

## **CABINET**

**4 FEBRUARY 2020**

### **BUSINESS RATE RELIEF**

Portfolio Holder: Councillor Rupert Turpin, Portfolio Holder for Business Management

Report from: Phil Watts, Chief Finance Officer

Author: Patrick Knight, Head of Revenues and Benefits

#### **Summary**

Central Government has asked local authorities to consider using their discretionary powers to award business rate relief in certain circumstances.

#### **1. Budget and Policy Framework**

- 1.1 The approval of a Business Rate Relief Policy is a matter for Cabinet.
- 1.2 This report has been added to the agenda as an urgent item because the Government's announcement on this matter only took place on 27 January 2020. Therefore, the Cabinet is asked to accept this report as urgent to ensure that the Council can implement discretionary business rate relief for 2020/21, in particular to ensure that the Council can implement discretionary business rate relief for 2020/21 and in particular to ensure compliance with the timetable for issuing business rate bills for 2020/21 including the increased financial support thereon (the billing process is due to commence on 21 February 2020).

#### **2. Background**

- 2.1.1 On Monday 27 January 2020, the Financial Secretary to the Treasury made a Written Ministerial Statement announcing additional business rates measures that will apply from 1 April 2020. This included a new pub discount of £1,000 to eligible pubs; changes to retail discount; and the extension for an additional five years until 31 March 2025 of the local newspaper discount of £1,500. Additionally, the Government has further indicated in Business Rates Information Letter (1/2020) the doubling of Rural Rate relief from 50% to 100%.
- 2.2 This statement indicated that Local Authorities should start preparations to include these changes now, and act promptly to ensure eligible business

receive the increased support in their rates bills at the start of the 2020/2021 financial year.

- 2.3 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 and Medway Fire Authority will continue to share the cost of granting such relief on a 50:49:1 basis from 1 April 2020.
- 2.4 As the changes are 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.

### **3. Properties to benefit from relief**

#### **3.1 Pubs Discount 2020/21 scheme**

The scheme is available to eligible occupied properties with a rateable value of less than £100,000. The majority of pubs are independently owned or managed and will not be part of chains. Where pubs are part of a chain, relief will be available for each eligible property in the chain, subject to meeting State Aid requirements.

##### **3.1.1 Government guidance is that eligible pubs should:**

- Be open to the general public
- Allow free entry other than when occasional entertainment is provided
- allow drinking without requiring food to be consumed
- permit drinks to be purchased at a bar

##### **3.1.2 For these purposes, it should exclude:**

- restaurants
- cafes
- nightclubs
- hotels
- snack bars
- guesthouses
- boarding houses
- sporting venues
- music venues
- festival sites
- theatres
- museums
- exhibition halls
- cinemas
- concert halls
- casinos

## 3.2 Retail Discount relief 2020/21

The Government's guidelines where a property is occupied with a rateable value below £51,000 have now been extended to include cinemas and live music venues. Consequently:

### 3.2.1 Government now considers that "shops, restaurants, cafes, drinking establishments, cinemas and live music venues" to 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 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: 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

#### **iv. Hereditaments which are being used as cinemas**

#### **v. Hereditaments that are being used as live music venues:**

– live music venues are hereditaments wholly or mainly used for the performance of live music for the purpose of entertaining an audience. Hereditaments cannot be considered a live music venue for the purpose of business rates relief where a venue is wholly or mainly used as a nightclub or a theatre, for the purposes of the Town and Country Planning (Use Classes) Order 1987 (as amended).

– Hereditaments can be a live music venue even if used for other activities, but only if those other activities (i) are merely ancillary or incidental to the performance of live music (e.g. the sale/supply of alcohol to audience members) or (ii) do not affect the fact that the primary activity for the premises is the performance of live music (e.g. because those other activities are insufficiently regular or frequent, such as a polling station or a fortnightly community event).

– There may be circumstances in which it is difficult to tell whether an activity is a performance of live music or, instead, the playing of recorded music.

Although the Government expect this would be clear in most circumstances, guidance on this may be found in Chapter 16 of the statutory guidance issued in April 2018 under section 182 of the Licensing Act 2003.

