



CABINET

19 March 2014

Subject Heading:

Awarding Retail Rate Relief for the 2014/2015 and 2015/2016 Financial Years

Cabinet Member:

Councillor Roger Ramsey

CMT Lead:

Andrew Blake-Herbert

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Policy context:

Contributes to the Councils savings strategy and recognises future changes in the funding arrangements to authorities

Financial summary:

Awarding the "retail relief" in accordance with the Guidance the Council will be fully reimbursed through the NNDR claim process

Is this a Key Decision?

No

When should this matter be reviewed?

As the relief is time limited to two financial periods only, a review is only required if this is extended

Reviewing OSC:

Value Overview and Scrutiny

The subject matter of this report deals with the following Council Objectives

Ensuring a clean, safe and green borough	<input type="checkbox"/>
Championing education and learning for all	<input type="checkbox"/>
Providing economic, social and cultural activity in thriving towns and villages	<input checked="" type="checkbox"/>
Valuing and enhancing the lives of our residents	<input type="checkbox"/>
Delivering high customer satisfaction and a stable council tax	<input checked="" type="checkbox"/>

SUMMARY

This report provides details of the Retail Relief scheme announced in the Autumn Statement based on the guidance received in February 2014 and accordingly to adopt a policy to award "Retail Relief" in accordance with the Discretionary Rate Relief powers as contained within Section 47 of the Local Government Finance Act 1988 (as amended) from 1 April 2014.

RECOMMENDATIONS

That the Cabinet agrees that

- (a) the Council award "Retail Relief" of up to £1000, assessed and calculated on a daily basis in line with the Governments base scheme as shown in the attached DCLG Guidance letter and applied against the net bill after all other reliefs. The relief to be available to qualifying businesses in occupation of retail premises which have a Rateable Value of £50,000 or less in accordance with Discretionary Rate Relief powers for the financial years 1 April 2014 to 31 March 2015 and 1 April 2015 to 31 March 2016 only;
- (b) the business to qualify for the relief must be "retail" as detailed in the body of this report;
- (c) the Council through the National Non-Domestic Rate Return process seek full reimbursement of the cost of this relief from Central Government;
- (d) it is noted that the detailed application of the scheme will be implemented by the Group Director Resources under current delegated authority "To exercise the Council's discretionary powers in relation to relief for Council Tax and commercial rates"

REPORT DETAIL

BACKGROUND

1. The Government in the Autumn Statement of 5 December 2013, advised that a reduction in rates payable of up to £1,000 would be available to "retail occupied" premises that had a Rateable Value of £50,000 or less
2. This relief to be awarded by the Council in accordance with the Discretionary Rate Relief powers as contained within the Local Government Finance Act 1988 (as amended).

3. The “retail” relief awarded by the Council, if made in accordance with the Government Guidance, will be fully reimbursed.
4. The Policy proposed in this report reflects fully the guidance to award relief to “occupied retail premises”, and awarded for the 2014/2015 and 2015/16 financial years only.

AWARDING DISCRETIONARY RATE RELIEF FOR RETAIL PREMISES

5. The Government in the Autumn Statement 2013 advised that a reduction in rates payable of up to £1000 would be available to “retail occupied” premises that had a Rateable Value of £50,000 or less
6. As this is limited to 2014-15 and 2015-16 only, the Government is not amending the current legislation for reliefs available to businesses but allowing Councils to use their discretionary relief powers provided by section 47 of the Local Government Finance Act 1988 (as amended) to grant relief.
7. In order to adopt the “retail relief” scheme, the Council will be required to implement a local scheme and decide in each individual case when to grant “retail” relief although the Government expects local government to grant relief to qualifying ratepayers
8. The guidance does not directly define the application process but due to the very tight timescale and available resources, a light touch approach process would seem appropriate.
9. Central government will fully reimburse local authorities for the local share of the discretionary relief through a grant under section 31 of the Local Government Act 2003 and accordingly Local authorities will be asked to provide an estimate of their likely total cost for providing the relief in their National Non Domestic Rate Return 1 (NNDR1) for 2014-15 and 2015-16.

