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CABINET

5 FEBRUARY 2019

RETAIL RATE RELIEF 2019/20 & 2020/21

Portfolio Holder: Councillor Rupert Turpin, Business Management

Report from: Phil Watts, Chief Finance Officer

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Summary

This report sets out Medway Council's proposed Business Rates Retail Relief Policy 2019/20 and 2020/21 for approval by Cabinet

1.   Budget and Policy Framework

1.1   The approval of a Business Rates Relief Policy is a matter for Cabinet.

2.   Background

2.1   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 Central Government, Medway Council and Kent & Medway Fire Authority will share the cost of granting such relief on a 50:49:1 basis from 1 April 2019.

2.2   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 2.1 above.

2.3   In the Autumn Statement 2018, Government announced its intention that for 2019-20 and 2020-21, occupiers of retail properties with a rateable value below £51,000 should receive a discount of one third of their chargeable amount on their rates bills.

2.4   As this is a temporary measure, 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 grant under

section 31 of the Local Government Act 2003 claimed through the NNDR 1 and 3 returns.

2.5 In December 2018, the council was informed that the Government had issued a guidance note intended to support local authorities in administering the 'Retail Relief' and set out the criteria which would be used to determine funding. It stated that local authorities should ensure application of the Retail Relief as part of the normal 2019/20 billing cycle.

3. Properties to benefit from relief

3.1 To qualify for the new retail relief, properties must be occupied with a rateable value below £51,000 and be used wholly or mainly as shops, restaurants, cafes or drinking establishments.

3.2 Government considers that "shops, restaurants, cafes and drinking establishments" mean:

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

- Shops (such as: florists, bakers, butchers, grocers, greengrocers, jewellers, stationers, off licences, 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 showrooms
- Second hard 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: hairdressers, 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

3.3   In the Council's previously adopted retail relief scheme, Members agreed the following business usages in Medway that they consider broadly similar in nature to 3.2 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

3.4   Government guidance further states that they do not consider the following types of use as retail and as such would not qualify for 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, bureaux 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 that are not reasonably accessible to visiting members of the public

3.5   Government also does not consider other assembly or leisure uses beyond those listed at 3.2 above to be retail uses for the purpose of the discount. For example, cinemas, theatres and museums are outside the scope of the scheme, as are nightclubs and music venues which are not similar in nature to the hereditaments described at paragraph 3.2 (iii) above. Hereditaments used

for sport or physical recreation (e.g. gyms) are also outside the scope of the discount.

3.6   In the Council's previously adopted retail relief scheme, Members agreed the following business usages in Medway that they consider comparable to 3.4 and 3.5 above or not compatible with the authority's wider objectives for the area:

- Social clubs
- Snooker clubs
- Amusement arcades
- Massage parlour
- Sex shops licensed under Local Government (Miscellaneous Provisions) Act 1982

3.7   The guidance states that where there is doubt over whether the property qualifies, the local authority should exercise their discretion with reference to the above and knowledge of their local tax base.

4.   Amount of relief to be awarded

4.1   The total amount of government-funded relief available for each property for 2019-20 and 2020-21 under this scheme is one third of the bill after mandatory reliefs and other discretionary reliefs funded by section 31 grants have been applied, excluding those where local authorities have used their discretionary relief powers introduced by the Localism Act which are not funded by section 31 grants. There is no relief available under this scheme for properties with a rateable value of £51,000 or more.

4.2   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).

4.3   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 chargeable day for a particular hereditament in the financial year:

Amount of relief to be granted = $\dfrac{V}{3}$

where V is the daily charge for the hereditament for the chargeable day after the application of any mandatory relief and any other discretionary reliefs, excluding those where local authorities have used their discretionary relief powers which are not funded by section 31 grants.

4.4   This should be calculated ignoring any prior year adjustments in liabilities which fall to be liable on the day.

4.5   Examples of how the relief will be calculated are shown at Appendix 1.

4.6   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 (see section 6 below).

4.7   A ratepayer has a right of appeal to the authority against any decision. Appeals against a refusal to grant relief will be dealt with as follows:
- Initial review by the Head of Revenues and Benefits;
- Second stage review by the Chief Finance Officer;

5.   Splits, Mergers and Changes to Existing Properties

5.1   The relief should be applied on a day to day basis using the formula set out in 4.3 above. A new property 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.

6.   State Aid Relief

6.1   State Aid is support from public bodies which has the potential to distort competition and effect trade between member states of the European Union.

6.2   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 Regulations which allow a business to receive up to €200,000 of aid over a three-year period.

6.3   The local authority is required to establish that the award of relief will not exceed the de minimis limit. It is therefore recommended that any ratepayer receiving the relief is informed of the De Minimis Regulation and asked to declare if they consider that the award of relief will breach the relevant limit.

