

Non-Domestic Rating Pool Wales – Outturn Contribution (NDR3 2022-23) Guidance Notes

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Introduction

1. Paragraph 5(6) of Schedule 8 to the Local Government Finance Act 1988 (referred to below as 'the 1988 Act') requires each billing authority to calculate, after the end of each financial year, the amount of its non-domestic rating contribution for the year and to notify the Welsh Government of the amount. The authority must then arrange for the calculation and the notified amount to be certified under arrangements made by Audit Wales and for the certified form to be sent to the Welsh Government.
2. The calculation for 2022-23 (referred to below as the 'current year') is to be made in accordance with the Non-Domestic Rating Contributions (Wales) Regulations (SI 1992/3238), as amended (the Principal Regulations).
3. The rules for the outturn calculation are contained in Schedule 1 to the Principal Regulations. These notes are not substitutes for the regulations but seek to explain what the regulations require and what the authority needs to show in its calculation and are produced for guidance purposes only. Billing authorities should refer to the Principal Regulations.
4. Form NDR3 is provided for the calculation. The form also seeks the information required by the Welsh Government in deciding whether or not to exercise its powers under Schedule 8 to the 1988 Act in relation to subsequent years.
5. A copy of the completed spreadsheet and a signed PDF should be emailed to the Welsh Government by no later than **26 May 2023**. At the same time the original form should be sent to the authority's auditors for certification. Arrangements should be made with the authority's auditors to send a certified scanned PDF of the form to the Welsh Government by email no later than **17 November 2023**. An updated spreadsheet should be sent electronically to the Welsh Government by the billing authority at the same time.
6. Under rules contained in paragraphs 5(9) to (12) of Schedule 8 to the 1988 Act the Welsh Government will make an interim statement of the outturn account on the basis of the amount which is certified by the authority's Chief Finance Officer and which is notified to the Welsh Government prior to audit. The final settlement will then be made on the basis of the audited amount under regulation 10 of the Principal Regulations or paragraph 5(14) of Schedule 8 to the 1988 Act.
7. Calculations for the current year and any prior year adjustments should be carried out by reference to the NDR multiplier for the relevant year. All amounts should be entered to the nearest pound.

Lines 1 and 2 Gross rates payable

8. The gross rates payable is the theoretical maximum rates yield if property shown in the non-domestic rating list were occupied and not subject to any reliefs. Enter in Line 1 the gross yield in respect of 2022-23, calculated by reference to the total rateable value shown in the list for each day in the year and the non-domestic rating multiplier for 2022-23 of **0.535**. Enter in Line 2 the total of:
 - (i) amounts in respect of the gross rates yield for previous years (calculated by reference to the rateable value in the list for each day in those years and the non-domestic rating multiplier for those years) which have not been taken into account in the outturn calculation for those years;

plus

- (ii) amounts in respect of payments deferred from 2020-21. The amount included in 2022-23 should equate to the difference between the total amount deferred in 2020-21, and the deferred amounts included in 2021-22.

less

- (iii) (iii) amounts which were taken into account in the gross rates yield in the outturn calculation for previous years but which, on the basis of information now available, should not have been taken into account.

Mandatory reliefs

Lines 3.1 and 4.1 Transitional Relief

9. The Non-Domestic Rating (Chargeable Amounts) (Wales) Regulations 2016 affect rates income by limiting the amount by which a rates bill receiving Small Business Rates Relief (SBRR) on 31 March 2017 can increase on 1 April 2017. This is to help protect ratepayers who received reduced or no SBRR after the 2017 revaluation from incurring significant increases.

Enter in Line 3 the total of:

- (i) the billing authority's figure for the total transitional relief given within the current financial year.

Enter in Line 4 the total of:

- (i) the billing authority's figure for the total prior year adjustments given within the current financial year but not previously taken into account in an outturn calculation;

less

- (ii) the total of any such amounts which have previously been taken into account in a prior year outturn calculation but which should not have been.