DISCRETIONARY RETAIL RATE RELIEF POLICY

10. The Retail Rate Relief Policy will award up to £1000 of Discretionary Rate Relief to occupied retail premises (hereditament) calculated on a daily basis in line with the Governments base scheme (as shown in the attached DCLG Guidance letter) and applied against the net bill after all other reliefs on the condition that:
 - The hereditament has a rateable value of £50,000 or less
 - It is occupied and it is being used and is wholly or mainly being used as a shop, restaurant, cafe and drinking establishments.
11. It is considered shops, restaurants, cafes and drinking establishments to mean hereditaments that are being used for the sale of goods to visiting members of the public:

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- Shops (such as: florist, bakers, butchers, grocers, greengrocers, jewellers, opticians, stationers, off licence, chemists, newsagents, hardware stores, charity, supermarkets etc)
- Post offices
- Show & display rooms (such as: furnishing, double glazing, garage doors, kitchen / bathroom, carpet, cars & caravans etc)
- Second hand car lots
- Markets
- Petrol Stations
- Garden Centres
- Art Galleries (where art is for sale / hire)

OR

12. Hereditaments that are being used for the provision of the following services to visiting members of the public:
- Hair and beauty services (such as: hair dressers, nail bars, beauty salons, tanning shops, etc)
 - Shoe repairs/ key cutting
 - Travel agents
 - Ticket offices e.g. for theatre
 - Dry cleaners
 - Launderettes
 - PC/ TV/ domestic appliance repair
 - Funeral directors
 - Photo processing
 - DVD/ video rentals
 - Tool hire
 - Car hire

OR

13. Hereditaments that are being used for the sale of food and/ or drink to visiting members of the public:
- Restaurants
 - Takeaways
 - Sandwich shops
 - Coffee shops
 - Pubs
 - Bars
14. The above list is not intended to be exhaustive as it would be impossible to list the many and varied retail uses that exist. There will also be mixed uses. However, it is intended to be a guide as to the types of uses that the Council and Government considers for this purpose to be retail.
15. The Council can determine whether particular properties (hereditaments) not listed are broadly similar in nature to those above and, if so, to consider them eligible for the relief. Conversely, properties that are not broadly similar in nature to those listed above will not be eligible for the relief.

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16. To qualify for the relief the hereditament should be wholly or mainly being used as a shop, restaurant, cafe or drinking establishment. In a similar way to other reliefs this is a test on use rather than occupation, therefore, hereditaments which are occupied but not wholly or mainly used for the qualifying purpose will not qualify for the relief.
17. In accordance with the Government's guidance on awarding "Retail" Rate Relief, the Council considers the following not to be "retail premises" and therefore will not be eligible for relief under the scheme:
18. Hereditaments that are being used for the provision of the following services to visiting members of the public:
 - Financial services (e.g. banks, building societies, cash points, bureau de change, payday lenders, betting shops, pawn brokers)
 - Other services (e.g. estate agents, letting agents, employment agencies)
 - Medical services (e.g. vets, dentists, doctors, osteopaths, chiropractors)
 - Professional services (e.g. solicitors, accountants, insurance agents/ financial advisers, tutors)
 - Post office sorting office
19. Hereditaments that are not reasonably accessible to visiting members of the public
20. The relief will be calculated in the same format as Business Rate charges and apportioned accordingly where the occupation, other reliefs or rateable value of a premises changes.
21. As the determination of the entitlement relies on an assessment of the usage of a hereditament it will be necessary for an application to be made by the ratepayer through a pro-forma to be designed. Current estimates show that there are likely to be around 2,000 establishments throughout that borough that may qualify.
22. **State Aid** - Retail Relief can be applied to every qualifying premises, therefore multiple premises owned by the same ratepayer will receive Retail Relief as long as the use of the premises qualifies, subject to State Aid de- minimis limits.
23. State Aid can occur whenever state resources are used to provide assistance that gives organisations an advantage over others. De minimis aid is used to describe small amounts of state aid that do not require European Commission approval. The total de minimis aid which can be given to a single recipient is €200,000 over a 3-year fiscal period.
24. The implication of State Aid de minimis limit is particularly relevant to those premises that are part of a large retail chain, including charities, where the cumulative total of Retail Relief received could exceed €200,000. Further advice is being sought regarding this issue as applications for large retail chains may need to be dealt with differently to those of local businesses. In order to comply with the State Aid conditions ratepayers may be required to complete a declaration

