

TRAFFORD COUNCIL

Report to: Executive
Date: 29 January 2024
Report for: Decision
Report of: Executive Member for Finance, Change and Governance

Report Title

Business Rates Reliefs (Autumn Budget Measures) and National Non-Domestic Rating Discretionary Policy Changes 2024-25

Summary

This report sets out an extension to the 75% Retail, Hospitality and Leisure (RHL) Business Rates Reliefs scheme to eligible businesses in 2024-25, delivered via local authority discretionary powers. The cost of the scheme will be fully funded through a Section 31 grant.

It also sets out the impact of existing legislation in relation to Business Rates Discretionary Rate Relief which is being revoked with effect from 1 April 2024. This follows the Government's Business Rates (Technical Consultation) Review in relation to the constraints on local authorities' ability to backdate awards of relief and the required notice period to reduce or remove awards of relief. Local Authorities need to decide if they want to include any of the revoked matters into their local discretionary schemes.

Trafford is proposing to include in its National Non-Domestic Rating Discretionary Policy the same backdating provisions that currently exist in the legislation.

Recommendation(s)

That the Executive:-

- i) Approve the extension to the 75% RHL Business Rates Relief Scheme in 2024-25 in line with the government guidance;
- ii) Approve the amendment to the Council's National Non-Domestic Rating Discretionary Policy from 1 April 2024 to include backdating time limits for granting awards in line with the current legislative wording which is being revoked.

Contact person for access to background papers and further information:

Name: Louise Shaw
 Contact Number: 07815 699615

Background Papers: [Business Rates Relief: 2024/25 Retail, Hospitality and leisure Scheme Guidance](#)

Relationship to Policy Framework/Corporate Priorities	Successful and Thriving Places
Relationship to GM Policy or Strategy Framework	Supporting the local economy
Financial	The government will fully reimburse local authorities using a grant under Section 31 of the Local Government Act 2003 for the discretionary grants as well as new burdens funding to administer. The inclusion of the same provisions for backdated reliefs as in the current legislation transfers the same protection from backdated discretionary awards as is already in place
Legal Implications:	The government have confirmed that local authorities can use their discretionary relief powers under section 47 of the Local Government Finance Act 1988 (as amended) and s13A(1)(c) of the Local Government Finance Act 1992 The Non-Domestic Rating Act 2023 Non-Domestic Rating Act (Consequential and Other Amendments) Regulations 2023
Equality/Diversity Implications	No negative impacts
Sustainability Implications	N/A
Carbon Reduction	N/A
Resource Implications e.g. Staffing / ICT / Assets	Software changes will be required but the cost will be met as above, testing and delivery can be met within existing resources
Risk Management Implications	N/A
Health & Wellbeing Implications	N/A
Health and Safety Implications	N/A

1.0 Background

Extension of Scheme

1.1 At the Autumn Statement on 22 November 2023, the Chancellor announced that the extension of the business rates relief scheme for retail, hospitality and leisure properties. As this is a temporary measure for 2024/25 local authorities are expected to use their discretionary powers (under section 47 of the Local Government Finance Act 1988) to grant these discounts:

- the 2024/25 Retail, Hospitality and Leisure (RHL) scheme will be extended for a fifth year into 2024-25, retaining the existing scope and providing eligible properties with 75% relief, up to a cap of £110,000 per business

- 1.2 Local authorities will be compensated for the cost of granting the discount and support through a Section 31 grant.

Introduction of retrospective awards of relief

- 1.3 A Business Rates Review (Technical Consultation) was carried out between November 2021 and February 2022, with the summary of responses being published in March 2023. Some responses to the technical consultation highlighted potential anomalies which may arise from constraints in the current system for discretionary relief.
- 1.4 The Government will consequently remove the constraint in section 47(7) of the Local Government Finance Act 1988 on retrospectively awarding relief and the associated regulations controlling variations in reliefs. Local authorities will be able to apply reliefs retrospectively and set their own rules for notifications of reliefs in their area, from 1 April 2024. This will not affect decisions made prior to 1 April 2024.
- 1.5 These measures will give local authorities full discretion to apply reliefs retrospectively and vary schemes or bills. They will also be able to devise their own rules for notification of reliefs reflecting their own policies and practices.

