

TRAFFORD COUNCIL

DELEGATED EXECUTIVE MEMBER DECISION REPORT

Report to: Executive Member for Finance and Governance
Date: 8 March 2021
Report for: Decision
Report of: Director of Finance and Systems

Report Title

Business Rates Discretionary Rate Relief Policy - Extended Business Rates Relief - Temporary 2021/22 Measures

Summary

In the national budget on 3 March 2021 the Chancellor announced details of the Expanded Retail Discount and the Nursery Discount schemes for 2021/22 to provide support to eligible retail, hospitality, leisure and nursery businesses in England occupying a qualifying property.

As the measures are temporary there will be no change in legislation and therefore local authorities will be expected to use their discretionary relief powers to deliver the scheme.

The cost of the relief will be fully funded through a section 31 grant.

Approval is required to amend the Business Rate Discretionary Rate Relief Policy to incorporate the extended reliefs so that business rate bills can be produced and sent to business rate payers in time to allow for first payments of business rates for 2021/22 on 1 April 2021.

Recommendation(s)

To approve the change to the 2021/22 Business Rate Discretionary Rate Relief Policy in line with the government guidance and apply the eligible reliefs as a temporary 2021/22 measure under section 47 of the Local Government Finance Act 1988.

Contact person for access to background papers and further information:

Name: Louise Shaw
Extension: 3120

Background Papers:

<https://www.gov.uk/government/publications/business-rates-expanded-retail-discount-2021-to-2022-local-authority-guidance>

<https://www.gov.uk/government/publications/business-rates-nursery-childcare-discount-2021-to-2022-local-authority-guidance>

Relationship to 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 relief as well as new burdens funding to administer.
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)
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

- 1.1 At the Budget on 3 March 2021, the Chancellor announced that the Government would provide additional business rates support for eligible retail, hospitality, leisure and nursery businesses in England occupying a qualifying property.
- 1.2 These changes will have effect for 2021/22 and as they are only temporary measures, local authorities will be expected to use their discretionary powers (under section 47 of the Local Government Finance Act 1988) to grant these discounts.
- 1.3 Local authorities will be compensated for the cost of granting the discount through a section 31 grant.

2.0 Expanded Retail Discount

- 2.1 The Expanded Retail Discount (2020/21) will be extended for three months for eligible properties (see Appendix A), at 100% relief, uncapped, for the period 1 April 2021 to 30 June 2021.
- 2.2 From 1 July 2021 to 31 March 2022, the Expanded Retail Discount will apply at 66% relief for eligible properties in the scheme with a cash cap of £2m for businesses that were required to close as at 5 January 2021, and up to £105,000 for businesses permitted to open at that date (see Appendix B).
- 2.3 As recommended in the guidance, and in line with software capabilities, Trafford intends to roll forward the 2020/21 scheme into the first three months of 2021/22, then re-issue bills in June 2021 with the reduced relief, if eligible, with instalments spread out over the remainder of the financial year. This will ensure that there are

no instalments required for the first three months of the financial year, in line with the intention of the scheme.

- 2.4 As section 47 makes it clear that local authorities are required to give notice before 31 March of the preceding year before varying a rate relief scheme, Trafford intends to include a covering letter with the 2021-22 business rates bill explaining that the 100% relief is for 3 months only, and then 66% if eligible and subject to the cash cap. This is again in line with the guidance.
- 2.5 To be clear, Trafford will only be granting reliefs in accordance with the guidance as detailed above as that is fully funded.
- 2.6 The guidance is also clear that businesses automatically re-awarded the relief must have the option to refuse the discount. This will be included in the covering letter with a clear route to inform the Council if a business wishes to refuse the discount.

3.0 Nursey Discount

- 3.1 The Nursery Discount (2020/21) will also be extended for three months for eligible properties (see Appendix C), at 100%, uncapped, for the period 1 April 2021 to 30 June 2021.
- 3.2 From 1 July 2021 to 31 March 2022 the Nursery Discount will apply at 66% relief for eligible properties, with a cash cap of £105,000.
- 3.3 Similar to the Expanded Retail Discount, the Council intends to include a covering letter with the initial bill advising the 100% relief will only be for the first three months of the year, with re-billing in June as above.
- 3.4 Trafford will only be granting reliefs in accordance with the guidance as that is fully funded.
- 3.5 A way to opt out is also required for the Nursery Discount and therefore referred to in the covering letter.

4.0 Urgency

- 4.1 The report is submitted to the Executive Member for Finance and Governance on an urgent basis.
- 4.1 A decision will be urgent if any delay likely to be caused by the call-in process would seriously prejudice the Council's or the public's interests.
- 4.2 This report should be considered as 'urgent business' and the decision exempted from the 'call-in' process for the following reason(s):-
- The announcement of the reliefs and the subsequent guidance were only issued on the 4 March 2021. Annual billing is required to take place by no later than the week ending 12 March 2021 to ensure statutory requirements are met for first instalment of 1 April for 2021-22.
- 4.3 The report and urgency of the key decision have been reviewed by the Chair of the Scrutiny Committee on 9 March 2021 has agreed that the decision should not be delayed until the next meeting of the Executive and not subject to call-in.