REASONS AND OPTIONS

Reasons for the decision:

25. Awarding the relief will be in accordance with the Governments intentions as detailed in the Autumn Statement and the DCLG Business Rates Retail Relief Guidance

Other options considered:

26. None appropriate

IMPLICATIONS AND RISKS

Financial implications and risks:

In awarding the “retail relief” in accordance with the Guidance the Council and major preceptors will be able to be fully reimbursed through the NNDR claim process.

The total value of relief awarded for the Council is difficult to assess without application, but based on Rateable Value limits and property descriptions an estimate contained in the 2014/15 NNDR1 return for the Councils element has been assessed as £598,466.

There is no administration funding available to compensate the billing authority for the additional work required to implement Retail Relief.

Legal implications and risks:

The Guidance advises that the Council should consider the awarding of relief in accordance with its powers for granting Discretionary Rate Relief in accordance with Section 47 of the Local Government Finance Act 1988 (as amended).

Human Resources implications and risks:

The assessment and award of any relief can be contained within current Exchequer resources, therefore, there are no Human Resource implications or risks arising from this report.

Equalities

This Policy reflects the Governments intentions to award up to £1000 of

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discretionary relief to assist retail traders for the 2014/15 and 2015/16 years. It is envisaged that the this relief will benefit small and medium size retail traders, including local women's, disabled people's and BME SMEs, and will further improve financial inclusion and business sustainability in Havering.

BACKGROUND PAPERS

Appendix A – DCLG Guidance letter

Department for Communities and Local Government
Business Rates Retail Relief – Guidance

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Business Rates Retail Relief – Guidance

About this guidance

1. This guidance is intended to support local authorities in administering the “Retail Relief” announced in the Autumn Statement on 5 December 2013. This Guidance applies to England only.
2. This guidance sets out the detailed criteria which central Government will use to determine funding relief for retail properties. The Guidance does not replace existing legislation on retail properties or any other relief.
3. Enquiries on this measure should be addressed to:

ndr@communities.gsi.gov.uk

Introduction

4. The retail sector is changing, particularly due to internet shopping, and many high streets are experiencing challenges as they look to adapt to changing consumer preferences in how people shop. The Government wishes to support town centres in their response by providing particular support to retailers.
5. The Government announced in the Autumn Statement on 5 December 2013 that it will provide a relief of up to £1,000 to all occupied retail properties with a rateable value of £50,000 or less in each of the years 2014-15 and 2015-16.
6. This document provides guidance to authorities about the operation and delivery of the policy. Government anticipates that local authorities will include details of the relief to be provided to eligible ratepayers for 2014-15 in their bills for the beginning of that year.

Section 1: Retail Relief

How will the relief be provided?

7. As this is a measure for 2014-15 and 2015-16 only, the Government is not changing the legislation around the reliefs available to properties. Instead the Government will, in line with the eligibility criteria set out in this guidance, reimburse local authorities that use their discretionary relief powers, introduced by the Localism Act (under section 47 of the Local Government Finance Act 1988, as amended) to grant relief. 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. 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.
8. Central government will reimburse billing authorities and those major precepting authorities within the rates retention system for the actual cost to them under the rates retention scheme of the relief that falls within the definitions in this guidance. Local authorities will be asked to provide an estimate of their likely total cost for providing the relief in their National Non Domestic Rate Return 1 (NNDR1) for 2014-15 and 2015-16. Central government will provide payments of the local authorities' share to authorities over the course of the relevant years.

Which properties will benefit from relief?

