

Officer Executive Decisions

Business Rate Reoccupation Relief 2014/2015 & 2015/16

Delegation from Leader and Cabinet and date: On 11 February 2014 the Cabinet adopted the schemes for the relief of business rates, including reoccupation relief, and delegated to the Chief Finance Officer, in consultation with the Portfolio Holder for Finance, the detailed application of those schemes (Decision 30/2014).

A copy of the report is available via the following link:
<http://democracy.medway.gov.uk/mgAi.aspx?ID=8829>

Decision: List of qualifying businesses as per policy document

Reasons for Decision: The business useages for which relief is awarded are comparable to those suggested by Government and / or are compatible with the Authority's wider objectives for the local area.

Date of Decision: 7 April 2014.

Officer: Mick Hayward, Chief Finance Officer. 01634 332220
mick.hayward@medway.gov.uk

Details of any other options considered and rejected: See attached report to the Chief Finance Officer.

Conflicts of Interest: None

REPORT TO CHIEF FINANCE OFFICER AND PORTFOLIO HOLDER FOR FINANCE

APRIL 2014

BUSINESS RATES REOCCUPATION RATE RELIEF 2014/2015 & 2015/16

Portfolio Holder: Councillor Alan Jarrett

Chief Finance Officer: Mick Hayward

Report from: Jon Poulson, Revenues and Benefits Manager

Summary

This report sets out Medway Council's Business Rates Reoccupation Rate Relief Policy

1. Background

- 1.1 The Local Government Finance Act 1988 provides local authorities with discretionary powers to grant relief from non domestic rates on property occupied by charities and other non-profit making organisations. Following the introduction of the Business Rates Retention Scheme the Government, Medway Council and Kent & Medway Fire Authority share the cost of granting such relief on a 50:49:1 basis.
- 1.2 Current policy for the determination of awards of relief and the guidelines that underpin such awards were set out in a report to Cabinet on 12 March 2013.
- 1.3 The Localism Act 2011 introduced an additional power for local authorities to award a local discretionary relief where it is in the council tax payers' interests to do so. The cost of any such discount is ordinarily borne on the same basis as outlined at 1.1 above.
- 1.4 In the Autumn Statement 2013, Government announced that it would provide a 50% business rates discount for 18 months for businesses moving into previously empty retail premises between 1 April 2014 and 31 March 2016, up to State Aid De Minimis limits.
- 1.5 As this is a temporary measure, the Government is not changing the rules on when a property becomes entitled to relief. Instead they are providing the relief by reimbursing local authorities that use their discretionary relief powers

(under section 47 of the Local Government Finance Act 1988) to grant relief in prescribed circumstances. The reimbursement will be via a S31 grant claimed via the NNDR 1 and 3 returns.

- 1.6 On 11 February 2014 the Cabinet adopted the schemes for the relief of business rates, including retail relief, and delegated to the Chief Finance Officer, in consultation with the Portfolio Holder for Finance, the detailed application of those schemes (Decision 30/2014).
- 1.7 In March 2014 the government issued a guidance note intended to support local authorities in administering the 'Reoccupation Relief' and set out the criteria which central Government would use to determine funding.

2 Properties to benefit from relief.

- 2.1 The Government guidance states that relief will be granted to occupied hereditaments that:
 - When previously in use, were wholly or mainly used for retail as set out in paragraph 3.1 below
 - Were empty for 12 months or more immediately before their reoccupation
 - Become reoccupied between 1 April 2014 and 31 March 2016
 - Are being used for any use (ie not just retail use) except as set out in paragraph 3.3 below.
- 2.2 There is no rateable value limit for the hereditament in respect of either the previous or reoccupied use. However, State Aid De Minimis limits may limit the amount of relief given.