3.2.2 In the Council's previously adopted retail discount relief scheme, Members agreed the following business usages in Medway that they consider broadly similar in nature to those set out in paragraph 3.2.1 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

3.2.3 Government's latest 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**

3.2.4 Government also does not consider other assembly or leisure uses beyond those listed at 3.2.1 above to be retail uses for the purpose of the discount. For example, theatres and museums are outside the scope of the scheme, as are nightclubs. Hereditaments used for sport or physical recreation (e.g. gyms) are also outside the scope of the discount.

3.2.5 In the Council's previously adopted retail relief scheme on 5 February 2019, the Cabinet agreed (decision numbers 20/2019 and 21/2019) that the following business usages in Medway that they consider comparable to 3.2.3 above are 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

3.2.6 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.

### **3.3 Local Newspaper relief**

3.3.1 The relief which was due to end on 31 March 2020 for office space occupied by local newspapers subject to a maximum of one discount per local newspaper title has been extended to cover the financial years 2020/21 to 2024/25.

### **3.4 Rural Rate relief**

3.4.1 The Government has further indicated in Business Rates Information Letter (1/2020) the doubling of this relief from 50% to 100%. The rural rate relief scheme was introduced to protect the last retail outlets and similar services in rural areas (settlement) with a population of less than 3,000. Under the scheme the only food shop, general store, or Post office with a rateable value

of less than £8,500 is eligible for relief. Additionally, the only public house or petrol station with a rateable value of up to £12,500 is eligible for relief. Local authorities are expected to use their local discount powers to grant 100% rural rate relief to eligible ratepayers.

#### **4. Amount of relief to be awarded**

##### **4.1 Pubs Discount 2020/21**

4.1.1 The Pubs discount will provide up to £1,000 discount to eligible pubs. This is in addition to any appropriate retail discount and will apply after the retail discount and the combined relief will not exceed the total net liability for the year.

##### **4.2 Retail Discount relief 2020/21**

4.2.1 The total amount of Government-funded relief available for each property for 2020-21 under this scheme is 50% of the bill after mandatory reliefs and, with the exception of the 2020/21 pubs discount (see 4.1 above), 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.

4.2.2 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:

$$\text{Amount of relief to be granted} = \frac{V}{2}$$

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 the pubs discount and those where local authorities have used their discretionary relief powers which are not funded by section 31 grants.

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

4.2.4 Examples of how the relief will be calculated are shown at Appendix 1 to the report.

4.2.5 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 5 below).

##### **4.3 Local Newspaper relief**

4.3.1 Eligible businesses will receive £1,500 business rate discount per annum.

#### 4.4 Rural rate relief

4.4.1 Eligible businesses will receive an additional “top-up” of 50% relief i.e. 100% relief.

4.5 In all cases detailed above 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. State Aid Relief

5.1 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 aid EU Regulation 1407/2013.

5.2 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).

5.3 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.

5.4 Whilst the UK left the EU on 31 January 2020, the Withdrawal Agreement negotiated by the Government and the EU provides that during an implementation period State Aid rules will continue to apply as now and will be subject to control by the EU Commission as at present. Local authorities should therefore continue to apply State Aid rules, including De Minimis, to the relief during the implementation period.

#### 6. Risk Management

<b>Risk</b>	<b>Description</b>	<b>Action to avoid or mitigate risk</b>	<b>Risk Rating</b>
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

#### 7. Financial and Legal Implications

7.1 These are contained within the body of the report.

## **8. Recommendations**

- 8.1 Cabinet is asked to agree that Pub Discount for hereditaments as defined at paragraph 3.1 of the report be awarded in accordance with paragraph 4.1.1.
- 8.2 Cabinet is asked to agree that Retail Discount for hereditaments as defined at paragraphs 3.2.1 to 3.2.2 of the report are awarded.
- 8.3 Cabinet is asked to agree that Retail Discount for hereditaments as defined at paragraphs 3.2.3 to 3.2.5 of the report are **not** awarded.
- 8.4 Cabinet is asked to agree that Local Newspaper relief for hereditaments as defined at paragraph 3.3 of the report are awarded.
- 8.5 Cabinet is asked to agree that Rural Rate relief is extended from 50% to 100% for qualifying hereditaments as defined at paragraph 3.4 of the report.

