditional upon continued eligibility to the scheme requirements, but may cease or be varied, if a relevant change of circumstance should occur, as described within this policy.

Cancellation of HNBRRS

HNBRS relief will be cancelled if any of the following events occur:

1. The property concerned becomes unoccupied (i.e., empty).
2. A split or merger of the property has occurred, which means the eligibility ceases.
3. It is established that the Business Ratepayer was ineligible for HNBRRS.

Notification of Award

Entitlement to relief will be notified to a Business Ratepayer by way of a revised bill.

Action Taken to Recover Unpaid Rates Whilst a Decision is Pending

Whilst a decision regarding eligibility for HNBRRS is being considered, payment of Business Rates should continue to be made in accordance with the most recent bill issued to a Business Ratepayer until they are formally notified otherwise, by way of a revised bill.

Limits – Cash Cap and Subsidy Control

The HNBRRS Scheme is likely to amount to subsidy. Any relief provided by Harrow Council under this scheme will need to comply with the UK's domestic and international subsidy control obligations (See the [BEIS guidance for public authorities](#) which contains guidance and information on the new UK subsidy control regime which commenced on 4th January 2023).

To the extent that London Borough of Harrow is seeking to provide relief that falls within the Minimal Financial Assistance (MFA) thresholds, the Subsidy Control Act allows an economic actor (e.g., a holding company and its subsidiaries) to receive up to £315,000 in a three-year period (consisting of the 2023/24 year and the two previous financial years). MFA subsidies cumulate with each other and with other subsidies that fall within the category of 'Minimal or SPEI financial assistance'. BEIS COVID-19 business grants and any other subsidies claimed under the Small Amounts of Financial Assistance limit of the Trade and Cooperation Agreement should be counted towards the £315,000 allowance.

In those cases where it is clear to Harrow Council that the Business Ratepayer is likely to breach the MFA limit, then relief may automatically be withheld. Otherwise, Harrow Council may include the relief in bills and ask Business Ratepayers, on a self-assessment basis, to inform the authority if they are in breach of the MFA limit.

Annex A - £110,000 Cash Cap/Minimal Financial Assistance or Small Amount of Financial Assistance Subsidy

In accordance with the conditions prescribed by the government, a Business Ratepayer may only claim up to £110,000 of support under the 2022/23 and 2023/14 Heating Network Business Rate Relief Scheme (HNBRRS) for all of their eligible hereditaments. The cash cap applies at a Group company level (i.e., holding companies and subsidiaries cannot claim up to the cash cap for each company) and to organisations which, although not a company, have an interest in a company such that they would, if they were a company, result in their being the holding company.

Furthermore, the HNBRRS is subject to the Minimal Financial Assistance limits under the Subsidy Control Act. This means no recipient can receive over £315,000 over a 3-year period (consisting of the current financial year and the 2 previous financial years).

Covid business grants received from local government and any other subsidy claimed under the Minimal Financial Assistance or Small Amounts of Financial Assistance limit over the 3-year period should be counted.

Therefore, to claim the HNBRRS, the ratepayer must not have exceeded either the £110,000 cash cap for 2023/24 or the Minimal Financial Assistance limit of £315,000 over 3 years (including 2023/24)). Further details of the cash cap and subsidy control can be found at: <https://www.gov.uk/government/publications/business-rates-relief-202324-retail-hospitality-and-leisure-scheme-local-authority-guidance>

The government and London Borough of Harrow will not tolerate any business falsifying their records or providing false evidence to gain this discount, including claiming support above the cash cap or the exemption threshold. A ratepayer who falsely applies for any relief, or provides false information or makes false representation to gain relief may be prosecuted under the Fraud Act 2006.