9. Properties that will benefit from the relief will be occupied hereditaments with a rateable value of £50,000 or less, that are wholly or mainly being used as shops, restaurants, cafes and drinking establishments.
10. We consider shops, restaurants, cafes and drinking establishments to mean:

i. Hereditaments that are being used for the sale of goods to visiting members of the public:

- Shops (such as: florist, bakers, butchers, grocers, greengrocers, jewellers, stationers, off licence, chemists, newsagents, hardware stores, supermarkets, etc)
- Charity shops
- Opticians
- Post offices
- Furnishing shops/ display rooms (such as: carpet shops, double glazing, garage doors)
- Car/ caravan show rooms
- Second hand car lots
- Markets
- Petrol stations
- Garden centres
- Art galleries (where art is for sale/hire)

ii. Hereditaments that are being used for the provision of the following services to visiting members of the public:

- Hair and beauty services (such as: hair dressers, nail bars, beauty salons tanning shops, etc.)
- Shoe repairs/ key cutting
- Travel agents
- Ticket offices e.g. for theatre
- Dry cleaners
- Launderettes
- PC/ TV/ domestic appliance repair
- Funeral directors
- Photo processing
- DVD/ video rentals
- Tool hire
- Car hire

iii. Hereditaments that are being used for the sale of food and/ or drink to visiting members of the public:

- Restaurants
 - Takeaways
 - Sandwich shops
 - Coffee shops
 - Pubs
 - Bars
11. To qualify for the relief the hereditament should be wholly or mainly being used as a shop, restaurant, cafe or drinking establishment. In a similar way to other reliefs (such as charity relief), this is a test on use rather than occupation. Therefore, hereditaments which are occupied but not wholly or mainly used for the qualifying purpose will not qualify for the relief.
12. The list set out above is not intended to be exhaustive as it would be impossible to list the many and varied retail uses that exist. There will also be mixed uses. However, it is intended to be a guide for authorities as to the types of uses that government considers for this purpose to be retail. Authorities should determine for themselves whether particular properties not listed are broadly similar in nature to those above and, if so, to consider them eligible for the relief. Conversely, properties that are not broadly similar in nature to those listed above should not be eligible for the relief.
13. As the grant of the relief is discretionary, authorities 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. We would encourage councillors to be consulted on the final scheme that the local authority adopts, so there is a clear line of accountability in case of a dispute on the final local scheme that is adopted.
14. The list below sets out the types of uses that government does not consider to be retail use for the purpose of this relief. Again, it is for local authorities to determine for themselves whether particular properties are broadly similar in nature to those below and, if so, to consider them not eligible for the relief under their local scheme.

i. Hereditaments that are being used for the provision of the following services to visiting members of the public:

- Financial services (e.g. banks, building societies, cash points, bureau de change, payday lenders, betting shops, pawn brokers)
- Other services (e.g. estate agents, letting agents, employment agencies)
- Medical services (e.g. vets, dentists, doctors, osteopaths, chiropractors)
- Professional services (e.g. solicitors, accountants, insurance agents/ financial advisers, tutors)
- Post office sorting office

ii. Hereditaments that are not reasonably accessible to visiting members of the public

How much relief will be available?

15. The total amount of government-funded relief available for each property for each of the years under this scheme is £1,000. The amount does not vary with rateable value and there is no taper. There is no relief available under this scheme for properties with a rateable value of more than £50,000. Of course, councils may use their discretionary powers to offer further discounts outside this scheme (and under local rate retention, 50 per cent of the cost would be locally funded and 50 per cent funded by central government).
16. The eligibility for the relief and the relief itself will be assessed and calculated on a daily basis. The following formula should be used to determine the amount of relief to be granted for a particular hereditament in the financial year:

$$\text{Amount of relief to be granted} = \frac{\text{£1000} \times \text{A}}{\text{B}}$$

B

Where:

A is the number of days in the financial year that the hereditament is eligible for relief; and

B is the number of days in the financial year

17. The relief will be applied against the net bill after all other reliefs.
18. Where the net rate liability for the day after all other reliefs but before retail relief is less than the retail relief, the maximum amount of this relief will be no more than the value of the net rate liability. This should be calculated ignoring any prior year adjustments in liabilities which fall to be liable on the day.
19. Ratepayers that occupy more than one property will be entitled to relief for each of their eligible properties, subject to State Aid De Minimis limits.