3 Retail Use

- 3.1 The Government guidance states that they consider retail 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 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)

iv. 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

3.2 Officers have identified the following business useages in Medway that they consider comparable to 3.1 above:

MOT stations/vehicle repair workshops/garages
Hand car washes
Scrapyards
Guest/Boarding Houses
Hostels/Hotels
Caravan Sites
Daycare nurseries and playgroups
Drop-in centres (advice and meetings)
Cattery/Kennels
Riding schools
Land used for car boot sales
Tattoo studios
Night clubs

- 3.3 The Government guidance further stated that the new use of the reoccupied premises can be for any use (ie not just retail uses) except for:

i. Hereditaments that are being used wholly or mainly for:

- Betting shops
- Payday loan shops
- Pawn Brokers

- 3.4 The guidance also states that as the grant of relief is discretionary, authorities may choose not to grant relief if they consider that appropriate, for example where granting the relief would go against the authority's wider objectives for their local area.

4. Amount of relief available

- 4.1 Relief will be available for 18 months from the first day the hereditament becomes occupied as long as the first day falls between 1 April 2014 and 31 March 2016, subject to the hereditament remaining continuously occupied.
- 4.2 The eligibility for the relief and the relief itself will be assessed and calculated on a daily basis.
- 4.3 The relief available for each property is 50% of the business rates liability after any mandatory or other discretionary reliefs (other than retail relief) have been applied, up to State Aid De Minimis limits. The relief should be calculated ignoring any prior year adjustments in liabilities which fall to be liable on the day.

5. State Aid Relief

- 5.1 State Aid is support from public bodies which has the potential to distort competition and effect trade between member states of the European Union.
- 5.2 Any form of discretionary rate relief may amount to State Aid. State Aid is generally prohibited, but there are exceptions and aid is allowed under the 'de-minimis' rules. For most businesses this currently means €200,000 over 3 years from ALL sources.
- 5.3 The Government will not fund relief that exceeds the de-minimis limits and it is incumbent on the billing authority to administer the relief in such a way as to ensure the de minimis rules are complied with. In effect, this means asking the ratepayer to complete a declaration.

6. Splits, mergers and changes to existing hereditaments

- 6.1 Where a new hereditament has been created by a split or merger of hereditament(s), the new hereditament will be eligible for the Reoccupation Relief where at least half of the floor area of the new hereditament is made up of retail hereditaments that have been empty for 12 months or more (subject to meeting the other criteria in paragraphs 2.1 and 3.3).

- 6.2 Where a hereditament in receipt of Reoccupation Relief splits or merges to form new hereditaments, the new hereditaments will not be eligible for the remaining term of Reoccupation Relief.
- 6.3 Where a hereditament in receipt of Reoccupation Relief becomes unoccupied for any period of time less than 12 months it will not be eligible for any further Reoccupation Relief on occupation. However, if a hereditament that has previously received Reoccupation Relief becomes empty for 12 months or more it will be eligible for an additional 18 months Reoccupation Relief if the criteria are met.

7. Change of ratepayer

- 7.1 The relief will run with the property rather than the ratepayer. So if a hereditament is in receipt of Reoccupation Relief and a new ratepayer becomes liable for the property they will benefit from the remaining term of the relief, subject to the new ratepayer's State Aid de minimis limits.

8.1 Recommendations

That the Chief Finance Officer and Portfolio Holder for Finance agree:

- To implement reoccupied relief for hereditaments previously occupied as defined at 3.1 and 3.2 above.
- That the amount of relief to be awarded is calculated in accordance with 4. above but limited to that funded by central government
- Relief may only be awarded upon receipt of a completed application form and declaration that the award shall comply with the EU law on State Aid.
- Retail relief is not to be granted for hereditaments reoccupied as defined at 3.3 above.
- Any retail business not classified in section 3. above, but for which a claim is received, be presented to the Chief Finance Officer and Portfolio Holder for Finance in order that a determination can be made as to whether it should qualify for relief.
- Appeals against a refusal to grant relief will be dealt with as follows:
 - Initial review by the Revenues and Benefits Service Manager;
 - Second stage review by the Chief Finance Officer;
 - Final appeal to cabinet.

Lead Officer contact:

Jon Poulson, Revenues and Benefits Manager
T: 01634 333700
E: jon.poulson@medway.gov.uk

Background Papers: Business Rates Retail Relief – Guidance (DCLG January 2014)

Recommendations approved by:

Chief Finance Officer
Mr M E Hayward.....Dated.....

Portfolio Holder for Finance
Councillor Alan JarrettDated.....