- 8.5 It is proposed therefore, that the decision contained in this report is therefore deemed to be urgent and cannot be reasonably deferred. It is also proposed that the decision, based on urgency provisions, is not subject to call-in to allow the Council to administer scheme funds without any delay.

Other Options

The Council could maintain its existing policies and not make the amendments but that would mean local businesses would pay more business rates in effect not accepting the government funding available on behalf of eligible businesses.

Consultation

As this is the local application of a central Government change no consultation is required.

Reasons for Recommendation

The reason for the recommendations is as set out at the beginning of the report.

Key Decision : Yes

If Key Decision, has 28-day notice been given? No

Finance Officer Clearance (type in initials).....GB.....

Legal Officer Clearance (type in initials).....JLF.....

G. Bentley

DIRECTOR'S SIGNATURE

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

Appendix A – Eligibility for the Expanded Retail Discount

1. Hereditaments that meet the eligibility for Expanded Retail Discount 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 and live music venues,
- ii. for assembly and leisure; or
- iii. as hotels, guest & boarding premises and 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
- Employment agencies

- Estate agents and letting agents
- Betting shops

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^{[\[footnote 4\]](#)}.

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 discount 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. For the avoidance of doubt, hereditaments which have closed due to the government's advice on COVID19 should be treated as occupied for the purposes of this 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. There will also be mixed uses. 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)
- Medical services (e.g. vets, dentists, doctors, osteopaths, chiropractors)
- Professional services (e.g. solicitors, accountants, insurance agents/ financial advisers)
- Post office sorting offices

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

Appendix B – The Cash Caps

1. No cash caps will apply for the period between 1 April 2021 to 30 June 2021.
2. Under the cash caps, a ratepayer may only receive up to the following cash caps of Expanded Retail Discount in 2021/22 ignoring any relief for the period before 1 July 2021:
 - a. £2 million for ratepayers meeting the eligibility for the closed cash cap test set out in Annex B of the Government Guidance (subject to paragraphs 21-23), or
 - b. £105,000 for all other ratepayers (subject to paragraphs 21-23).
3. No ratepayer can in any circumstances exceed the £2 million cash cap across all of their hereditaments in England. Where a ratepayer eligible for the closed cash cap also occupies hereditaments which do not meet the criteria for the closed cash cap and the value of the discount on the closed hereditaments is less than £2 million then they may also claim the discount on other eligible hereditaments but only up to the cap of £105,000 in respect of those other eligible hereditaments. For example, such a ratepayer whose rate bill from 1 July 2021 onwards on hereditaments eligible for the closed cash cap is £1 million and also occupies other eligible hereditaments with a rates bill of £3 million is able to claim up to £1,105,000 in discount from 1 July 2021 onwards (£1million on their closed hereditament and then up to the £105,000 cash cap on their other eligible hereditaments).
4. 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.
5. In those cases where it is clear to the local authority that the ratepayer is likely to breach the cash caps then the authority should automatically withhold the discount. Otherwise, local authorities may include the discount in bills and ask the ratepayers, on a self-assessment basis, to inform the authority if they are in breach of the cash caps. Annex D of this guidance contains a sample cash cap ratepayer declaration, which local authorities may wish to use to discharge this responsibility.

Eligibility for the Closed Cash Cap (£2 million)

1. Ratepayers that meet the eligibility criteria for the closed cash cap will be ratepayers who for a chargeable day occupy one or more hereditaments whose use on the chargeable day would, based on the law and guidance applicable on 5 January 2021, have meant that the business or activity would have been mandated to close by the government.

2. For the avoidance of doubt, hereditaments which have closed due to the government's response to coronavirus should be treated as occupied for the purposes of the closed cash cap.

3. If, under this eligibility test, a person would have been required to close its main, in-person service but could have adapted its business to operate takeaway, click and collect or online with delivery services, it will be considered closed and be eligible for the closed cash cap because its substantive business would have been mandated to close.

4. In cases where hereditaments would have remained open to provide services that can continue as they are exempt from the regulations (e.g. post office services, food banks) the ratepayer may still be eligible for the closed cash cap, because they would have been unable to provide their main in-person service.

5. The following hereditaments do not meet eligibility for the closed cash cap:

a. Hereditaments occupied by businesses and other ratepayers that would have been able to conduct their main service because they do not depend on providing direct in-person services from premises and can operate their services effectively remotely (e.g. accountants, solicitors).

b. Hereditaments whose occupiers may have chosen to close but not been required to.

Appendix C – Eligibility for the Expanded Retail Discount

1.. Properties that will benefit from the relief will be hereditaments which are occupied by providers on Ofsted's Early Years Register and which are wholly or mainly used for the provision of the Early Years Foundation Stage.

2. To qualify for the relief the hereditament should be wholly or mainly being used for the above qualifying purpose. 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. For the avoidance of doubt, hereditaments which have closed temporarily due to the government's advice on COVID-19 should be treated as occupied for the purposes of this relief.