Lines 5 and 6 Charities

10. Section 43(5) and section 43(6)(a) of the 1988 Act provide that charities should pay a maximum of only 20% of the amount derived by multiplying the rateable value of their hereditaments by the NDR multiplier.

11. Enter in Line 5 the authority's best estimate of the reduction in rates yield as a result of the application of 80% mandatory rates relief for properties occupied by charities in the authority's area in respect of days in 2022-23. Enter in Line 6 the total of:

- (i) the authority's best estimate of any such amounts in respect of days in a preceding year which have not been taken into account in a calculation for a preceding year; less

- (ii) the authority's best estimate of any such amounts in respect of days in a preceding year which have been taken into account in a calculation for a preceding year but which, on the basis of the information now available, should not have been.

Lines 6.5 and 6.6 Registered community amateur sports clubs

12. The Local Government Act 2003, section 64(1) provides for mandatory rates relief for registered community amateur sports clubs from 1 April 2004. Enter in Line 6.5 the authority's best estimate of lost yield in 2022-23 as a result of the application of 80% mandatory rates relief for properties occupied by registered community amateur sports clubs in the authority, by virtue of section 43 (5) and (6)(b) of the Act. Enter in Line 6.6 the total of:

- (i) the authority's best estimate of any such amounts in respect of days in a preceding year which have not been taken into account in a calculation for a preceding year; less
- (ii) the authority's best estimate of any such amounts in respect of days in a preceding year which have been taken into account in a calculation for a preceding year but which, on the basis of the information now available, should not have been.

Lines 8, 8.5 and 8.6 Small Business Rates Relief

13. Enter in Line 8 the total of:

- (i) the authority's best estimate of any such amounts in respect of days in a preceding year which have not been taken into account in a calculation for a preceding year; less
- (ii) the authority's best estimate of any such amounts in respect of days in a preceding year which have been taken into account in a calculation for a preceding year but which, on the basis of the information now available, should not have been.

14. Enter in Line 8.5 and Line 8.6 the authority's best estimate of lost yield in 2022-23 as a result of the application of this relief in respect of small businesses under the Non-Domestic Rating (Small Business Relief) (Wales) (Amendment) Order 2017 as amended.

15. As a result of The Non-Domestic Rating (Small Business Relief) (Wales) (Amendment) Order 2019, ATM machines are no longer eligible for small business rates relief.

16. The Non-Domestic Rating (Small Business Relief) (Wales) (Amendment) Order increased the maximum rateable value of hereditaments meeting the child care conditions. This means that all hereditaments with a rateable value of £100,000 or less, which meet the childcare conditions, are eligible for full relief under the scheme.

Lines 9 and 10 Partly occupied premises

17. Section 44(A) of the 1988 Act provides that, where part of a property is unoccupied for a short time, a billing authority may ask the Valuation Officer to apportion the rateable value of the hereditament between the occupied and unoccupied parts. The chargeable amount is then calculated by applying the multiplier to the reduced rateable value, this being the certified part of the rateable value attributable to the occupied part or, if the hereditament is one in respect of which the occupier is liable to pay empty property rates, to the sum of the certified apportionment of the rateable value for the occupied part and 100% of the certified apportionment of the rateable value for the unoccupied part.

18. Enter in Line 9 the authority's best estimate of the reduction in rates yield as a result of the apportionment of the rateable value of a hereditament between its occupied and unoccupied

parts under section 44(a) of the 1988 Act in respect of any period in 2022-23. Enter in Line 10 the total of:

- (i) the authority's best estimate of any such amounts in respect of days in a preceding year which have not been taken into account in a calculation for a preceding year; less
- (ii) the authority's best estimate of any such amounts in respect of days in a preceding year which have been taken into account in a calculation for a preceding year but which, on the basis of the information now available, should not have been.

Lines 11 and 12 Empty premises

19. The Rating (Empty Property) Act 2007 provides that the rates yield for unoccupied property will be 100% of the occupied yield (if section 45 does not apply, then no rates will be payable).

