



Cabinet
5 February 2024

**Report from the Corporate Director
Resident Services**

**Lead Member – Cabinet Member for
Customers, Communities & Culture
(Councillor Donnelly-Jackson)**

**Council Tax - Second and Empty Homes Premium and
National Non Domestic Rates 2024/25 Retail, Hospitality
and Leisure Relief**

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:	Two Appendix 1 The Council's NNDR Discretionary Scheme; 2024/25 Retail, Hospitality and Leisure Relief Scheme. Appendix 2 The Council's 2023/24 Supporting Small Business Relief Scheme to 2025/26.
Background Papers	<p>NNDR changes from a April 2024: 4/2023: The Non-Domestic Rating Act 2023 - GOV.UK (www.gov.uk)</p> <p>NNDR reliefs for 2024/25 in autumn statement: 5/2023: Autumn Statement business rates measures - GOV.UK (www.gov.uk)</p> <p>NNDR relief guidance: Business Rates Relief: 2024/25 Retail, Hospitality and Leisure Scheme - GOV.UK (www.gov.uk)</p> <p>Council Tax changes in: Levelling-up and Regeneration Act 2023 (legislation.gov.uk)</p>

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1.0 Executive Summary

1.1 This report covers changes affecting both council tax and business rates from 1 April 2024.

1.2 For business rates the powers to grant local discounts in respect of non-domestic rates are contained within section 47 of the Local Government Finance Act 1988 as amended by section 69 of the Localism Act 2011. To award discounts under this provision any discount scheme requires Cabinet approval. Government has amended the guidance for the discretionary Retail, Hospitality and Leisure Relief Scheme extending it for 2024/25. As it is discretionary the Council is required to have in place its own scheme, so the relief is provided to businesses in Brent. The cost of the relief is reimbursed by central government. The existing Supporting Small Business Relief scheme for small and medium properties continues for 2024/25 and 2025/26 having been approved by Cabinet on 13 March 2023 (see Appendix 2). No local scheme is required for the Transitional Relief that the government will it apply from 1 April 2024.

1.3 The changes required for council tax refer again to another area of discretion. At present, the Council uses its discretion to make additional charges of council tax for long term empty charges. At its meeting of 11 February 2019 Cabinet agreed to apply:

- 100% premium from 1 April 2019 in respect of domestic properties that have been empty for longer than 2 years.
- 200% from 1 April 2020 in respect of domestic properties that have been empty for longer than 5 years.
- 300% from 1 April 2021 in respect of domestic properties that have been empty for longer than 10 years.

The Levelling-up and Regeneration Act 2023 (LRA2023) provides further powers to the Council to apply the long-term empty premium after one year and to apply a 100% premium for Second Homes. The application of the latter requires twelve months' notice.

1.4 The powers are discretionary, so they require a decision by Cabinet in order to implement.

2.0 Recommendation(s)

2.1 That Cabinet approves the Council's National Non-Domestic Rates (NNDR) Discretionary Scheme in relation to 2024/25 Retail, Hospitality and Leisure Relief as set out in Appendix 1 of this report and 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 Corporate Director, Resident Services in consultation with the Corporate Director, Finance and Resources to implement the discretionary schemes as set out in Appendix 1.

2.3 That from 1 April 2024 in accordance with the provisions of The Levelling-up and Regeneration Act 2023:

- i. the Council introduces the council tax premium of an additional 100% for those domestic properties empty for longer than 1 year.
- ii. the council maintains the council tax premium of 200% in respect of domestic properties that have been empty for longer than 5 years.
- iii. the council maintains the council tax premium of 300% in respect of domestic properties that have been empty for longer than 10 years.
- iv. the Council, from 1 April 2025, introduces a premium of 100% to domestic properties determined to be applicable Second Homes.
- v. To note the communication campaign (see paragraph 3.3.16) to highlight to owners of empty property how the council may be able to help them make better use of their property.

3.0 Detail

3.1 Cabinet Member Foreword

3.1.1 The report sets out the Council's NNDR Discretionary Scheme 2024/25 - Retail, Hospitality and Leisure for which a local scheme is required to ensure qualifying businesses in Brent receive this government relief. In addition, the report sets out an opportunity for the Council arising from the Levelling-up and Regeneration Act 2023. The Act provides discretion to billing authorities to increase council tax and consequently reduce empty properties in the borough by allowing the existing long term empty premium to commence once a property has been empty for one year, rather than two years at present. This will start on 1 April 2024. It also allows councils to introduce a premium on second homes in the borough from April 2025. The introduction of these changes is in-line with the Council's strategic priority - Prosperity and Stability in Brent, allowing the Council to decide at a local level to charge Council Tax in line with its own strategic priorities.

3.2 Contribution to Borough Plan Priorities & Strategic Context

3.2.1 The Council's first Strategic Priority targets securing Prosperity and Stability in Brent. The recommendation in this report supports this by making sure government business rates relief are delivered and secondly by encouraging owners and landlords to make best use of any property more quickly rather than leaving them empty, and where this does not happen to increase the council tax revenue available.

