



Cabinet
7 March 2022

**Report from the Strategic Director
of Customer and Digital Services**

Covid Additional Restrictions Fund – Rate Relief Scheme

Wards Affected:	All
Key or Non-Key Decision:	Key
Open or Part/Fully Exempt: (If exempt, please highlight relevant paragraph of Part 1, Schedule 12A of 1972 Local Government Act)	Open
No. of Appendices:	One Appendix 1 Covid Additional Restrictions Fund – Rate Relief Scheme Appendix 2 Local Authority Guidance: CARF Guidance.docx (publishing.service.gov.uk)
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 section 69 of the Localism Act 2011. To award discounts and reliefs under this provision any discount scheme requires Cabinet approval.
- 1.2 This report sets out a discretionary scheme for Covid Additional Restrictions Fund 2022 – Rate Relief Scheme which will last until the end of September 2022, coming into force once approved.
- 1.3 On 25 March 2021 the Government announced a new COVID-19 Additional Relief Fund (CARF) of £1.5 billion. The fund was confirmed in December 2021 following the royal ascent of the Rating (Coronavirus) and Directors Disqualification (Dissolved Companies) Act 2021 alongside publication of detailed Government advice. Since the publication of the guidance by government, Council officers have used this time to develop the scheme and to consult internally in advance of presenting the scheme to Cabinet on 7 March.

- 1.4 The fund is available to support those businesses affected by the pandemic but so far ineligible for support linked to business rates.
- 1.5 The Government guidance requires that the Council puts in place a discretionary scheme to administer the support for eligible businesses.

2.0 Recommendation(s)

- 2.1 That Cabinet approves the Covid Additional Restrictions Fund – Rate Relief Scheme as outlined in paragraphs 3.7 to 3.16 of this report and as set out in Appendix 1 of this report pursuant to the Council's powers under section 47 of the Local Government Finance Act 1988 as amended.
- 2.2 That Cabinet delegates authority to the Director of Finance and Strategic Director of Customer and Digital Services to implement the scheme as detailed in Appendix 1 and in accordance with the government's guidance in Appendix 2 of this report.

3.0 Detail

- 3.1 On 25 March 2021 the Government announced a new COVID-19 Additional Relief Fund (CARF) of £1.5 billion. The fund will be available to support those businesses affected by the pandemic but that are ineligible for existing support linked to business rates.
- 3.2 The delay from 25 March 2021, before the guidance and funding allocation, was due to the government deciding to not create CARF without first seeking to limit appeals against rating valuations on the grounds of Covid. It is the case that a business may appeal its rateable value on the basis of a material change of circumstance. The government's Rating (Coronavirus) and Directors Disqualification (Dissolved Companies) Act 2021 prevents appeals on the basis of changes due to Covid with the Act stating:

“1 (4) In making a relevant determination, no account is to be taken of any matter (whether arising before or after the passing of this Act) that is directly or indirectly attributable to coronavirus.”

- 3.3 The amount allocated to the Council is £7,645,144.
- 3.4 CARF has not included any changes to the legislative rules around business rates. Instead the CARF guidance provided by government requires the Council to provide discretionary relief powers under section 47 of the Local Government Finance Act 1988 (“the LGFA 1988”). The guidance states that it is for individual billing authorities to adopt a local scheme and determine in each individual case whether, having regard to this guidance and their own local scheme, to grant relief under section 47 of the LGFA 1988. The relief is available to reduce chargeable amounts in respect of 2021/22.

- 3.5 Under the terms of section 47 of the LGFA 1988, the payment of reliefs must end no more than 6 months after the end of the financial year in which the relief applies. As the relief is to apply to 2021/22 no relief will be applied after 30 September 2022.
- 3.6 The detailed guidance from the Government regarding this scheme is set out in Appendix 2.
- 3.7 In accordance with guidance the Council's scheme must:
- a. not award relief to ratepayers who for the same period of the relief either are or would have been eligible for the Extended Retail Discount (covering Retail, Hospitality and Leisure), the Nursery Discount or the Airport and Ground Operations Support Scheme (AGOSS);
 - b. not award relief to a hereditament for a period when it is unoccupied (other than hereditaments which have become closed temporarily due to the government's advice on COVID-19, which should be treated as occupied for the purposes of this relief);
 - c. direct their support towards ratepayers who have been adversely affected by the pandemic and have been unable to adequately adapt to that impact; and
 - d. not grant the discount to themselves, certain precepting authorities (e.g. a parish or county council) or a functional body, within the meaning of the Greater London Authority Act 1999.
- 3.8 The amount of relief to be provided is at the discretion of the Council, with any relief being provided after mandatory reliefs and other discretionary reliefs funded by section 31 (Local Government Act 2003) grants.
- 3.9 The amount of relief awarded may need to be recalculated in the event of a change of circumstances.
- 3.10 Any relief provided by the Council under the CARF Scheme will need to comply with the UK's domestic and international subsidy control obligations, as set out in the guidance.
- 3.11 Where authorities are delivering CARF via applications then this declaration can be requested as part of the application. As part of awarding the relief, local authorities should ask businesses to keep necessary documentation to evidence this.
- 3.12 Billing authorities should ensure that they are able to monitor and report the take-up of the scheme at Parliamentary constituency level and local authority level, and by the Special Category code of the hereditaments.
- 3.13 It is at the discretion of the Council to use an application in awarding relief under the scheme.
- 3.14 The government guidance provides details on how the allocations were calculated for each billing authority. The information also includes details regarding the Standard Industrial Classification (SIC) using SIC Code held

within the rating lists as well as Special Category Description which is recorded using a Special Category Code (SCat Code). The information from the SIC Code and SCat Code can be used to analyse the rating list to establish the local scheme.

