

Report to Portfolio Holder for Resources & Reputation

Subject: Business Rates | Retail, Hospitality and Leisure Relief

Date: 21st February 2023

Author: Revenues Manager

Wards Affected

All

Purpose

The purpose of this report is:

- 1) To seek approval to use the Government's guidance held at a permalink on the Government's website, gov.uk, for determining an application for discretionary retail, hospitality and leisure relief.
- 2) To delegate to the Director responsible for Revenues Services, the authority to determine applications for discretionary relief under section 47 of the Local Government Finance Act 1988 in relation to non-domestic retail, leisure and hospitality premises in the Borough.

Key Decision

This is not a key decision.

Recommendation(s)

THAT:

- 1) the Government's guidance for determining an application for discretionary retail, hospitality and leisure relief, held at the permalink on the gov.uk website, is approved as if it were the Council's guidance;
- 2) the determination of applications for discretionary retail hospitality and leisure relief is delegated to the Director responsible for Revenues Services.

1 Background

- 1.1 The Chancellor of the Exchequer announced in the Budget on 29th October 2018 that the Government will provide a business rates discount of one third of the business rates bill to certain types of occupied retail properties with a rateable value of £51,000 or less in each of the financial years 2019/20 and 2020/21.
- 1.2 In a written Ministerial statement on 27th January 2020 the Government announced that it would extend the value of the Retail Discount from one third of the bill to 50% of the bill in 2020/21.
- 1.3 In the Budget on 11th March 2020, in response to Covid-19, the Government announced that it would extend the value of the retail discount from 50% of the bill to 100% in 2020/21 as well as expanding the scope of the discount to include hospitality and leisure properties with a rateable value of less than £51,000.
- 1.4 In a speech delivered to the House of Commons on 17th March 2020, the Chancellor of the Exchequer announced that all businesses in the retail, hospitality and leisure sectors would receive a discount of 100% irrespective of their rateable value, therefore removing the requirement for a business to have a rateable value below £51,000 in order to qualify for this discount.
- 1.5 In the Budget on 27th October 2021, the Chancellor announced the introduction of a new business rates relief scheme for retail, hospitality and leisure properties to provide eligible, occupied, retail, hospitality and leisure properties with a 50% relief, up to a cash cap limit of £110,000 per business.
- 1.6 On 21st December 2022, the Government introduced a new business rates relief scheme for retail, hospitality and leisure properties to provide eligible, occupied, retail, hospitality and leisure properties with a 75% relief, up to a cash cap limit of £110,000 per business.
- 1.7 As this is a measure which will be in place for only one year, it is not the Government's intention to make any alteration to the existing legislation in relation to reliefs.
- 1.8 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.

- 1.9 The Government intends that Gedling Borough Council should grant retail, hospitality and leisure relief to businesses under its existing powers to grant discretionary relief after taking account of its guidance.
- 1.10 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 1.11 of this report below.
- 1.11 *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.*
- 1.12 The Government's expectation is that local authorities should grant relief to qualifying ratepayers.
- 1.13 The Government's current guidance is appended to this report, but as guidance of this nature is prone to minor changes as schemes are adopted around the country, the permalink location to the Government's guidance which this report seeks to adopt is:

<https://www.gov.uk/government/publications/business-rates-relief-202324-retail-hospitality-and-leisure-scheme-local-authority-guidance>

2 Proposal

- 2.1 It is proposed that the Council adopts the Government's guidance held at the permalink (at paragraph 1.13) (also at Appendix 1) on the gov.uk website and allows the adoption of that guidance to continue as and when the Government changes the guidance to expand the scope of the relief, whilst keeping broadly to the original principles set out in its initial guidance published on 21st December 2022.
- 2.2 It is proposed that a delegation is provided to the Director of Corporate Resources, for the determination of relief eligibility, in accordance with the Government's guidance.
- 2.3 It is not proposed that any other form of discretionary relief, other than discretionary retail, hospitality and leisure relief, is delegated to the Director for determination in the first instance. Therefore the delegation set out in paragraph 1.11 will continue to apply in cases other than applications for discretionary retail, hospitality and leisure relief or where other specific delegations apply.

3 Alternative Options

- 3.1 An alternative to the proposal would be to report each application for retail, hospitality and leisure 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 £1.4 m 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, then 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 retail, hospitality and leisure relief which will be applied equally to all scheme applicants.
- 6.2 To ensure equal accessibility for all to make an application, the Council will have both its own online application system available for completion on the Council's website, and non-digital users will be able to contact the Council's Customer Services Team by telephone and they will be supported to complete an application. Appropriate adjustments will be made as required to ensure the accessibility of forms for individuals across languages and disabilities.

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 – Retail, Hospitality and Leisure Relief - Government 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 held at the permalink on the gov.uk website 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