



Cabinet
11 February 2019

**Report from the Strategic Director
of Resources**

**National Non-Domestic Rates – Discretionary Discount
Schemes**

Wards Affected:	All
Key or Non-Key Decision:	Key
Open or Part/Fully Exempt: <small>(If exempt, please highlight relevant paragraph of Part 1, Schedule 12A of 1972 Local Government Act)</small>	Open
No. of Appendices:	Two Appendix 1: NNDR Discretionary Discount Scheme – Revaluation Support Scheme Appendix 2: NNDR Discretionary Discount Scheme - Retail Rate Relief Scheme for 2019/20 and 2020/21
Background Papers:	None
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1.0 Purpose of the Report

- 1.1 The powers to grant local discounts in respect of non-domestic rates are contained within section 47 of the Local Government Finance 1988 as amended by s69 of the Localism Act 2011. To award discounts under this provision any discount scheme needs committee approval. The council agreed the discretionary scheme for revaluation support for 2017/18 on 24 July 2017 and for 2018/19 on 12 February 2018, it now needs to consider and agree the schemes for 2019/20 and 2020/21. In addition approval is also sought for the retail rate relief scheme announced by the government in its Autumn statement on 29 October 2018.
- 1.2 The Discretionary Discount Scheme (Revaluation Support) came into effect on 1 April 2017 when the government provided funding to local authorities to design their own scheme in order to provide assistance to those businesses most affected by the 2017 rates revaluation. Funding is available for 4 years from 2017/18 to 2020/21 and whilst businesses may have their increases phased in annually over 4 years, the Revaluation Support Scheme provides further help to those who are worst affected. The amount of funding decreases

year on year, with £219,000 available for Brent in 2019/20, and £31,000 for 2020/21 meaning that any scheme needs to target those seeing the largest increases in their bills for 2019/20 and 2020/21. It should be noted that the design of the scheme is down to each local authority and consultation on scheme criteria and principles was undertaken in June 2017 which resulted in the main scheme principles being agreed.

- 1.3 The Discretionary Discount Scheme (Retail Rate Relief) was announced in the Autumn Statement in October 2018 and is aimed at providing help to retail businesses in town centres and “high streets”. The scheme is aimed at occupied retail properties with a rateable value of less than £51,000 and provides relief for each of the years 2019-20 and 2020-21. The value of relief will be one third of the bill after all other reliefs have been applied (including revaluation support). The government has provided guidance on the operation of the scheme and expects councils to implement the scheme using its discretionary powers under section 47 of The Local Government Act 1988 as amended.
- 1.4 Both of these schemes are funded by central government, although in respect of the Revaluation Support Scheme only up to the funding allocation (£219,000 for 2019/20 and £31,000 for 2020/21). In view of the numbers of ratepayers who will be entitled to relief the report also seeks approval to authorise the Chief Finance Officer to implement the scheme so that officers can award these discretionary reliefs where the set criteria are met (as detailed in this report)

2.0 Recommendations

- 2.1 That the Discretionary Discount Scheme (Revaluation Support) for 2019/20 and 2020/21 as detailed in sections 3.1 to 3.9 and in Appendix 1 of this report be approved pursuant to the Council’s powers under section 47 of the Local Government Finance Act 1988 as amended.
- 2.2 That the Discretionary Discount Scheme (Retail Rate Relief) for 2019/20 and 2020/21 as detailed in sections 3.10 to 3.13 and in Appendix 2 of this report be approved pursuant to the Council’s powers under section 47 of the Local Government Finance Act 1988 as amended.
- 2.3 That the Chief Finance Officer be delegated authority to implement the two schemes as detailed in Appendices 1 and 2 of this report so that the agreed discretionary discounts for business rates can be awarded in compliance with the schemes criteria.

3.0 Detail

Discretionary Discount Scheme (Revaluation Support)

- 3.1 Business rates (also known as non-domestic rates) are payable by the occupiers or owners of all non-domestic premises. The amount payable is based on the rateable value and this is assessed by the Valuation Office Agency ((VOA) part of HMRC). The rateable value broadly reflects the annual rental value of the property. The VOA maintain a rating list which shows the rateable value of each property in each council’s area.