20. Enter in Line 11 the reduction in rates yield as a result of property being unoccupied for the period preceding the date of the recalculation in respect of days in 2022-23. Enter in Line 12 the total of:

- (i) the authority's best estimate of any such amounts in respect of days in a preceding year which have not been taken into account in a calculation for a preceding year; less
- (ii) the authority's best estimate of any such amounts in respect of days in a preceding year which have been taken into account in a calculation for a preceding year but which, on the basis of the information now available, should not have been.

Lines 12.5 and 12.6 Public Lavatories

21. The Non-Domestic Rating (Public Lavatories) Act 2021 provides 100% rates relief for public lavatories

22. Enter in Line 12.5 the reduction in rates yield as a result of property being classed as a public lavatory in respect of the current year.

23. Enter in Line 12.6 the total of:

- (i) the authority's best estimate of any such amounts in respect of days in a preceding year which have not been taken into account in a calculation for a preceding year; less
- (ii) the authority's best estimate of any such amounts in respect of days in a preceding year which have been taken into account in a calculation for a preceding year but which, on the basis of the information now available, should not have been.

Line 13 Gross amount

24. Line 13 is calculated as Lines 1 to 2 minus Lines 3 to 12, and should be the same as the figure entered in Line 16, the gross amount payable.

Line 14 Arrears

25. Enter in Line 14 the authority's best estimate of **all** non-domestic rates which had not been received as at 31 March 2023. The amount should be shown gross of credits or prepayments. Doubtful debts or amounts against which a provision for bad debts has been made should be included but amounts written off as bad debts should **not** be included.

Line 15 Date of latest information taken into account

26. In making the calculation authorities must take account of all information received on or before 31 January 2023. The calculation must also take account of information received after that date unless it is not reasonably practicable to do so. Enter in Line 15 the latest date in respect of which information has been taken into account.

Line 16 Gross amount payable

27. Paragraph 2 of Schedule 1 to the Regulations provides for the calculation of the gross amount. As in previous years, authorities are also required to show how the gross amount relates to the gross rates payable.

28. The gross amount is to be recorded in Line 16 and will be the total of:

- (i) the chargeable amounts payable to the authority for the current year, after taking account of empty or partially occupied property, mandatory charitable relief and transitional adjustments;
- (ii) plus the chargeable amounts payable to the authority for prior years but not previously taken into account in an outturn calculation;
- (iii) less the total of any such amounts which have previously been taken into account in a prior year outturn calculation but which should not have been.

Amounts (1) and (2) above are represented by amount G in the formula in paragraph 2(1) of Schedule 1 to the Regulations. Amount (3) is represented by amount H.

29. Amounts in respect of discretionary reliefs and any charges secured on property need to be deducted from the gross amount to arrive at the net yield.

30. Each deduction will represent the net amount taking account of any prior year adjustments. For instance, they will include the total of the relevant percentages of amounts of each of the reliefs granted in respect of each day in the year of account, and in any day in a preceding year not previously taken into account in an outturn calculation, less the total of any such amounts taken into account in a previous outturn calculation which, with hindsight, should not have been taken into account.

For example:

Suppose a property would have a full rates bill of £10,000 for a year (Year 1) but receives 60% discretionary relief under section s47(5B) inserted by s69(6) of Localism Act. In the outturn calculation for Year 1, the authority would score £10,000 as part of amount G of the gross amount. Of the £6,000 relief granted, 90% (£5,400) would be allowed as a deduction against the pool and

entered in Line 18, the remaining £600 would be met locally. The contribution to the pool for that property would therefore be $£10,000 - £5,400 = £4,600$.

Suppose that, in Year 2, a rating list alteration changed the liability for Year 1 retrospectively so that the full rates bill for the property for that year was now £8,000. This means that £2,000 had been taken into account in the gross amount for the previous year which, with hindsight, ought not to have been. So in the Year 2 outturn, £2,000 would be included as a prior year adjustment to reduce the gross amount (as part of amount H). However, the change in liability will also reduce the amount of relief from £6,000 to £4,800. 90% of this is £4,320, ie £1,080 less than before. The authority will therefore need to score £1,080 as a prior year adjustment which will reduce the deduction for section s47(5B) inserted by s69(6) of Localism Act reliefs. The pool contribution for Year 2 will therefore be reduced by:
 $£2,000 - £1,080 = £920$.

