

ROTHERHAM BOROUGH COUNCIL – REPORT TO CABINET

Meeting:	CABINET
Date:	19th March 2014
Title:	Non Domestic Rates – Proposed Retail Relief Scheme for 2014/15 and 2015/16
Directorate:	Resources

5. Summary

In the Autumn Statement on 5th December the Chancellor announced several changes to the Business Rates system that will take effect from April 2014. One of these measures was the introduction for 2 years (2014/15 and 2015/16) of Retail Relief of up to £1,000 pa for retail properties with a rateable value of £50,000 or less. The proposals require Councils to use their discretionary relief powers under the Localism Act to grant rates discounts. This report sets out the Council's proposed Non-Domestic Rate Retail Relief scheme for 2014/15 and 2015/16 and how it is proposed to implement the scheme.

6. Recommendations

That Cabinet note the contents of this report and approve:

- **the proposed Retail Relief scheme set out at Appendix A for the 2 financial years 2014/15 and 2015/16;**
- **The application process described;**

And

- **That this process is used, when appropriate, in respect of other Business Rates Reliefs.**

7. Background

7.1 In the Autumn Statement of December 5th 2013 the Chancellor announced a series of changes to Business Rates including:

- A cap on the RPI increase in business rates limiting the rise to 2% in 2014/15;
- A further extension of the doubling of the Small Business Rates Relief (SBRR) to the end of March 2015;
- From April 2014, amending the Small Business Rates criteria to allow businesses receiving Small Business Rates Relief to keep it for 1 year when they take on an additional property - current rules cause them to lose this relief;
- A new temporary relief from 1st April 2014, granting new occupants of empty retail premises a 50% discount from business rates for 18 months. This Reoccupation Relief will remain in place up to 31 March 2016;

And

- A discount of up to £1,000 per annum against business rates bills in 2014/15 and 2015/16 for retail premises (including pubs, cafes, restaurants and charity shops) with a rateable value up to £50,000.

7.2 Retail Relief

The last of these measures is called "Retail Relief" and as it will only apply for 2 years, the Government will not be changing the relevant legislation. Instead, local authorities are expected to use their discretionary relief powers under the Localism Act (section 47 of the Local Government Finance Act 1988, as amended) to grant relief.

7.3 Accordingly, it will be for individual billing authorities to adopt a local Retail Relief Scheme and decide in each individual case when to grant relief under section 47 of the 1988 Act, although it should be noted that the DCLG guidance stresses that the Government expects authorities to grant relief to qualifying ratepayers. To increase awareness of the scheme details have been included in the statutory notes that accompany the annual business rates bills which are currently being prepared and issued.

7.4 It has been confirmed that local authorities (and major precepting authorities like the Fire and Rescue Authority) will be **fully reimbursed by central government for their share of the cost of the discretionary relief granted** – in Rotherham's case this is 49% (with 1% falling on the South Yorkshire Fire Authority). Payment will be made by means of a grant under section 31 of the Local Government Act 2003. To facilitate this, Local Authorities were asked to provide an estimate of the "likely total cost for providing the relief" in their National Non-Domestic Rate Return 1 (NNDR1) for 2014/15 which was submitted at the end of January. Central government have indicated that payments to local authorities' will be made over the course of the relevant years.

7.5 Guidance indicating which properties the Government expects to benefit from Retail Relief was issued in late January. This can be summarised as:

- **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.** Ratepayers that occupy more than one property will be

entitled to relief for each of their eligible properties, however in many cases it is projected that due to Small Business Rates relief, eligible businesses will receive no retail relief – their rates bill having been extinguished by SBRR.

- Like Charity Relief this is a test of use rather than occupation, therefore, to qualify for the relief the hereditament **should be wholly or mainly being used for retail purposes.** Attached at Appendix A is the Council's proposed policy including a more detailed list taken from the Guidance Note clarifying what shops, restaurants, cafes and drinking establishments are considered to be covered.

7.6 The guidance stresses that the list provided is not intended to be exhaustive; however, it is intended to be a guide as to the types of uses that the Government considers to be retail for this purpose and relief should be granted to broadly similar properties. Conversely, the following types of uses **are not** considered by the Government to be retail use for the purpose of this relief.