3.2 Every 5 years there is a revaluation whereby the rateable values are reviewed and a new rating list compiled. However, the revaluation that was due in 2015 was postponed until 2017. As rental values changed dramatically between 2010 and 2017 this is reflected in the new rateable values that took effect from 1 April 2017. For Brent the total rateable value increased from £285,256,183 to £318,929,082, an increase of 11.8%. This resulted in some properties seeing very large increases in their rates bills for 2017/18 when compared to 2016/17. Whilst there is a transitional relief scheme that limits the increases in bills for 2017/18 and subsequent years, (see table below), businesses are still experiencing increases well above inflation.

Transitional Relief Scheme – Increases in bills restricted to percentages shown

Size of Business	2017/18*	2018/19**	2019/20***	2020/21	2021/22
Small (up to £28,000)	5%	7.5%	10%	15%	15%
Medium (£28,001 to £100,000)	12.5%	17.5%	20%	25%	25%
Large (£100,001+)	42%	32%	50%	16%	5%

*For 2017/18 inflation of 2% is also added

** For 2018/19 inflation of 3% is also added

***For 2019/20 inflation of 2.5% is also added

In 2017/18 over 53% of businesses in Brent were entitled to transitional relief. In 2019/20 this has fallen to 10%, but this still represents nearly 1,000 businesses. It should be noted that the percentage increase before transitional relief is applied is much higher - 10% plus inflation for small businesses and 20% plus inflation for medium sized businesses, so many businesses are seeing very large increases in their bills for 2019/20.

3.3 In the 2017 March Budget, the Government announced £300 million for local councils to finance business rates relief for revaluation support. The Government's extra funding will only support relief schemes targeted at businesses facing an increase in their business rate bills following the 2017 revaluation. The Government's allocation of funding for Brent is:

LA	Amount of discretionary pot awarded (£000s)				Total
	2017-18	2018-19	2019-20	2020-21	
LB Brent	1,096	532	219	31	1,878

3.4 It is a condition of the funding that relief can only be awarded to ratepayers facing increases in their bills as a result of the revaluation, it further assumes that relief will be given to those ratepayers facing the highest increases and will target ratepayers occupying lower value properties. It has confirmed that any under or overspends cannot be transferred or offset against any future years.

3.5 The Council agreed the schemes for 2017/18 and 2018/19 based on the following criteria:-

- that only businesses who have seen increases in their rate bills due to the 2017 revaluation of more than specified percentages be considered for relief
- the relief be a percentage discount of the net bill

- that the scheme applies to all of the council's area
- That any company who is liable for 6 or more properties nationally be excluded
- that apart for betting shops and gaming establishments the scheme be open to all property types
- that properties unoccupied on 1 April 2017 be excluded from the scheme
- that businesses who have arrears of business rates from previous years be given an opportunity to either pay these in full or agree a repayment arrangement before being considered for relief.

The schemes were based on relief being a percentage of the net charge, the percentage applied being determined by the increase in rates bill. However in estimating the percentages it has always been a best estimate in trying to ensure that the total relief awarded equals the council's funding allocation. In 2017/18 relief totalling £955,000 was awarded against an allocation of £1,096,000 and in 2018/19 relief totalling £425,000 has to date been awarded against an allocation of £532,000. It is therefore recommended that in 2019/20 rather than award a percentage discount a lump sum discount of £500 is awarded to the 500 accounts that are seeing the biggest percentage increase in their rates bill in 2019/20 when compared to 2018/19 due to the revaluation. By using this methodology we can be sure of using up our allocation. It should be noted that 500 awards of £500 totals £250,000 which is more than our allocation but due to vacations and changes in circumstances there is always at least a 10% downward movement in relief awarded.