Discretionary reliefs

Line 17 Charitable occupation

31. s47(5B) inserted by s69(6) of Localism Act 2011 (charitable occupation) enables billing authorities to 'top-up' the mandatory relief given to charities under sections 43(5) and 45(5) to bring the total relief for any amount up to 100%. Paragraph 3 of Schedule 1 to the Regulations provides that 25% of the amount of any such additional relief granted by the authority may be offset against the authority's contribution to the pool.

32. Enter in Line 17 the total of:

- (i) 25% of the amounts of any 'top-up' relief granted in respect of days in 2022-23;
- (ii) Plus 25% of any 'top-up' relief granted in respect of days in a preceding year which have not been taken into account in a calculation for a preceding year;
- (iii) Less the total of any such amounts, in respect of days in a preceding year, taken into account in a calculation for a preceding year but which, on the basis of information now available, should not have been.

Line 17.5 Registered community amateur sports clubs

33. Enter in Line 17.5 25% of the total amount of any relief the authority granted for 2022-23 by virtue of its powers under section s47(1) and s47(5B) of the Act, ie. 'top-up' relief for registered community amateur sports clubs receiving mandatory rates relief.

- (i) 25% of the amounts of any 'top-up' relief granted in respect of days in 2022-23;
- (ii) Plus 25% of any 'top-up' relief granted in respect of days in a preceding year which have not been taken into account in a calculation for a preceding year;
- (iii) Less the total of any such amounts, in respect of days in a preceding year, taken into account in a calculation for a preceding year but which, on the basis of information now available, should not have been.

Line 18 Non-profit making bodies

34. Sections 47(5B) inserted by s69(6) of Localism Act enable billing authorities to grant relief up to 100% to certain other non-profit making bodies. Paragraph 3 of Schedule 1 to the Regulations, as amended for financial years beginning on or after 1 April 2002 provides that 90% of the amount of any such relief granted by the authority may be offset against an authority's contribution to the pool. However, any relief purported to have been granted for local education authority county schools may not be offset against the pool (since the local education authorities are the rateable occupiers).

35. Enter in Line 18 the total of:

- i. 90% of the amounts of relief granted under sections s47(5B) inserted by s69(6) of Localism Act in respect of days in 2022-23; plus
- ii. 90% of the amounts of relief granted under sections s47(5B) inserted by s69(6) of Localism Act in respect of days in a preceding year, as long as these are after 1 April 2002, in which

case 75% will apply for years prior to 1 April 2002, which have not been taken into account in an outturn calculation for a preceding year; less

- iii. the total of any such amounts, in respect of days in a preceding year, taken into account in a calculation for a preceding year which, on the basis of the information now available, should not have been.

Line 19 Rural Businesses (Rural Rates Relief)

36. Section 47(3)(a) of the 1988 Act enables billing authorities to 'top-up' the mandatory relief given to certain rural businesses under section 43(6A) of the 1988 Act and the Non-Domestic Rating Rural Rate Relief Order 2002/SI 331, to bring the total relief to any amount up to 100%. Paragraph 3 of Schedule 1 to the Regulations, as amended for financial years beginning on or after 1 April 2002, provides that 90% of the amount of any such additional relief granted by the authority may be offset against the authority's contribution to the pool.

37. Enter in Line 19 the total of:

- i. 90% of the amounts of 'top-up' relief granted to qualifying rural businesses in respect of days prior to 1 April 2007 which have not been taken into account in an outturn calculation for a preceding year; less
- ii. the total of any such amounts, in respect of days in a preceding year, taken into account in a calculation for a preceding year but which, on the basis of information now available, should not have been.

Line 21 Hardship

38. Section 49 of the 1988 Act enables billing authorities to reduce liability or remit payment in respect of non-domestic rates on the grounds of hardship. Paragraph 3 of Schedule 1 to the Regulations provides that 75% of the amount of any relief granted may be offset against an authority's contribution to the pool.

