

TRAFFORD COUNCIL

Report to: Executive
Date: 26th January 2015
Report for: Decision
Report of: Executive Member for Finance and the Director of Finance

Report Title

Amendments to Trafford's National Non-Domestic Rates Discretionary Rate Relief Policy for 2015/16 and 2016/17

Summary

The report seeks approval to amend the Council's National Non-Domestic Rates (NNDR) Discretionary Rate Relief Policy to maximise government funding available, as detailed in the Autumn Statement, to support local small businesses by increasing Retail Rate Relief from £1,000 to certain small businesses to £1,500 in 2015/16. Furthermore, it seeks pursuant to government guidance, for the transitional relief scheme to be extended to 2016/17. In order to implement this, the existing policy will need to be amended.

- **Retail Rate Relief Increase 2015/16**
Retail Rate Relief was introduced in April 2014 and the current relief amount is a discount of up to £1,000 to certain small businesses. The funding will increase to £1,500 in 2015/16.
- **Transitional Relief 2015/16 and 2016/17**
As a result of the postponement of the NNDR revaluation from April 2015 to April 2017, the Government has indicated that, in accordance with their guidance, local authorities will be able to use their discretionary powers to extend the existing statutory scheme through 2015/16 and 2016/17.

Although the Government will meet the full cost of the reliefs, the Council is required to make these awards under its discretionary powers through section 69 of the Localism Act 2011. Therefore it is necessary to amend the existing policy to reflect the increase in the discount to be awarded.

Recommendation(s)

1. That the contents of this report are noted.
2. That approval is given for the Retail Rate Relief to be increased to up to £1,500 for 2015/16 for all occupied retail properties with a rateable value of £50,000 or less (as per the policy). Such increase to apply from 1 April 2015

to 31st March 2016.

3. That approval is given for the Transitional Relief scheme, to apply from 1 April 2015 to 31st March 2017.
4. That the existing National Non-Domestic Rates (NNDR) Discretionary Rate Relief Policy be amended as set out at Appendix 1 to reflect the increased Retail Rate Relief amount and introduction of the Transitional Relief scheme.

Contact person for access to background papers and further information:

Name: Louise Shaw

Extension: 3120

Background Papers: None

Relationship to Policy Framework/Corporate Priorities	The policy will support the Council's corporate priority for economic growth and development through supporting town centre development
Financial	None as the cost of this relief will be met in full by the Government via Section 31 grant funding.
Legal Implications:	The change to the policy has been drafted to comply with all legislative requirements.
Equality/Diversity Implications	It is not considered that there are any adverse impacts on equality issues arising from this report
Sustainability Implications	None
Resource Implications e.g. Staffing / ICT / Assets	None
Risk Management Implications	None
Health & Wellbeing Implications	None
Health and Safety Implications	None

1.0 Background

- 1.1 In December 2013, the Chancellor of the Exchequer, as part of the Government's Autumn Statement, announced a range of business rates relief initiatives to support businesses in 2014/15 and 2015/16, one of which was the Retail Rate Relief.
- 1.2 As the changes were a temporary measure, the government is providing the reliefs by reimbursing in full those local authorities that use their discretion under section 47 of the Local Government Finance Act 1988 (as amended), subject to state aid limits.
- 1.3 In March 2014, the Council approved a revised NNDR Discretionary Rate Relief policy which supported all of the reliefs introduced. The amount of the Retail Rate Relief award in 2014/15 was up to £1,000 for all relevant occupied retail properties with a rateable value of £50,000 or less.
- 1.4 All businesses were advised of this new relief as part of the annual billing exercise and a press release was issued. Despite this, initial take-up was low. Subsequently the Council launched a take-up campaign, visiting those businesses that had not applied for the discount. This campaign more than doubled the number of reliefs awarded. As at 6 January 2015, approximately £845k of Retail Rate Relief, in respect of the 2014/15 financial year, has been awarded to 1,013 businesses.
- 1.5 Turning to transitional relief, this was introduced in 2010 to help those ratepayers who were faced with higher bills as a result of the revaluation. The scheme ends on 31 March 2015 to coincide with when the anticipated next revaluation should have taken effect from.
- 1.6 The Government, however, has delayed the revaluation until 2017 and as a result a small number of ratepayers will face a jump to their full rates bill from 1 April 2015.