- 3.6 Relief should be focused on small and medium sized businesses. Therefore of the 500 awards it is recommended that 400 are made to small businesses, i.e., those with a rateable value of £28,000 or less and 100 awards be made to medium sized businesses, i.e., those with a rateable value between £28,001 and £100,000. There are 800 small businesses who will see increases in their bills of more than 12.53% in 2019/20 and 121 medium sized businesses who will see increases of more than 22.76%. Bearing in mind the relatively small allocation of £219,000 it is best to "spread" this amongst many businesses rather than award it to a few, particularly as relief can only be up to the amount of the increase in the rates bill due to the revaluation.
- 3.7 As the allocation for 2020/21 is £31,000 it is recommended that that a similar scheme be adopted. 75 awards of £500 are recommended to those businesses seeing the biggest percentage increase in their rates bill due to the revaluation but this being limited to small businesses only, i.e., those with a rateable value of £28,000 or less. Again this totals more than the allocation but there will be a downward movement in this to reflect vacations, etc.
- 3.8 It should be noted that many of the businesses seeing large increases in their bills for 2019/20 and 2020/21 will qualify for a third reduction in their bill for these 2 years under the retail rate relief scheme as detailed below.
- 3.9 Entitlement to relief will also be subject to State Aid rules whereby a business must not have received state aid exceeding 200,000 euros in the last 3 years (current year plus preceding 2). State aid includes reliefs, grants, interest rate and tax relief, subsidies, guarantees, etc. Potential qualifiers have been identified and relief will be awarded automatically after checks have been

carried out to ensure they meet the criteria. Qualifying businesses will be advised of their entitlement and of the state aid rules and will be told to notify the council if they do not meet these rules. Full details of the scheme are in Appendix 1.

Discretionary Discount Scheme (Retail Rate Relief)

- 3.10 The government announced in its Autumn Statement on 29 October 2018 the introduction of a retail rate relief scheme for 2019/20 and 2020/21. This will be in respect of occupied retail properties with a rateable value of less than £51,000 and the amount of relief will be a third of the net bill after all other reliefs have been applied. Rather than introduce new legislation the government expects local authorities to introduce the scheme using its discretionary powers under section 47 of the Local Government Finance Act 1992 as amended. It will reimburse councils the cost of all relief awarded.
- 3.11 Guidance on the administration of the scheme was issued in November 2018. It clarifies the classes of retail properties that will be entitled to relief. Shops, restaurants, cafes and drinking establishments are entitled and the guidance provided details of the types of other businesses that fall within these categories – these are detailed in Appendix 2. It also specifies the types of business that will not qualify for relief – this includes financial services (including betting shops, payday lenders, etc.), estate agents, medical services and professional services. It also excludes, for example cinemas, theatres, night clubs and gyms. It should be noted that this scheme is similar to the retail rate relief scheme introduced in 2014 when a discount of £1,000 was awarded to occupied retail premises with a rateable value of less than £50,001. In effect those businesses who qualified under this scheme will also qualify under the new scheme.
- 3.12 Modelling has been undertaken to identify the numbers of businesses that may qualify. It is estimated that approximately 1,820 businesses will qualify for a third reduction in their bill and that the total value of relief will be around £5.3M. Rather than invite businesses to apply relief will be auto awarded and it is hoped that this relief will be included on the annual bills for 2019/20 due to be dispatched in March.
- 3.13 Entitlement to relief is also subject to State Aid rules whereby a business must not have received state aid exceeding 200,000 euros in the last 3 years (current year plus preceding 2). State aid includes reliefs, grants, interest rate and tax relief, subsidies, guarantees, etc. Qualifying businesses will be advised of their entitlement and of the state aid rules and will be told to notify the council if they do not meet these rules.

4.0 Financial Implications

- 4.1 The Revaluation Support Scheme was originally announced by the government in its Spring 2017 Budget. The cost of the Revaluation Support Scheme will be funded by a separate grant with fixed allocations. As this is intended to be a locally designed scheme the total cost may vary from the Government's allocation, this being £219,000 in 2019/20 and £31,000 for 2020/21. The actual cost may vary marginally as a result of new businesses and changes to valuations but it is not expected to exceed the grant allocations. The cut off

point for awarding relief for 2019/20 is 30 September 2020 and for 2020/21 is 30 September 2021.

- 4.2 The government has made funding of £12,000 available for administering the scheme for years 1 and 2; this largely covers the software changes required with a small element for administration, printing and postage of bills. There may be some additional funding for this latter element in respect of the last 2 years of the scheme.
- 4.3 The Retail Rate Relief scheme was announced in the 2018 Autumn Statement and the government will fully fund the cost of relief awarded. The scheme is very similar to the previous retail rate relief scheme so it is estimated the cost of administering this scheme will be less than £10,000. There may be some additional government funding to meet this new burden but otherwise these costs will need to be met from within existing resources.

