

Report to Portfolio Holder for Resources & Reputation

Subject: Business Rates | 2023 Supporting Small Business Relief

Date: 22nd February 2023

Author: Revenues Manager

Wards Affected

All

Purpose

The purpose of this report is:

- 1) To seek approval to adopt the Council's guidance at Appendix 2 to this report, for determining eligibility for 2023 supporting small business relief.
- 2) To delegate to the Director responsible for Revenues Services, the authority to determine eligibility for 2023 supporting small business relief under section 47 of the Local Government Finance Act 1988 in relation to non-domestic premises in the Borough.

Key Decision

This is not a key decision.

Recommendation(s)

THAT:

- 1) the Council's guidance for determining eligibility for 2023 supporting small business relief, held at Appendix 2 to this report, is adopted;
- 2) the determination of eligibility for 2023 supporting small business relief is delegated to the Director responsible for Revenues Services.

1 Background

- 1.1 At the 2022 Autumn Statement the Chancellor announced that the 2023 supporting small business relief (2023 SSBR) scheme will cap bill increases at £600 per year for any business losing eligibility for some or all small business rate relief or rural rate relief at the 2023 revaluation.
- 1.2 Supporting small business relief was first introduced at the 2017 revaluation to support ratepayers facing bill increases greater than the transitional relief caps due to loss of small business rate relief or rural rate relief.
- 1.3 It is not the Government's intention to make any alteration to the existing legislation in relation to reliefs to account for this relief scheme.
- 1.4 Section 47 of the Local Government Finance Act 1988 (as amended by s69 Localism Act 2011) gives local authorities the power to grant discretionary relief of any amount and for any reason, to the occupiers of non-domestic property.
- 1.5 The Government intends that Gedling Borough Council should grant 2023 SSBR to businesses under its existing powers to grant discretionary relief after taking account of its guidance.
- 1.6 Gedling Borough Council's Constitution currently provides for initial applications for discretionary relief to be submitted to the Portfolio Holder for determination. This constitutional requirement is set out in paragraph 1.7 of this report below.
- 1.7 *Power to grant applications for other discretionary rate relief to be submitted to the Portfolio Holder for determination in the first instance and thereafter renewals to be delegated and any new application to be referred to the Portfolio Holder if they are clearly not subject to precedent.*
- 1.8 The Government's expectation is that local authorities should grant relief to qualifying ratepayers.
- 1.9 The Government's current guidance is appended to this report, at Appendix 1.

2 Proposal

- 2.1 It is proposed that the Council's guidance for determining eligibility for 2023 supporting small business relief, held at Appendix 2 to this report, is adopted.
- 2.2 It is proposed that a delegation is provided to the Director of Corporate Resources, for the determination of eligibility for 2023 supporting small business relief.

3 Alternative Options

- 3.1 An alternative to the proposal would be to report each application for 2023 supporting small business relief to the Portfolio Holder for Resources and Reputation for his determination as directed by the Council's constitution. This would mean the Portfolio Holder would have to consider multiple applications which would place an unnecessary burden on the Executive.

4 Financial Implications

- 4.1 The Council is required to make an estimate of the amount of relief to be granted in the National Non-Domestic Rate Return (NNDR1) for 2023/24. The current estimate stands at £507k for 2023/24.
- 4.2 Government will fully reimburse local authorities for the local share of the discretionary relief using a grant under s31 of the Local Government Act 2003. Therefore, the financial implications to the Council are neutral.

5 Legal Implications

- 5.1 Section 47 of the Local Government Finance Act 1988 permits the billing authority to grant discretionary rate relief. Regard has been given to relevant government guidance in relation to discretionary relief when coming to this recommendation.
- 5.2 Guidance issued by the Office of the Deputy Prime Minister in December 2002 warns of the possibility of discretionary rate reliefs contravening European state aid rules. European Union competition rules generally prohibit Government subsidies to businesses. Relief from taxes, including National Non-Domestic Rates, can constitute state aid.
- 5.3 In practice, aid to village shops, most local "commercial" charities and other small-scale local service organisations (B&Bs, small retailers, child care facilities etc) will not be caught by the state aid rules as long as they

are independent businesses because they are deemed incapable of affecting intra-community trade. On the other hand, any manufacturing operation, however small, is normally deemed capable of affecting intra-community trade. This means that rate relief for butchers, or farmers producing cheese, sausages, cider and other foodstuffs for example, would constitute state aid.

- 5.4 Following the United Kingdom's exit from the European Union, former European state aid is now referred to as "subsidy". The retail, hospitality and leisure relief scheme is likely to amount to subsidy. Any relief provided by Local Authorities under this scheme will need to comply with the UK's domestic and international subsidy control obligations set out in the Subsidy Control Act 2022 (see the [government guidance for UK subsidy control](#)).
- 5.5 No recipient can receive over £315k over a three year period (consisting of the current financial year and the previous two financial years). Further guidance on UK subsidy control and how this relates to previously received Covid-19 reliefs and grants can be found in the Government's guidance at Appendix 1.
- 5.6 In those cases where it is clear to the Council that the ratepayer is likely to breach the allowed subsidy limits set out by the Subsidy Control Act 2022, the Council will automatically withhold the relief.

6 Equalities Implications

- 6.1 The proposed eligibility criteria for the scheme published in the Government's guidance provides the transparent basis for the assessment of all applications for the 2023 supporting small business relief which will be applied equally to all scheme applicants.

7 Carbon Reduction/Environmental Sustainability Implications

- 7.1 There are no carbon reduction/sustainability implications arising from this report.

8 Appendices

- 8.1 Appendix 1 – 2023 Supporting Small Business Relief - Government Guidance
- 8.2 Appendix 2 – 2023 Supporting Small Business Relief – Gedling Borough Council Guidance

9 Background Papers

9.1 None

10 Reasons for Recommendations

10.1 The Council is expected by Government to grant relief in line with the guidance it has published. The guidance at Appendix 1 supersedes all previous guidance published by the Government on this subject.

10.2 To ensure efficient decision making and avoid the Executive from becoming overwhelmed by applications, it is appropriate that this function is delegated to Officers.

10.3 It is considered that such determinations, where explicit guidance is accepted and adopted, are a standard revenues function and should be performed by the Council's officers and not its members.

Statutory Officer approval

Approved by: Alison Ball
Date:

Chief Financial Officer

Approved by: Francesca Whyley
Date:

Monitoring Officer