## **9. Suggested reasons for decisions**

- 9.1 The Pubs Discount, Retail Discount, Local Newspaper Relief and Rural Rate relief schemes have 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 schemes.

### **Lead Officer contact:**

Patrick Knight, Head of Revenues and Benefits

T: 01634 333730

E: [patrick.knight@medway.gov.uk](mailto:patrick.knight@medway.gov.uk)

### **Appendices:**

Appendix 1 - Retail Rate Relief Calculation Examples for 2020/21

### **Background papers:**

Business Rates information letter 1/2020: rate reliefs and provisional 2020 to 2021 business rate multipliers

<https://www.gov.uk/government/publications/12020-rate-reliefs-and-provisional-2020-to-2021-business-rates-multipliers>

Business Rates: pubs discount 2020 to 2021-local authority guidance

<https://www.gov.uk/government/publications/business-rates-pubs-discount-2020-to-2021-local-authority-guidance>

Business Rates: retail discount - guidance

<https://www.gov.uk/government/publications/business-rates-retail-discount-guidance>

Cabinet 5 February 2019 Retail Relief 2019/20 & 2020/21

<https://democracy.medway.gov.uk/mgConvert2PDF.aspx?ID=4131&T=10>



## Retail Rate Relief Calculation Examples for 2020/21

The retail discount (50%) 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 0.499	= £19,960
Retail discount (50%):	= <u>-£ 9,980</u>
Rates due (after retail discount):	= £ 9,980

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

Gross rates (before any reliefs) = £40,000 x 0.512	= £20,480
Net rates after charity relief:	= £ 4,096
Retail discount (50%):	= <u>-£ 2,048</u>
Rates due (after charity relief and retail discount):	= £ 2,048

### 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 0.490	= £6,737
Net rates after SBRR (50%):	= £3,368
Retail discount (50%):	= <u>-£1,684</u>
Rates due (after SBRR and retail discount):	= £1,684

### 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 0.499 = £4,990
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 0.499 = £19,960
Transitional Relief (say):	= <u>-£ 1,500</u>
Net rates after Transitional Relief:	= <u>£18,460</u>
Net rates after Revaluation Discretionary Relief (say):	= £15,460
Retail discount (50%):	= <u>-£ 7,730</u>
Rates due (after TR, revaluation relief and retail discount):	= £ 7,730

### 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 0.499	= £8,982
Supporting Small Businesses Relief (say):	= <u>-£6,582</u>
Net rates after SSB:	= £2,400
Retail discount (50%):	= <u>-£1,200</u>
Rates due (after SSB and retail discount):	= £1,200

**Example 7: A shop with a rateable value of £40,000 (example 1) but only occupied until 30 September 2020**

Gross rates (before any reliefs) = £40,000 x 0.499	= £19,960
Retail discount (50%):	= <u>-£ 9,980</u>
Rates due p.a. (after retail discount):	= <u>£ 9,980</u>
Daily charge while occupied (leap year): = £27.34 per day	
Occupied charge 1/4/20 to 30/9/20 (183 days):	= £4,976
Unoccupied property relief (1/10/20 to 1/1/21):	= £nil
Unoccupied property rates (1/1/21 to 31/3/21), £40,000 x 0.512 x 91/365	= £5,106
Rates due for the year (after retail relief):	= £10,082

**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 2020**

Gross rates (before any reliefs) = £40,000 x 0.499	= £19,960
Retail discount (50%):	= <u>-£ 9,980</u>
Rates due p.a. (after retail discount):	= <u>£ 9,980</u>
Daily charge while occupied (leap year): = £27.34 per day	
Charge 1/4/20 to 30/9/20 (182 days):	= £ 4,976
Daily charge on standard multiplier (1/10/20 to 31/3/21): (£60,000 x 0.512)/365 = £84.16 per day	
Charge 1/10/20 to 31/3/21 (183 days):	= <u>£15,402</u>
Rates due for the year (after retail relief):	= £20,378