5.0 Legal Implications

- 5.1 The Discretionary Discount Scheme (Revaluation Support) was announced by the government in the Chancellor's Spring Budget in March 2017, whereas the Retail Rate Relief scheme was announced in the 2018 Autumn statement. Rather than introduce legislation the government expects authorities to implement these schemes by using their discretionary relief powers in s47 of the Local Government Act 1988 as amended by s69 of The Localism Act 2011 to allow authorities to grant business rate discounts. Under this provision authorities can create their own discount schemes in order, for example, to promote growth and jobs in its area, or specified areas. However, in accordance with the amendments, the local authority is required to have regard to any relevant guidance issued by the Secretary of State when deciding whether to grant relief under s47 of the Local Government Act 1988 as amended; and any such scheme needs to be approved by the Council's Cabinet.
- 5.2 Normally the authority would have to fund its share of the cost of awarding reliefs, however the government will fully fund the costs of the Retail Rate Relief Scheme as it expects authorities to implement the Scheme in accordance with the guidance. With regards to the Revaluation Support Discount scheme the government will fund relief up to its funding allocation for 2019/20 of £219,000 and £31,000 for 2020/21. Any underspends or overspends in these years cannot be transferred or offset against subsequent years.
- 5.3 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. Relief for each of these schemes will be State Aid compliant where it is provided in accordance with the De Minimis Regulations (as set out in Statutory Instrument 1407/2013).
- 5.4 The De Minimis Regulations allow an undertaking (in this case, a business) 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). Officers will need to familiarise themselves with the terms of this State Aid exemption when considering whether to award business rate relief upon receipt of business relief applications, in particular the types of undertaking that are excluded from

receiving De Minimis aid (Article 1), the relevant definition of undertaking (Article 2(2)) and the requirement to convert the aid into Euros.

- 5.5 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. It should be added 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).

6.0 Equality Implications

- 6.1 The public sector equality duty requires public bodies to pay due regard to the need to:-

- eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Equality Act 2010;
- advance equality of opportunity between people who share a protected characteristic and those who do not;
- foster good relations between people who share a protected characteristic and those who do not

- 6.2 The Equality Act 2010 and the Public Sector Equality Duty (outlined above) cover the following nine protected characteristics: age, disability, marriage and civil partnership, gender reassignment, pregnancy and maternity, race, religion or belief, gender and sexual orientation.

- 6.3 There are not thought to be any direct equalities implications arising from the report at this stage. Indeed the schemes will provide help to small businesses as they will reduce their rates bills and so help their sustainability. Those who are likely to be entitled to these reliefs in 2019/20 and 2020/21 will have their relief automatically awarded after having carried out checks to ensure they met the criteria. Those businesses awarded relief will be asked to advise us if they fail to meet the State Aid criteria.

7.0 Consultation with Ward Members and Stakeholders

- 7.1 With regards to Revaluation Support the council consulted with various business organisations, the GLA and local businesses in May and June 2017 on the original scheme criteria and principles of the scheme. Responses were received from the Federation of Small Businesses, West London Business, the GLA and 12 independent companies. There was broad agreement on the scheme design and criteria, with the majority of responses wishing relief to concentrate on small/medium sized businesses. As this report is not seeking amendments to the scheme design or criteria a further consultation is not necessary.

- 7.2 No consultation has been carried out in respect of the Retail Rate Relief scheme as guidance has been issued by the government on how this scheme should be operated, and the government expects local authorities to implement it using its section 47 powers. The Rate Relief Scheme also provides for a third reduction in the bills of many small/medium sized businesses that are located in town centres or on the "high street"; this will help sustain their viability and hopefully lead to less closures in these key areas.

8.0 Human Resources/Property Implications (if appropriate)

8.1 None

Related Documents:

Revaluation Support:-

- DCLG Consultation Paper March 2017 – Proposals on the design and implementation of the locally administered Business Rates Relief Scheme
- DCLG Letter 15 May 2017 – Spring Budget 2017 – Business Rates Relief Schemes
- DCLG Business Rates Information Letter (BRIL 4/2017) dated 20 June 2017 – Spring Budget
- DCLG Business Rates Information Letter (BRIL 9/2017) dated 22 December 2017 – Administration

Retail Rate Relief:-

- MHCLG – Business Rates Information Letter 4 (BRIL 4/2018) – 2 November 2018
- MHCLG – Business Rates Retail Discount Guidance, November 2018

Report sign off:

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