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 offices.

And,

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

- 7.7 It is intended that any retail relief granted will be applied after other reliefs (such as Small Business Rate Relief) and will be limited to the value of the rate bill, i.e. it will not be possible to claim more relief than is being paid in rates.
- 7.8 **State Aid** – the application of Retail Relief is complicated as it falls under the rules surrounding State Aid. The State Aid regulations are the means by which the European Union regulates state funded support to businesses to prevent the distortion of competition. The government guidance makes it clear that the granting of Retail Relief is subject to these rules.
- 7.9 The regulations do include a De Minimis threshold which allows an undertaking to receive up to €200,000 (around £165,000) of “State Aid” in a three year period (consisting of the current financial year and the two previous financial years). If the threshold is breached, the Council would not be able to reclaim the relief from the Government and the aid granted would have to be recovered from the beneficiaries if the Council is not to be out of pocket for the whole value of the relief granted.

7.10 **The Council's Proposed Approach**

In order to mitigate the risks associated with State Aid and to guarantee, as far as is possible, that the relief is only granted to eligible ratepayers, the Council like several other authorities is proposing to grant Retail Relief on application from businesses meeting the Council's criteria. For example, it is not necessarily possible to determine from the rating list whether premises are being used for retail purposes as defined in section 7.5 above or whether the business would meet the State Aid De Minimis criteria. This approach has previously been used in respect of developments in the Enterprise Zone (which are also subject to the State Aid Rules) and if approved, the same approach will be applied to other rate reliefs falling under the State Aid rules such as; re-occupancy relief and relief on empty new build commercial property.

7.11 The Council's proposed criteria for Retail Relief are those set out in the Government Guidance (set out in sections 7.5 and 7.6 above and in Appendix A attached) with one addition – **any business operating in contravention of the Council's declared policies, plans, strategies and procedures may not qualify for rate relief.** This is to ensure that businesses which may be, for example, flouting planning requirements, would not benefit from the relief. It is not envisaged that this proviso would exclude many ratepayers but it would offer protection to existing Council policies and the Council's reputation. To allow for this requirement the application form includes authorisation from the ratepayer to check the Council's records.

7.12 The proposed application form is attached as Appendix B and will ask applicants to confirm their position with respect to State Aid. It is anticipated that the following approach will be adopted for applications:

- Application forms will be issued to those businesses that are identified from the rating list as likely to be eligible for the Retail Relief;
- Application forms will be issued on request; and
- It will also be possible to make applications on-line.

In addition to the statutory information issued with rates bills, the Council's Retail Relief Scheme and application process will be publicised with the Chamber of Commerce and with the Council's Asset Management Service which acts as Corporate Landlord in order to make the Council's own tenants aware of the relief.

7.13 Due to the timing of the announcement and the release of guidance it has not proved possible to have the Council's proposed Retail Relief Scheme in place before the start of the annual billing run, which means that the Council will have to issue new bills to successful applicants. In spite of this, with Cabinet approval it is considered that it will be possible to have the scheme in place by later this month. This will allow application forms to be issued by the end of March so that when the revised software is released on 6th April the Council will be able to process the relief.

8. Finance

8.1 **Value of the Relief** -. The Council's National Non-Domestic Return 1 (NNDR1) which was submitted at the end of January estimated that around

1,000 properties would be affected by the new relief and that Retail Relief would be worth up to £800,000 – of which the Council's share would be 49% or £0.392m (which, as stated will be reimbursed by means of Section 31 grant). However this estimate was based on all the properties identified as being used for retail purpose qualifying which may well not be the case.

- 8.2 **Other Costs** – as indicated, the Council's proposed approach is to request applications for Retail Relief and to grant relief retrospectively to those ratepayers satisfying the criteria. This method will, however, require the Council to issue application forms and once/if retail relief is granted issue new rate demands. The estimated cost of issuing applications and rebilling is around £1,000; however this does not include any staff and administration costs. Although the Government has committed to reimburse Billing Authorities (like the Council) for the income lost in granting the retail relief, it is not yet clear whether they will also cover the associated administration costs.