39. Enter in Line 21 the total of:

- i. 75% of the amounts of hardship relief granted in respect of days in 2022-23;
plus
- ii. 75% of the amounts of hardship relief granted in respect of days in a preceding year, which have not been taken into account in a calculation for a preceding year; less
- iii. the total of any such amounts, in respect of days in a preceding year, taken into account in a calculation for a preceding year but which, on the basis of information now available, should not have been.

Line 22 Charges on property

40. Paragraph 5 of Schedule 1 to the Regulations enables deductions to be made from the pool contribution in respect of amounts for which recovery has been deferred by an agreement under Regulation 5 of the Non-Domestic Rating (Collection and Enforcement) (Local Lists) (Amendment and Miscellaneous Provision) Regulations 1991 (SI 1991/141).

41. The amount to be entered in Line 22 is to be calculated using the formula $(O-P)-(Q+R-S)$ where:

O = 75% of amounts in respect of which recovery has been deferred by an agreement, in 2022-23 or in a preceding year, which have not previously been taken into account as deferred amounts;

P = amounts taken into account (under item O or its equivalent under the previous rules) in respect of days in a preceding year and which, on the basis of information now available, should not have been taken into account;

Q = 75% of amounts taken into account as deferred amounts in a previous year's outturn which have since been paid, or for which the terms of the agreement have expired;

R = 75% of any interest payable as a result of an agreement taken into account in a previous year's outturn and which have since been paid or for which the term of agreement has expired;

S = the total of any amounts taken into account as amounts described under Q or R (or the equivalent under the previous rules) in a preceding year's outturn but which, on the basis of information now available, should not have been taken into account.

The additions in respect of Q and R where the term of agreement has expired must be made in the year in which the amount becomes payable even if, for whatever reason, the amount is not actually paid until a later year. (If the amount at Q is paid before the agreement expires, an amount under R will need to be added in the year payment is made).

NB. If more amounts become payable in a year following the expiry of old agreements than are deferred under new agreements, the formula could give a negative figure. This will represent an addition to the gross amount rather than a deduction.

Line 23 Net yield

42. Line 23 is automatically calculated as the gross amount (Line 16) minus the amounts for discretionary reliefs (Lines 17 to 22).

Line 24 Allowance for costs of collection

43. Paragraph 4 of Schedule 1 to the Regulations provides for an allowance for the costs of collection to be offset against the authority's contribution to the pool. The amount of the basic allowance in Line 24 should be the same as for the provisional calculation for 2022-23 (NDR1, Line 17).

Line 25 Losses in collection

44. Paragraph 6 of Schedule 1 to the Regulations enables amounts in respect of losses in collection to be deducted from the gross amount, provided they have not been taken into account in a calculation for a preceding year. Under paragraph 1(2) of Schedule 1 to the Regulations, the deduction can only be allowed if the authority has made proper arrangements for securing economy, efficiency and effectiveness in relation to the collection of non-domestic rates. Separate guidance has been issued on this, and whether the authority has met the criteria will be subject to audit certification.

45. The intention here is to record only the net movement in the authority's bad debt provision for the year plus actual write-offs in the year. Therefore, enter in Line 25 the amount which is the total of:

- (i) amounts of rates payable and certain interest charges which are doubtful debts for which provision has been made;

less

- (ii) amounts of rates payable and certain interest charges which were doubtful debts for which provision was made at the end of the preceding year;

plus

- (iii) amounts of rates payable and certain interest charges which were written off in the year.

46. If the authority has entered into any agreements under paragraph 1 and 4A of Schedule 9 to the 1988 Act to defer recovery of a rates debt and has charged interest on the debt, but the interest seems irrecoverable, the authority may make an allowance for this against the pool in the same way that it provides for the bad debt itself.