The Council Scheme

- 3.15 The basis of the Council's scheme is to provide rate relief for businesses that have so far received no other relief in relation to COVID-19. In order to do this the Council's Scheme will:
- i. Use an analysis of the data to establish which SICs and SCat codes will identify businesses that will qualify.
 - ii. Additionally use local knowledge of businesses operating in the borough to achieve this.
 - iii. Award relief on the basis of businesses meeting the criteria in v. below. Any potential award will require a return from the business which will include an option to opt out of receiving relief and to self certify that they qualify and that they comply with the subsidy requirements.
 - iv. All qualifying businesses will receive relief at a set percentage of their liability for 2021/22. The exact percentage will be determined upon analysis of the qualifying businesses to ensure the council's grant allocation is not exceeded.
 - v. The businesses in Brent to be targeted for this relief will be those that have not been eligible for Covid related rate relief but have nevertheless been affected by the pandemic:
 - a. manufacturing, factories, workshops and warehouses (Incl bakeries and dairies) and food processing centres;
 - b. information and communication, recording studios; rehearsal studios
 - c. stores and distribution, stores and storage depots - non-retail;
 - vi. The estimated amount payable after other discounts for the businesses identified above is £34.3 m.
 - vii. Given the Council's allocation of £7.46m the scheme will expect to provide relief of approximately 22% of the amount charged after other reliefs. The final amount will depend on completion of the award process and businesses deciding to opt out. Prior to awarding any reliefs the take-up will be estimated to ensure the Council's funding is provided to as many qualifying businesses as possible.
 - viii. Any businesses that feel they have been wrongly excluded from being awarded relief under the scheme will be able to request that their case is reviewed. The decision of the Head of Revenue and Debt will be final in any such review.

3.16 The proposed scheme is set out in Appendix 1.

4.0 Financial Implications

4.1 The financial implications are set out throughout this report, however in summary all discretionary reliefs provided, within the collection fund, to eligible businesses will be reimbursed by Government, via a section 31 grant paid to the general fund, up to the maximum amount allocated to Brent of £7.46m.

4.2 The grant will then be used, after the end of the year, to repay the deficit in the collection fund caused by the additional reliefs. The net effect to the council and collection fund will be zero.

5.0 Legal Implications

5.1 Local authorities have powers to grant local discounts in respect of non-domestic rates pursuant to section 47 of the Local Government Finance 1988 as amended by section 69 of the Localism Act 2011.

5.2 A billing local authority in England, when making a decision under section 47(3) of the Local Government Finance Act 1988 (as amended) above, must have regard to any relevant guidance issued by the Secretary of State. The decision maker is referred to the Guidance document that has been provided by the Secretary of State which are referred and appended to this report.

5.3 The Government has confirmed in its guidance as set out in Appendix 2 of this report that it will fully reimburse local authorities for discretionary relief awards which comply with the government's guidance up to the maximum level of the allocations.

5.4 Providing discretionary relief to ratepayers is likely to amount to a subsidy. Any relief provided by local authorities under the CARF Scheme will need to comply with the UK's domestic and international subsidy control obligations. The CARF scheme is subject to the subsidies chapter within the UK-EU Trade and Cooperation Agreement (TCA). However, for CARF there is an exemption for subsidies under the value of approximately £2,243,000 per economic actor (broadly speaking, for example, a holding company and its subsidiaries). This allowance comprises 325,000 Special Drawing Rights (at current exchange rates about £343,000) for Small Amounts of Financial Assistance and a further £1,900,000 for COVID-19 related subsidy.

5.5 Therefore, to be awarded CARF, the applicant must not have claimed over the period 2019/20 to 2021/22 more than £2,243,000 from schemes which fell within the Small Amounts of Financial Assistance or COVID-19 related allowances. COVID-19 business grants which the applicant has received from local government and the 2019/20 Retail Relief should count towards this limit, but the applicant should not count any Extended Retail Discount which they have received since 1 April 2020.

5.6 If the applicant has already exceeded the £2,243,000 allowance, the local authority will still consider applications for support under the CARF scheme if the applicant has reached this limit provided they can provide evidence that they:

- (i) intend to use the support to fund uncovered fixed costs (costs not covered by profits for insurance etc) during the period of COVID-19. Economic actors may claim for up to 70% of their uncovered costs (although this

70% limit does not apply to small businesses with less than 50 employees and less than £9 million turnover where the limit is instead 90%); and

- (ii) have shown a decline in turnover of at least 30% within the April 2020 to March 2021 period, compared to the same 2019 to 2020 period.

5.7 The applicant may claim up to a further £10 million of additional allowance (on top of the £2,243,000) if the applicant meets the above tests and has not claimed any other support from the additional allowance up to an aggregate £10 million limit (such as from the COVID-19 business grants).

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 with needed financial support. Those who are likely to be entitled to these grants will have their grants awarded dependent declarations they make regarding their eligibility. Those businesses awarded grants will be asked to advise us if they fail to meet any of the specified criteria via an on-line form.

7.0 Consultation with Ward Members and Stakeholders

7.1 The Scheme referred to in this report have comes as part of the Government's urgent response to the Covid-19 pandemic. As such there has been no consultation 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.

8.0 Human Resources/Property Implications (if appropriate)

8.1 8.1 None

Report sign off:

Peter Gadsdon

Strategic Director of Customer and
Digital Services