9. Risks and Uncertainties

The exact number of qualifying properties and the value of the relief that will be granted can only be estimated in broad terms at present. The Government has guaranteed to reimburse the Council for the cost of appropriate relief granted meaning that the risk therefore is that the Council will grant relief inappropriately e.g. to non-qualifying businesses or in contravention of the State Aid rules and will not receive grant support. Such costs would have to be recovered from the ratepayer. The Council's proposals outlined above to award relief retrospectively on receipt of applications will mitigate this risk but carry with them the risk of delays to rate payments whilst applications are processed and an increased administrative burden.

10. Policy and Performance Agenda Implications

Retail Rate Relief is a temporary measure intended to support small retailers and it is anticipated that a wide range of businesses across Rotherham will benefit from the scheme which is consistent with the first of the Council's Corporate Priorities: Stimulating the local economy and helping local people into work.

11. Background Papers and Consultation

- The Autumn Statement 5th December 2013
- Business Rates – Retail Relief Guidance DCLG January 2014
- Business Rates Information Letter (BRIL) 2 DCLG 6th February 2014
- The Council Tax and Non-Domestic Rating (Demand Notices) (England) (Amendment) Regulations 2014 Statutory Instruments 2014 No. 40-February 2014

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Rotherham Metropolitan Borough Council Business Rates: Retail Relief Policy

- 1.1. This policy sets out the Council's intentions for dealing with applications for Business Rate relief for the financial years 2014/15 and 2015/16.
- 1.2. In line with the guidelines issued by the DCLG the following will qualify for the relief on submission of a completed application to the Council confirming the nature of the business and compliance with State Aid rules.
- 1.3. **Occupied** hereditaments with a rateable value of £50,000 or less that are **wholly or mainly being used for retail purposes**. Examples of qualifying uses are:
 - 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 (but not sorting 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

1.4 Ratepayers that occupy more than one property will be entitled to apply for relief for each of their eligible properties.

1.5 The Retail Relief granted will be applied after other reliefs for which the hereditament may qualify, but cannot be greater than the remaining rates liability for the hereditament and is capped at £1,000 per annum.

1.6 Relief will not be granted to:

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 offices

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

iii. Any business operating in contravention of the Council's declared policies, plans, strategies and procedures may not qualify for Retail Rate Relief.

iv. Hereditaments in respect of which no completed application has been received by the Council.

RMBC Logo

Non-Domestic Rates Application for Retail Relief 2014/15 and 2015/16

**Please return to: NNDR Section RMBC Riverside House Main Street Rotherham
S60 1AE**

Web address

Please keep a copy of this application for your records.

Please complete in block capitals	Account No.	
	Rateable value	
Address of premises for which relief is sought.		
Are the premises wholly or mainly used for retail?	Yes/No	
Please state type of business		
If used for purposes other than retail, please provide details.		
Have you or any company within your business group received or expect to receive any State Aid in the current financial year or in the previous two financial years? Information about State Aid can be found at https://www.gov.uk/state-aid	Yes/No	

<p>If you answered YES above please provide details of the previous aid received under De Minimis Aid</p>	<p>Organisation Providing the Assistance</p> <p>Value of Assistance</p> <p>Date of Assistance</p> <p>Nature of Assistance</p>
<p>Effective Date from which Retail Relief is claimed</p>	
<p>Declaration. (This form must be signed by the ratepayer or someone authorised to sign on behalf of the ratepayer. For limited companies it must be signed by a director. For partnerships by a partner, and for trusts by a trustee. It cannot be signed by agents).</p> <p>I confirm that the information provided above is true and grant consent for relevant checks to be made of Council records to ensure that this application meets the criteria for the Council's retail relief scheme.</p> <p>I also confirm that in the event that Retail Rate Relief Payments are made to which I am not entitled I will liable for repayment of these in full.</p> <p>Signed..... Print name.....</p> <p>Capacity of person signing..... Tel.....</p> <p>Email.....</p> <p>Date.....</p>	