State Aid

20. State Aid law is the means by which the European Union regulates state funded support to businesses. Providing discretionary relief to ratepayers is likely to amount to State Aid. However Retail Relief will be State Aid compliant where it is provided in accordance with the De Minimis Regulations (1407/2013)¹.

¹ [http://eur-](http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2013:352:0001:0008:EN:PDF)

[lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2013:352:0001:0008:EN:PDF](http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2013:352:0001:0008:EN:PDF)

² The 'New SME Definition user guide and model declaration' provides further guidance: http://ec.europa.eu/enterprise/policies/sme/files/sme_definition/sme_user_guide_en.pdf

³ http://ec.europa.eu/budget/contracts_grants/info_contracts/inforeuro/inforeuro_en.cfm

⁴ Detailed State Aid guidance can also be found at:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/15277/National_State_Aid_Law_Requirements.pdf

21. 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). Local authorities should familiarise themselves with the terms of this State Aid exemption, in particular the types of undertaking that are excluded from receiving De Minimis aid (Article 1), the relevant definition of undertaking (Article 2(2)2) and the requirement to convert the aid into Euros³.
22. To administer De Minimis it is necessary for the local authority to establish that the award of aid will not result in the undertaking having received more than €200,000 of De Minimis aid. Note that the threshold only relates to aid provided under the De Minimis Regulations (aid under other exemptions or outside the scope of State Aid is not relevant to the De Minimis calculation). Section 3 of this guidance contains a sample De Minimis declaration which local authorities may wish to use. Where local authorities have further questions about De Minimis or other aspects of State Aid law, they should seek advice from their legal department in the first instance⁴.

Splits, mergers, and changes to existing hereditaments

23. The relief should be applied on a day to day basis using the formula set out above. A new hereditament created as a result of a split or merger during the financial year, or where there is a change of use, should be considered afresh for the relief on that day.

How will the relief work in Enterprise Zones?

24. Where a property is eligible for Enterprise Zone relief, that relief should be granted and this will be funded under the rates retention scheme by a deduction from the central share. If a property in an Enterprise Zone is not eligible for Enterprise Zone relief, or that relief has ended, Retail Relief may be granted in the normal way, and this would be reimbursed by grant under section 31 of the Local Government Act 2003. Local authorities should not claim funding for retail relief on properties which would otherwise qualify for Enterprise Zone government funded relief.

Section 2 – Calculation examples for 2014-15

Example 1 – An occupied shoe shop with a rateable value of £40,000

Rateable Value = £40,000

Rates due (excluding any reliefs) = £40,000 x 0.482 = £19,280

Minus 12 months retail relief = £19,280 - £1,000 = £18,280

Rates due (including retail relief) = **£18,280**

Example 2 – A shoe shop with a rateable value of £40,000 that is unoccupied between 1 April 2014 and 30 September 2014 and is then occupied until 31 March 2015.

Rateable Value = £40,000

Rates due (excluding any reliefs) = £40,000 x 0.482 = £19,280

Minus 3 months (no empty rates payable) = £40,000 x 0.482 x 91 = £4,806.79
365

Minus 6 months retail relief (01/10/14-31/03/15) = £1,000 x 182 = £498.63
365

Total due for year = **£13,974.58**

Example 3 – An occupied shoe shop with a rateable value of £10,000 that is in receipt of small business rate relief of £1,554 per year.