3.3 Background

Business Rates Relief - 2024/25 Retail, Hospitality and Leisure Relief Scheme

- 3.3.1 The Government announced the rate relief for 2024/25 in its autumn statement of 22 November 2023 and published the guidance on 15 December 2023 for the 2024/25 Retail, Hospitality and Leisure Relief Scheme. The guidance for the Business Rate Supporting Small Business Relief 2023/24 to 2025/26 was agreed by the Council on 13 March 2023, (see Appendix 2).
- 3.3.2 In order to award the 2024/25 Retail, Hospitality and Leisure Relief Scheme, the Council needs to approve a discount scheme as described in paragraph 1.2 above. This new scheme will be funded by Government. Relief under this scheme will be utilised after other pre-existing relief schemes have been applied. In view of the numbers of ratepayers who will be entitled to relief, this report also seeks approval to delegate authority to the Corporate Director, Resident Services in consultation with the Corporate Director, Finance and Resources to implement the scheme so that officers, and the designated service provider, can award these discretionary reliefs where the set criteria are met within the bills for 2024/25.
- 3.3.3 The relief will provide eligible, occupied, retail, hospitality, and leisure properties with a 75% relief, up to a cash cap limit of £110,000 per business. This maintains the level of relief provided in 2023/24.
- 3.3.4 The Government anticipates that local authorities will include details of the relief to be provided to eligible ratepayers for 2024/25 in their bills for the beginning of the billing cycle.
- 3.3.5 The Retail Hospitality and Leisure Relief Scheme 2024/25, as this is a temporary measure for 2024/25, the government is not changing the legislation relating to the reliefs available to properties. Instead, the government has stated that it will, in line with the eligibility criteria set out in the government guidance, reimburse local authorities that use their discretionary relief powers under section 47 of the Local Government Finance Act 1988 (as amended) (“LGFA 1988”) to grant relief. It will be for individual local billing authorities to adopt a local scheme and determine in each individual case when, having regard to the government’s guidance, to grant relief under section 47 of the LGFA 1988. The government has stated that it will fully reimburse billing authorities and major precepting authorities for their loss of income under the rates retention scheme as a result of awarding the relief that falls within the relevant definitions in the government’s guidance, using a grant under section 31 of the Local Government Act 2003.
- 3.3.6 Under the cash cap pursuant to the Retail Hospitality and Leisure Relief Scheme, no ratepayer can exceed the £110,000 cash cap across all of their hereditaments in England.

Council Tax long term empty properties

- 3.3.7 Since April 2019 the Council has charged a council tax premium of 100% after a property has been empty for two years, 200% after being empty for five years and also 300% extra once a property is empty for more than ten years.
- 3.3.8 These premiums are charged under powers provided in The Local Government Finance Act 2012, as amended. These discretionary powers are now further extended through amendments provided for in the sections 79 and 80 of LRA2023.
- 3.3.9 At the end of October 2023 Brent had 1,859 empty domestic properties. This included 1,557 empty for up to two years, 227 empty between 2 and 5 years charged a premium of 100%, 44 empty over two years charged an extra 200% and 31 empty for over 10 years and charged a premium of 300%.
- 3.3.10 The aim of the premium is to encourage owners of long-term empty properties to bring their properties back into use. Of the 1,557 empty for less than two years, 385 have been empty for more than a year. While bringing in the extra revenue the advent of the premium after 12 months it is also hoped that owners and landlords will seek to bring properties back into use more quickly to avoid paying the premium.
- 3.3.11 As at 1 December 2023 there are 385 properties that are empty for over a year, but for less than two. Charging the 100% premium, assuming the proposed average band D Council Tax for 2024/25 applies, would add £0.8m in council tax.

Second homes

- 3.3.12 The LRA 2023 allows local authorities the discretion to charge a premium on second homes. Such properties are underutilised so it would be appropriate for the Council to apply a premium that may encourage a second homeowner to put their property into more regular use to avoid paying the premium.
- 3.3.13 There is a requirement to provide 12 months' notice of the change, in accordance with LRA 2023 80 (3), so the premium will apply from 1 April 2025.
- 3.3.14 Since 2013 when second homes stopped receiving a 10% discount making the numbers less certain, as there no incentive to tell the council it is a second home. Currently, there are 163 recorded second homes. Where, after April 2025, it is claimed that a Second Home has become the main residence of the same person, the Council will of course, carry out checks to verify they have no other property.
- 3.3.15 As at 1 December 2023 there are 163 properties in the area classed as second homes. Assuming the proposed average Band D Council Tax for

2024/25 applies would add at least T£0.3m in council tax from 2025. Any further council tax increase in 2025/26 will lead to a proportionate increase in this amount.