Line 26 Refund of overpayments / interest on repayments

47. Paragraph 7 of Schedule 1 to the Regulations provides that the gross amounts of interest paid by the authority during the year under the Non-Domestic Rating (Payment of Interest) Regulations 1990 (SI 1990/1904) (as amended by the Non-Domestic Rating (Payment of Interest) (Amendment) Regulations 1991 (SI 1991/2111), in respect of overpayments refunded as a result of alterations to the local rating list under section 55 of, or paragraph 2(2A) of Schedule 9 to the 1988 Act, should also be deducted from the gross amount.

48. Enter in Line 26 the amount in respect of interest which has become payable by the authority in respect of current or previous years and which is to be deducted from the gross amount. The total of:

- (i) interest which has become payable by the authority during 2022-23;

plus

- (ii) interest payable by the authority in a preceding year but which has not been taken into account in the outturn calculation for that year;

less

- (iii) interest which has been taken into account in a preceding year but which, on the basis of information now available, should not have been.

Line 27 Contribution to the pool

49. Line 27 is calculated as net yield (Line 23) minus allowance for costs of collection (Line 24), minus allowance for losses in collection (Line 25) minus interest on repayments of overpaid rates (Line 26).

Memorandum Items

Lines 40 to 43

50. Enter in Line 40 the number of hereditaments shown in the local non-domestic rating list for the authority area as at 1 April of the current financial year.
51. Enter in Line 41 the number of hereditaments shown in the local non-domestic rating list for the authority area as at 31 March of the current financial year.
52. Enter in Line 42 the aggregate rateable value in the local non-domestic rating list for the authority's area as at 1 April for the current year.
53. Enter in Line 43 the aggregate rateable value in the local non-domestic rating list for the authority's area as at 31 March for the current year.
54. Lines 40 to 43 are required to enable the Welsh Government to calculate the total increase or decrease in the number of properties in each billing authority and the increase or decrease in total rateable value within the financial year. This information will be used to inform calculation of growth in the non-domestic property tax-base. Memorandum lines are not required to be audited.

State Aid and Subsidy Control

Following the United Kingdom's departure from the European Union, State Aid regulations only apply in limited circumstances.

As of 1 January 2021, the UK Subsidy Regime came into force. Welsh Government officials are awaiting advice from the UK Government regarding the operation of rates relief schemes under subsidy controls and revised guidance confirming the position will be published in due course.

Further guidance on the UK Subsidy Regime can be found on the GOV.UK [webpages](#).

The State Aid Policy Unit at the Welsh Government can be contacted at:

State Aid Policy Unit

Welsh Government

Cathays Park

Cardiff

CF10 3NQ

E-mail: State.Aid@gov.wales

Certification

55. Once the form has been completed, the validation sheet contained in the spreadsheet should be checked for any error messages. If notification of an error is given, a suitable correction must be made, or an appropriate reason given.
56. Once the above process has been completed, the Chief Finance Officer should certify that:
 - (i) The entries in Parts 1 and 2 of this form are the best that can be made on the information available;
 - (ii) The entries in Part 2 have been made in accordance with the Non-Domestic Rating Contributions (Wales) Regulations 1992, as amended;

- (iii) and in particular that the entry in Line 24 (Allowance for costs of collection) has been calculated in accordance with the number of hereditaments and rateable values shown in the rating list for the authority on 31 December 2022.

57. An Excel copy of the spreadsheet and signed scanned PDF should be emailed to the address shown on the front cover by **26 May 2023**. At the same time, the original form should be sent to the authority's auditors for certification. In order to comply with the requirement to notify the Welsh Government of the amount of the contribution, authorities should arrange for the certified scanned PDF and spreadsheet to be sent to the Welsh Government by **17 November 2023**.

58. Auditors will be required to certify that all entries are fairly stated and have been calculated in accordance with the guidance note which is based on the Regulations.

59. As explained in paragraph 5, the Welsh Government will make an interim settlement of the outturn account on the basis of the amount which is certified by the Chief Finance Officer and which is notified to the Welsh Government prior to certification by the auditors ('certified amount'). Any final settlement will then be made on the basis of the certified amount.