2.0 Business Rate Reliefs (Autumn Measures)

- 2.1 Of the Autumn Statement announcements on the measures to support businesses, the one that local authorities are expected to deliver under their discretionary powers is the extension to the Retail, Hospitality and Leisure (RHL) Business Rates Relief Scheme, which will continue to provide eligible (see Appendix A), occupied, retail, hospitality and leisure properties with a relief of 75% in 2024-25, subject to the cash cap limit of £110,000 per business (see Appendix B).
- 2.3 It is proposed that the relief will continue to be awarded in accordance with the guidance, as it is now, and as previously approved by the Executive on 24 January 2023.
- 2.4 As recommended in the guidance, and in line with software capabilities, Trafford expects to apply and grant the reliefs to qualifying ratepayers from the start of the 2024-25 billing year.

3.0 National Non-Domestic Rates (NDR) [Business Rates] Discretionary Rate Relief Policy

- 3.1 The Government will, ahead of billing for the 2024-25 financial year, revoke the Non-Domestic Rating (Discretionary Relief) Regulations 1989 to give billing authorities full flexibility in this area in relation to the financial year from 1 April 2023.

- 3.2 The wording in the legislation and the information explaining the reason behind the changes can be found at Appendix C. Moving forwards, it has removed the time restraints which limits the period which a backdated award of discretionary relief can be awarded to – currently 6 months after the end of the financial year to which the relief would apply. Given that we have a discretionary policy, it is proposed to maintain the existing time limits, therefore maintaining the current financial limitations for any backdating.
- 3.3 In addition, the notice period required when reducing (or removing) a discretionary rate relief award (currently requires 12 months' notice to the ratepayer if discretionary relief is to be reduced) has also been removed in the updated legislation. It is not intended to include any changes to this approach in the Council's discretionary policy to allow full financial flexibility. The Council will, however, as good practice, inform a ratepayer as soon as is reasonably practicable to do so of the removal of any discretionary relief.
- 3.4 The proposed 2024-25 NDR policy can be found at Appendix D, inclusive of the RHL reliefs as detailed in 2.0 above as well as other reliefs carried forward in to 2024-25.

Other Options

The Council could decide not to access the available Government funding on behalf of eligible businesses and not award RHL Business Rates Relief. This would mean that the Council would not award the reliefs and subsequently local small high street businesses would pay more business rates. In addition the Council could not make any changes to its NDR policy and therefore discretionary rate relief backdated limitations would not apply. Similarly it could include notice periods for variations.

Consultation

As the awarding of the RHL reliefs is the local application of a central Government change no consultation is required. The amendment to the NDR Policy is in line with the Government's national business rates review of which there has already been a national consultation. The inclusion of the backdated limitations already exists in legislation and any removal of discretionary rate relief would be subject to local government decision making which would subsequently mean notice periods would be a requirement of any relief reductions.

Reasons for Recommendation

Approval to access and administer funds via the schemes detailed in the report is necessary in order for the Council to provide financial relief to eligible local businesses.


Approval to insert the revoked wording from the regulations to the Council's local policy is required to ensure the Council can meet the financial backdating of any future claims made and to keep the policy consistent to what Trafford businesses are already used to.

Key Decision : Yes

If Key Decision, has 28-day notice been given? Yes

Finance Officer Clearance GB

Legal Officer Clearance DS

DIRECTOR'S SIGNATURE *(electronic)*..... 

To confirm that the Financial and Legal Implications have been considered and the Corporate Director has cleared the report prior to issuing to the Executive Member for decision.