Communications

- 3.3.16 There are several aspects to communicating these changes. Firstly, the standard communication to include the updated information on the website and the annual advert in the local press. Secondly, to encourage usage of empty property a review of empty and exempt properties is being carried out. This includes writing to all landlords/owners highlighting to them the option of letting via or selling to the Council, with clear information also on the web. This is clearly important currently with an acute housing shortage and rising numbers of residents in temporary accommodation while there are empty homes in the borough. The council will also utilise corporate communications channels, including the YourBrent Magazine and targeted social media channels, to communicate the changes.

4.0 Stakeholder and ward member consultation and engagement

- 4.1 None, although the proposal is in line with the Council's strategic priority to create prosperity and stability. Ward members have previously supported the charging of the premium to encourage the use of long-term empty properties.

5.0 Financial Considerations

Business Rates

- 5.1 For 2024/25 to 2025/26, the government will, in line with the eligibility criteria set out in this guidance, reimburse local authorities that use their discretionary relief powers under section 47 of the Local Government Finance Act 1988 (as amended) ("LGFA 1988"), to grant Supporting Small Business Relief and Retail, Hospitality and Leisure Relief Scheme.
- 5.2 It is for individual local authorities, which administer the Supporting Small Business Relief, to adopt a local scheme and determine in each individual case when, having regard to this guidance, to grant relief under section 47 of the LGFA 1988. The Council approved this on 13 March 2023. The local scheme for Retail, Hospitality and Leisure Relief Scheme is contained in this report, appendix 1. The government has stated that it will reimburse billing authorities and major precepting authorities for the actual cost to them under the rates retention scheme of the 2023 Supporting Small Business Relief that falls within the relevant definitions in the government guidance.
- 5.3 The 2023 Supporting Small Business Relief scheme is likely to amount to a subsidy. Therefore, any relief provided by local authorities under this scheme will need to comply with the UK's domestic and international subsidy control obligations. To the extent that a local authority is seeking to provide relief that falls below the Minimal Financial Assistance (MFA) thresholds, the

Subsidy Control Act 2022 allows an economic actor (e.g. a holding company and its subsidiaries) to receive up to £315,000 in a three-year period (consisting of the 2023/24 year and the two previous financial years). MFA subsidies cumulate with each other and with other subsidies that fall within the category of 'Minimal or Service of Public Economic Interest [SPEI] financial assistance'. BEIS COVID-19 business grants and any other subsidies claimed under the Small Amounts of Financial Assistance limit of the Trade and Cooperation Agreement should be counted under the £315,000 allowance.

Council Tax - Long term empty properties

- 5.4 The change to charge the 100% premium after 12 months on an empty property is likely to affect around 400 properties. On 1 December 2023 there are 385 properties that are empty for over a year, but for less than two. Charging the 100% premium, assuming the proposed band D charge for 2024/25 applies, would add approximately £0.8m in council tax.

Council Tax - Second homes

- 5.5 As at 1 December 2023 there are 163 properties in the area classed as second homes. Assuming the proposed band D charge for 2024/25 applies would add approximately £0.3m in Council Tax from 2025 and any increase to the Council Tax proposed for the 2025/26 budget would result in a further proportionate increase to this amount.

6.0 Legal Considerations

- 6.1 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.
- 6.2 A billing local authority in England, when making a decision under section 47(3) of the Local Government Finance Act 1988 (as amended), must have regard to any relevant guidance issued by the Secretary of State, which includes the government guidance of December 2022 in relation to the two schemes that are set out in appendices 3 and 4 to this report.
- 6.3 Section 151 of the Local Government Act 1972 requires that every local authority makes arrangements for the proper administration of their financial affairs and shall secure the appointment of a s151 Officer also known as Chief Financial Officer (CFO) who shall have responsibility for the administration of those affairs.
- 6.4 Section 42A of the Local Government Finance Act 1992 requires local authorities to have regard to the level of reserves needed for meeting estimated future expenditure when calculating their budget requirement.

6.5 The Chief finance Officer, appointed under section 151 mentioned above, has a duty to report on the robustness of estimates and adequacy of reserves under section 25 of the Local government Act 2003.

7.0 Equality, Diversity & Inclusion (EDI) Considerations

7.1 An Equality Impact Assessment was carried out in 2012 when it was originally agreed to charge the premium as well as amend the discounts applicable to other empty properties. The changes affected non-resident owners and there was no evidence to suggest any particular group would be disadvantaged by the changes, indeed the most significant impact was that it will encourage owners to make their empty properties available for occupation. A further assessment was carried out in 2019 and now with the same outcome.

8.0 Climate Change and Environmental Considerations

8.1 None

9.0 Human Resources/Property Considerations (if appropriate)

9.1 None

10.0 Communication Considerations

10.1 The changes will be communicated via the Council's website and the bills for 2024/25.

Report sign off:

Peter Gadsdon

Corporate Director, Resident
Services