Rateable Value = £10,000

Rates due (excluding any reliefs) = £10,000 x 0.471 = £4,710

Minus small business rate relief of 33% = £4,710 - £1,554 = £3,156

Minus 12 months retail relief = £3,156 - £1,000 = £2,156

Rates due (including all reliefs) = **£2,156**

Example 4 – An occupied charity shop with a rateable value of £10,000 that is in receipt of mandatory charitable rate relief

Rateable Value = £10,000

Rates due (excluding any reliefs) = £10,000 x 0.471 = £4,710

Minus charitable rate relief of 80% = £4,710 - £3,768 = £942

Minus 12 months retail relief = £942 - £942 (max relief allowable) = £011

Rates due (including all reliefs) = **£0**

Example 5 – A shoe shop with a rateable value of £30,000 that has occupied premises previously used as a jewellers shop that was empty for more than 12 months immediately prior to occupation.

Rateable Value = £30,000

Rates due (excluding any reliefs) = £30,000 x 0.482 = £14,460

Minus reoccupation relief of 50% = £14,460 - £7,230 = £7,230

Minus 12 months retail relief = £7,230 - £1,000 = £6,230

Rates due (including all reliefs) = **£6,230**

Section 3 – State Aid

Sample paragraphs that could be included in letters to ratepayers for 2014-15 about Retail Relief

The Government announced in the Autumn Statement on 5 December 2013 that it will provide a relief of up to £1000 to all occupied retail properties with a rateable value of £50,000 or less in each of the years 2014-15 and 2015-16. Your current rates bill includes this Retail Relief for 2014-15.

Awards such as Retail Relief are required to comply with the EU law on State Aid⁵. In this case, this involves returning the attached declaration to this authority if you have received any other De Minimis State Aid, including any other Retail Relief you are being granted for premises other than the one to which this bill and letter relates, and confirming that the award of Retail Relief does not exceed the €200,000 an undertaking⁶ can receive under the De Minimis Regulations EC 1407/2013.

5. Further information on State Aid law can be found at <https://www.gov.uk/state-aid>

6 An undertaking is an entity which is engaged in economic activity. This means that it puts goods or services on a given market. The important thing is what the entity does, not its status. Thus a charity or not for profit company can be undertakings if they are involved in economic activities. A single undertaking will normally encompass the business group rather than a single company within a group. Article 2.2 of the de minimis Regulations (Commission Regulation EC/ 1407/2013) defines the meaning of 'single undertaking'.

Please complete the declaration and return it to the address above. In terms of declaring previous De Minimis aid, we are only interested in public support which is De Minimis aid (State Aid received under other exemptions or public support which is not State Aid does not need to be declared).

If you have not received any other De Minimis State Aid, including any other Retail Relief you are being granted for premises other than the one to which this bill and letter relates, you do not need to complete or return the declaration.

If you wish to refuse to receive the Retail Relief granted in relation to the premises to which this bill and letter relates, please complete the attached form and return it to the address above. You do not need to complete the declaration. This may be particularly relevant to those premises that are part of a large retail chain, where the cumulative total of Retail Relief received could exceed €200,000.

Under the European Commission rules, you must retain this letter for 3 years from the date on this letter and produce it on any request by the UK public authorities or the European Commission. (You may need to keep this letter longer than 3 years for other purposes). Furthermore, information on this aid must be supplied to any other public authority or agency asking for information on 'De Minimis' aid for the next three years. 13

'DE MINIMIS' DECLARATION

Dear []

BUSINESS RATES ACCOUNT NUMBER: _____

The value of the business rates retail relief to be provided to [name of undertaking] by [name of local authority] is £ [] (Euros []).

This award shall comply with the EU law on State Aid on the basis that, including this award, [name of undertaking] shall not receive more than €200,000 in total of De Minimis aid within the current financial year or the previous two financial years). The De Minimis Regulations 1407/2013(as published in the Official Journal of the European Union L352 24.12.2013) can be downloaded at <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2013:352:0001:0008:EN:PDF>.

Please list all Date of aid Organisation Nature of aid

previously received providing aid

De Minimis aid below, including the total amount of this and any other Retail Relief you are being granted. Amount of De Minimis aid

€

1 April 2014 – 31 March 2015

Local authorities (for the Retail Relief total you do not need to specify the names of individual authorities)

Retail Relief