

TRAFFORD COUNCIL

Report to: Executive
Date: 24 January 2022
Report for: Decision
Report of: Executive Member for Finance and Governance

Report Title

Business Rates Temporary Reliefs 2022-23 (Autumn Budget Measures)

Summary

The Chancellor announced at the Autumn Budget on 27 October 2021 that the Government would provide a package of business rates measures to support eligible retail, hospitality and leisure businesses in England occupying a qualifying property and an extension of the current Transitional Relief and Supporting Small Business schemes.

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 scheme will be fully funded through a Section 31 grant.

Recommendation(s)

That the Executive:-

- i) Approve the use of proposed relief schemes as detailed in the report in line with the government guidance; and
- ii) Approve the proposed eligibility criteria as detailed in the report..

Contact person for access to background papers and further information:

Name: Louise Shaw
Extension: 3120

Background Papers: None

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.
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 27 October 2021, the Chancellor announced that the Government would provide a package of business rates measures to support businesses in England setting out:
- A new relief for eligible retail, hospitality and leisure properties with 50% relief on rates bills up to £110,000 per business
 - The extension of the current Transitional Relief and Supporting Small Business schemes
- 1.2 These changes will have effect for 2022/23 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 2022/23 Retail, Hospitality and Leisure Relief Scheme

- 2.1 The 2022/23 Retail, Hospitality and Leisure (RHL) Business Rates Relief Scheme will provide eligible (see Appendix A), occupied, retail, hospitality and leisure properties with a 50% relief, up to a cash cap limit of £110,000 per business.
- 2.2 It is proposed that, in line with the [guidance](#), the relief will be made available in respect of chargeable days from 1 April 2022 to 31 March 2023, and will be 50% of the chargeable amount. The relief will be applied after mandatory and other discretionary reliefs have been applied but before those where the local authority has used its wider discretion.
- 2.3 Under the cash cap (see Appendix B), no ratepayer can in any circumstances exceed the £110,000 cash cap across all of their hereditaments in England.
- 2.4 Furthermore, the RHL scheme is likely to amount to subsidy (see Appendix B). Any relief provided under this scheme will need to comply with the UK's domestic and international subsidy control obligations as detailed in the [BEIS guidance for public authorities](#) and in line with the Small Amounts of Financial Assistance limit.
- 2.5 In those cases where it is clear to the local authority that the ratepayer is likely to breach the cash cap or the Small Amounts of Financial Assistance limit then the authority will automatically withhold the relief.
- 2.6 As recommended in the guidance, and in line with software capabilities, Trafford expects to apply and grant relief to qualifying ratepayers from the start of the 2022/23 billing year.
- 2.7 The amount of relief awarded will be recalculated in the event of a change of circumstances. This could include, for example, a backdated change to the rateable value or the hereditament. This change of circumstances could arise during the year in question or during a later year.

3.0 2022/23 Extension of Transitional Relief and Supporting Small Business

- 3.1 It is proposed that the transitional relief scheme be used in accordance with the [guidance](#). The transitional relief scheme was introduced in 2017 to help those ratepayers who were faced with higher bills as a result of the revaluation. The scheme ends on 31 March 2022, as a result a small number of ratepayers would face a jump in their full rates bill from 1 April 2022.
- 3.2 The government therefore announced that it would extend the current transitional relief scheme and the supporting small business scheme for one year to the end of the current revaluation cycle. The scheme will restrict increases in bills to 15% for businesses with small properties (up to and including £20,000 rateable value) and 25% for medium properties (up to and including £100,000 rateable value).
- 3.3 The extension of the scheme is likely to amount to subsidy (see Appendix B). Any relief provided under this scheme will need to comply with the UK's domestic and international subsidy control obligations as detailed in the [BEIS guidance for public authorities](#) and in line with the Small Amounts of Financial Assistance limit.
- 3.4 In those cases where it is clear to the local authority that the ratepayer is likely to breach the Small Amounts of Financial Assistance limit then the authority will automatically withhold the relief.
- 3.5 This does not apply to those in downward transition to lower bills – they will fall to their full bill on 1 April 2022.
- 3.6 As recommended in the guidance, and in line with software capabilities, Trafford expects to apply and grant relief to qualifying ratepayers from the start of the 2022/23 billing year.
- 3.7 The amount of relief awarded will be recalculated in the event of a change of circumstances. This could include, for example, a backdated change to the rateable value or the hereditament. This change of circumstances could arise during the year in question or during a later year.

4.0 Fraud

- 4.1 The government and Trafford Council will not tolerate any business falsifying their records or providing false evidence to gain this discount, including claiming support above the cash cap or the exemption threshold. A ratepayer who falsely applies for any relief, or provides false information or makes false representation in order to gain relief may be guilty of fraud under the Fraud Act 2006.

Other Options

The Council could in effect not access the government funding available on behalf of eligible businesses. This would mean that the Council would not award the reliefs and subsequently local businesses would pay more business rates.

Consultation

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

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.

Key Decision : Yes

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

Finance Officer Clearance GB

Legal Officer Clearance DS

[CORPORATE] 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 2022/23 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.

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, Subsidy Control and Small Amounts of Financial Assistance limit

- 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 explains the subsidies chapter of the UK-EU Trade and Cooperation Agreement (TCA), World Trade Organisation rules on subsidies, and other international subsidy control commitments).

- 4 To the extent that a local authority is seeking to provide relief that falls within the Small Amounts of Financial Assistance Allowance, Article 364 of the TCA allows an economic actor (e.g. a holding company and its subsidiaries) to receive up to 325,000 Special Drawing Rights (£343,000 as at 9 December 2021) in a three-year period (consisting of the 2022/23 year and the two previous financial years). Expanded Retail Discount granted in either 2020/21 or 2021/22 does not count towards the £343,000 allowance but BEIS business grants (throughout the 3 years) and any other subsidies claimed under the Small Amounts of Financial Assistance limit should be counted.

- 5 In those cases where it is clear to the local authority that the ratepayer is likely to breach the cash cap or the Small Amounts of Financial Assistance 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 Small Amounts of Financial Assistance limit. Part 4 of this guidance contains a sample ratepayer declaration, which local authorities may wish to use to discharge this responsibility.