Appendix A – Eligibility for the 2024/25 Retail, Hospitality and Leisure Relief Scheme

1. Hereditaments that meet the eligibility for Retail, Hospitality and Leisure scheme will be occupied hereditaments which meet all of the following conditions for the chargeable day:

a. they are wholly or mainly being used:

- i. as shops, restaurants, cafes, drinking establishments, cinemas or live music venues
- ii. for assembly and leisure; or
- iii. as hotels, guest & boarding premises or self-catering accommodation

2. We consider 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 show rooms
- 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
- 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 we would 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. (The [statutory guidance can be accessed here](#))

3. We consider assembly and leisure to mean:

i. Hereditaments that are being used for the provision of sport, leisure and facilities to visiting members of the public (including for the viewing of such activities):

- Sports grounds and clubs
- Museums and art galleries
- Nightclubs
- Sport and leisure facilities
- Stately homes and historic houses
- Theatres
- Tourist attractions

- Gyms
- Wellness centres, spas, massage parlours
- Casinos, gambling clubs and bingo halls

ii. Hereditaments that are being used for the assembly of visiting members of the public:

- Public halls
- Clubhouses, clubs and institutions

4. We consider hotels, guest & boarding premises and self-catering accommodation to mean:

i. Hereditaments where the non-domestic part is being used for the provision of living accommodation as a business:

- Hotels, guest and boarding houses
- Holiday homes
- Caravan parks and sites

5. To qualify for the relief the hereditament should be wholly or mainly being used for the above qualifying purposes. In a similar way to other reliefs (such as charity relief), this is a test on use rather than occupation. Therefore, hereditaments which are occupied but not wholly or mainly used for the qualifying purpose will not qualify for the relief.

6. The list set out above is not intended to be exhaustive as it would be impossible to list the many and varied uses that exist within the qualifying purposes. However, it is intended to be a guide for authorities as to the types of uses that the government considers for this purpose to be eligible for relief. Authorities should determine for themselves whether particular properties not listed are broadly similar in nature to those above and, if so, to consider them eligible for the relief. Conversely, properties that are not broadly similar in nature to those listed above should not be eligible for the relief.

7. The list below sets out the types of uses that the government does not consider to be an eligible use for the purpose of this discount. Again, it is for local authorities to determine for themselves whether particular properties are broadly similar in nature to those below and, if so, to consider them not eligible for the discount under their local scheme.

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, short-term loan providers, betting shops)
- Medical services (e.g. vets, dentists, doctors, osteopaths, chiropractors)
- Professional services (e.g. solicitors, accountants, insurance agents/ financial advisers, employment agencies, estate agents, letting agents)
- Post office sorting offices

ii. Hereditaments that are not reasonably accessible to visiting members of the public

Appendix B – The Cash Cap and Subsidy Control

- 1 Under the cash cap, no ratepayer can in any circumstances exceed the £110,000 cash cap across all of their hereditaments in England.
- 2 Where a ratepayer has a qualifying connection with another ratepayer then those ratepayers should be considered as one ratepayer for the purposes of the cash caps. A ratepayer shall be treated as having a qualifying connection with another:
 - a. where both ratepayers are companies, and
 - i. one is a subsidiary of the other, or
 - ii. both are subsidiaries of the same company; or
 - b. where only one ratepayer is a company, the other ratepayer (the “second ratepayer”) has such an interest in that company as would, if the second ratepayer were a company, result in its being the holding company of the other.
- 3 Furthermore, the Retail Hospitality and Leisure Scheme is likely to amount to subsidy. Any relief provided by Local Authorities under this scheme will need to comply with the UK’s domestic and international subsidy control obligations (See the [BEIS guidance for public authorities](#) which contains guidance and information for the new UK subsidy control regime).
- 4 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 allows an economic actor (e.g. a holding company and its subsidiaries) to receive up to £315,000 in a 3-year period (consisting of the 2024/25 year and the 2 previous financial years). MFA subsidies cumulate with each other and with other subsidies that fall within the category of ‘Minimal or 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 towards the £315,000 allowance.
- 5 In those cases where it is clear to the local authority that the ratepayer is likely to breach the cash cap or the MFA limit then the authority should automatically withhold the relief. Otherwise, local authorities may include the relief in bills and ask the ratepayers, on a self-assessment basis, to inform the authority if they are in breach of the cash caps or MFA limit. Part 4 of this guidance contains a sample ratepayer declaration, which local authorities may wish to use to discharge this responsibility.
6. MFA subsidies above £100,000 are subject to transparency requirements. This is not cumulated per beneficiary but applies per subsidy award. This means that for every individual subsidy provided of more than £100,000, the local authority needs to include details of the subsidy on the subsidy control database. Local authorities will need to create an account to use the [Manage UK Subsidies Portal](#). Local authorities will need to create an account to use the Manage UK Subsidies Portal. This will enable users to upload subsidy schemes and awards. To gain access, users must email subsidydatabase@beis.gov.uk.