6.4   The UK is scheduled to leave the EU on 29 March 2019. If there is an Implementation Period, the State Aid rules will continue to apply as now and will be subject to control by the EU Commission as at present. If the UK leaves the EU without a negotiated Withdrawal Agreement, the Government has announced its intention to transpose EU State Aid rules into UK domestic legislation, with only technical modifications to correct deficiencies with the transposed EU law to ensure the regime operates effectively in a domestic context. Local authorities should therefore continue to apply State Aid rules, including De Minimis, to the relief for 2019/20 and 2020/21.

7.   Risk Management

Risk	Description	Action to avoid or mitigate risk	Risk Rating
Government refuse to fund the relief	Likelihood D (Low) Impact 3 (Marginal) Relief not awarded in line with criteria specified by Government	Ensure scheme complies with Government guidelines	D3

8.   Financial and Legal Implications

8.1   These are contained within the body of the report.

9.   Recommendations

9.1   Cabinet is asked to agree that retail relief for hereditaments as defined at 3.1 to 3.3 be awarded in appropriate circumstances.

9.2   Cabinet is asked to agree that retail relief for hereditaments as defined at 3.4, to 3.6 are not awarded.

10.   Suggestested reasons for decisions

10.1   The retail relief scheme has been promoted by and will be funded by central government to assist business ratepayers. Given the lack of cost to the local taxpayer it is appropriate for the Council to operate such a scheme.

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Appendices:
Appendix 1 - Retail Rate Relief Calculation Examples for 2019/20

Background papers:
None

Retail Rate Relief Calculation Examples for 2019/20

The retail discount (one third) is always calculated after mandatory relief and other discretionary reliefs funded by section 31 grant.

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

Gross rates (before any reliefs)	= £40,000 x 0.491 = £19,640
Retail discount (1/3):	= -£6,547
Rates due (after retail discount):	= £13,093

Example 2: An occupied charity shop with a rateable value of £40,000

Gross rates (before any reliefs)	= £40,000 x 0.491 = £19,640
Net rates after charity relief (80%):	= £3,928
Retail discount (1/3):	= -£1,309
Rates due(after charity relief & retail discount):	= £2,619

Example 3: An occupied shop with a rateable value of £13,500 eligible for Small Business Rate Relief (SBRR)

Gross rates (before any reliefs)	= £13,500 x 0.491 = £6,629
Net rates after SBRR (50%):	= £3,314
Retail discount (1/3):	= -£1,105
Rates due(after SBRR & retail discount):	= £2,210

Example 4: An occupied shop with a rateable value of £10,000 eligible for Small Business Rate Relief (SBRR)

Gross rates (before any reliefs)	= £10,000 x 0.491 = £4,910
Net rates after SBRR (100%):	= £nil

Rates bill is nil and, therefore, no retail discount applies

Example 5: An occupied shop with a rateable value of £40,000 eligible for Transitional Relief (TR) and receiving Revaluation Discretionary Relief

Gross rates (before any reliefs)	= £40,000 x 0.491 = £19,640
Transitional Relief (say):	= -£1,500
Net rates after Transitional Relief:	= £18,140
Net rates after Revaluation Discretionary Relief (say):	= £15,140
Retail discount (1/3):	= -£5,047
Rates due (after TR, revaluation relief & retail discount):	= £10,093

Example 6: An occupied shop with a rateable value of £18,000 previously paying nothing prior to revaluation 2017 and eligible for Supporting Small Businesses Relief (SSB)

Gross rates (before any reliefs)	= £18,000 x 0.491 = £8,838
Supporting Small Businesses Relief (say):	= -£7,038
Net rates after SSB:	= £1,800
Retail discount (1/3):	= -£600
Rates due (after SSB & retail discount):	= £1,200

Example 7: A shop with a rateable value of £40,000 (example 1) but only occupied until 30 September 2019

Gross rates (before any reliefs)	= £40,000 x 0.491 = £19,640
Retail discount (1/3):	= -£6,547
Rates due p.a. (after retail discount):	= £13,093
Daily charge while occupied (leap year):	= £35.77 per day
Occupied charge 1/4/19 to 30/9/19 i.e. (183 days):	= £6,547
Unoccupied property relief (1/10/19 to 1/1/20):	= £nil
Unoccupied property rates (1/1/20 to 31/3/20), £19,640 x 91/366 days	= £4,883
Rates due for the year (after retail relief):	= £11,430

Example 8: A shop with a rateable value of £40,000 (example 1) with a rateable value increase to £60,000 with effect from 1 October 2019

Gross rates (before any reliefs)	= £40,000 x 0.491 = £19,640
Retail discount (1/3):	= -£6,547
Rates due p.a. (after retail discount):	= £13,093
Daily charge while occupied (leap year):	= £35.77 per day
Charge 1/4/19 to 30/9/19 (183 days):	= £6,547
Daily charge on standard multiplier (1/10/19 to 1/1/20): (£60,000 x 0.504)/366	= £82.62 per day
Charge 1/10/19 to 31/3/20 (183 days):	= £15,120
Rates due for the year (after retail relief):	= £21,667