Appendix C – Non-Domestic Rating (Discretionary Relief) Regulations 1989

- 1 The original legislation (S47 LGFA1988) gave local authorities a very narrow remit to award relief in addition to the mandatory reliefs, limited to charities and other not-for-profit organisations. The legislation also created a number of constraints on local authorities' activity:
 - i. A limit on retrospectively applying or changing relief schemes, engaged 6 months after the end of the financial year to which the relief would apply.
 - ii. A restriction on changes to a previous relief scheme if it would increase business rates bills.
 - iii. Various rules requiring authorities to give notice in writing of discretionary relief and the contents and timing of such notices.
- 2 Over the previous 30 years, the rules around discretionary relief have evolved in line with wider business rates reforms. There was limited expansion of local discretionary powers between 1990 and 2012 to enable local authorities to top up certain mandatory reliefs.
- 3 From 1 April 2012 the extent of section 47 was significantly widened by the Localism Act 2011, which removed most constraints on to whom local authorities could award relief. Since then, they have been free to devise rate relief schemes for any ratepayers except for themselves and other precepting authorities, provided they are satisfied that a decision to award relief is reasonable having regard to the interest of their council taxpayers.
- 4 Although the remit of local authorities to award relief has expanded over time, the original rules (including i-iii, above) have remained active, with the effect that local discretion has in practice been restricted. Local authorities are free to decide who they grant relief to and the level of support to provide, but are subject to greater central constraint in important parts of the rulebook. The government believes it would be inconsistent to continue to operate a devolved and localised system of discretionary relief with a centralised set of rules regarding how that relief should be administered and varied.
- 5 Government also consider that changes to the legislation can remove ambiguity about how the rules work and improve the ability of central and local government to operate rate relief schemes. The government wishes to remove barriers to the award of relief,

including ambiguity in the law and unnecessary centralisation. They considered therefore that now is the right time to update the legislation on discretionary relief and have from 1 April 2024:

- remove the constraint on local authorities' ability to retrospectively award relief (currently cannot be granted for more than 6 months after the end of the relevant financial year)
- revoke the regulations controlling variation of determinations and issuing of notices (currently requires 12 months' notice to the ratepayer if discretionary relief is to be reduced)

Appendix D – Trafford Council’s Non-Domestic Rating Discretionary Rate Relief Policy (Proposed for 2024-25 onwards)

PART ONE

GUIDELINES FOR RATE RELIEF TO CHARITABLE AND OTHER ORGANISATIONS

1.1 The legislation for councils to grant discretionary rate relief to charities, certain not-for-profit or philanthropic bodies, community amateur sports clubs and certain properties within rural settlements is set out in Section 47 of the Local Government Finance Act 1988. Section 69 of the Localism Act 2011 amends Section 47 of the Local Government Finance Act to grant relief in any circumstances.

The granting of discretionary rate relief to charitable and other organisations in respect of National Non-Domestic Rate (NNDR) is delegated to the Director of Finance and Systems and every application will be determined on its merits having regard to the following guidelines.

1.1.1. Applications will generally be refused where:-

- a) A substantial portion of the organisation’s income comes from bar receipts;
- b) Membership of the organisation is restricted by the amount of the subscription or other limiting factors which preclude the whole of the public from having effective access to the organisation’s activities;
- c) 80% mandatory relief is already given except for Scout and Guide headquarters and Citizens Advice Bureaux;
- d) A club is run for political purposes;
- e) There would be duplication of financial assistance where grant aid of any other kind is being given by the local authority directly or under Section 48 of the Local Government Act 1985;
- f) The applicant is a Housing Association.

1.1.2. Discretionary Relief to amateur sports clubs and other types of community organisations and societies will be set at a minimum rate of 20% for those who qualify.

PART TWO

SPRING AND AUTUMN BUDGET MEASURES.

Guidelines for Discretionary rate relief in respect of 2023/24 & 2024/25 Retail, Hospitality and Leisure (RHL) relief scheme and 2023/24 Supporting Small Business (SSB) relief scheme.

2.1 Section 47 of the Local Government Finance Act 1988 (as amended) allows the Council to use its discretionary powers to grant discretionary rate relief. The government have determined that the Council can use its discretionary powers in respect of the 2023/24 & 2024/25 Retail, Hospitality and Leisure (RHL) relief scheme and 2023/24 Supporting Small Business (SSB) relief scheme. The granting of these reliefs is delegated to the Director of Finance and Systems who will consider applications from organisations that meet the criteria having regard to the following guidelines:

2.2 2023/24 & 2024/25 Retail, Hospitality and Leisure (RHL) relief scheme

2.2.1 The 2023/24 Retail, Hospitality and Leisure (RHL) relief scheme will provide eligible, occupied, retail, hospitality, and leisure properties with 75% relief, up to a cash cap of £110,000 per business. Under the cash cap, no ratepayer can in any circumstances exceed the £110,000 cash cap across all of their hereditaments in England. Where a ratepayer has a qualifying connection with another ratepayer then those ratepayers should be considered as one ratepayer for the purposes of the cash caps. The RHL relief scheme guidance provides local authorities with information about the intended operation and delivery of the policy. The Government has published guidance setting out the eligibility criteria for the scheme. This guidance can be found at: <https://www.gov.uk/government/publications/business-rates-relief-202324-retail-hospitality-and-leisure-scheme-local-authority-guidance>

2.2.2 The 2024/25 Retail, Hospitality and Leisure (RHL) relief scheme will provide eligible, occupied, retail, hospitality, and leisure properties with 75% relief. The total value of relief available per business, whether occupying one or more properties, is capped at £110,000. Any ratepayer who would be eligible for a sum of relief above £110,000 if there were no cap in place, should be awarded relief up to the full value of £110,000 (as has been the policy for previous years). The Government has published guidance setting out the eligibility criteria for the scheme. This guidance can be found at:

[Business Rates Relief: 2024/25 Retail, Hospitality and Leisure Scheme](#)

2.3 2023/24 Supporting Small Business (SSB) relief scheme

2.3.1 At Autumn Statement 2022 the Chancellor announced that a new Supporting Small Business (SSB) relief scheme which will cap bill increases at £600 per year for any business losing eligibility for Small Business Rate Relief or Rural Rate Relief at the 2023 revaluation. The scheme also provides support for those previously eligible for the 2022/23 SSB scheme and facing large increases in 2023/24 but in those cases for one further year only. The Government has published guidance setting out the eligibility criteria for the scheme. This guidance can be found at:

<https://www.gov.uk/government/publications/business-rates-relief-2023-supporting-small-business-relief-local-authority-guidance>

2.4 Backdating of a decision

2.4.1 A decision to grant relief by the council will not be valid as regards a day if made more than six months after the end of the financial year in which the day falls

2.5 Right of Appeal

2.5.1 In all cases where an organisation disagrees with the Council's decision, an appeal may be made in writing to the Corporate Director of Finance & Systems within one calendar month from the date of the decision notice.

The Council is committed to the fight against fraud in all its forms and has a zero tolerance fraud policy. A business who tries to fraudulently claim a discretionary rate relief by falsely declaring their circumstances, providing a false statement or evidence in support of their application, may have committed a criminal offence. Where fraud is suspected, the Council will investigate and this may lead to criminal proceedings