2.0 Improved Retail Rate Relief

- 2.1 In December 2014, the government announced that the amount of Retail Rate Relief they are prepared to fund will increase to £1,500 in 2015/16. This would increase the benefit to local small businesses to in excess of £1.2 million.
- 2.2 The discount of up to £1,000 in 2014/15 and up to £1,500 in 2015/16 is available to all relevant occupied retail properties with a rateable value of £50,000 or less. The properties that benefit from the relief are those wholly or mainly used as shops, restaurants, cafes and drinking establishments.
- 2.3 The Department for Communities and Local Government has issued guidance as to the criteria that should be used for the Retail Rate Relief and this guidance has been incorporated into part two of the our policy, the changes to the policy are shaded (Appendix 1). Members are asked to consider the approval of the additional Retail Rate Relief award referred to above, and subsequently agree the revised policy as detailed in Appendix 1.

3.0 Transitional Relief

- 3.1 The government announced in the December 2014 Autumn Statement that it will extend to March 2017 the current transitional relief scheme as a direct result of their decision to postpone the revaluation.
- 3.2 As this is a measure for 2015-16 and 2016-17, the Government is not changing the legislation around transitional relief. Instead it will reimburse local authorities that use their discretionary relief powers, under section 47 of the Local Government Finance Act 1988, as amended¹ to grant relief.
- 3.3 It will be for individual billing authorities to adopt a local scheme and decide in each individual case when to grant relief under section 47. Central government will fully reimburse local authorities for the local share of the discretionary relief (using a grant under section 31 of the Local Government Act 2003). In view of the fact that such expenditure can be reimbursed, the government expects local government to grant discretionary relief to qualifying ratepayers.
- 3.4 Properties that will benefit are those with a rateable value up to and including £50,000 who would have received transitional relief in 2015/16 or 2016/17 had the existing transitional relief scheme continued in its current format.
- 3.5 The government will fund this discount to ensure eligible properties receive the same level of protection they would have received had the transitional relief scheme extended into 2015/16 and 2016/17. The transitional relief scheme should be assumed to remain as it is in the current statutory scheme² except that:
 - a. the cap on increases for small properties in both 2015/16 & 2016/17 should be assumed to be 15% (before the increase arising from the change in the multiplier)³, and

¹ Section 47 was amended by the Localism Act 2011

² As prescribed in the Non-Domestic Rating (Chargeable Amounts) (England) Regulations 2009 No. 3343.

³ Specifically, X in regulation 8(3) for the years commencing 1 April 2015 and 1 April 2016 should be assumed to be 115

b. the cap on increases for other properties (up to and including £50,000 rateable value) in both 2015/16 and 2016/17 should be assumed to be 25% (before the increase arising from the change in the multiplier)⁴.

3.6 Members are asked to consider the approval of the Transitional Relief referred to above, and subsequently agree to the revised policy as detailed in Appendix 1.

4.0 State Aid De Minimis Limits

4.1 European Union competition rules generally prohibit Government subsidies to businesses. Relief from taxes, including non-domestic rates, can constitute state aid. The Council must bear this in mind when granting discretionary rate relief.

4.2 Rate relief for charities and non-profit making bodies is not generally considered to be state aid, because the recipients are not in market competition with other businesses. However, where other bodies receive relief and are engaged in commercial activities or if they are displacing an economic operator or if they have a commercial partner, rate relief could constitute state aid.

4.3 Relief will be State Aid compliant where it is provided in accordance with the De Minimis Regulations (1407/2013). The De Minimis Regulations allow an undertaking to receive up to €200,000 of De Minimis aid in a three year period (consisting of the current financial year and the two previous financial years).

4.4 For all Discretionary Rate Relief, the Council will ensure, as best as it can, that awards are in compliance with the De Minimis regulations.

Other Options

A revised policy is shown at Appendix 1. The Council can vary the terms of that scheme, although this is not recommended as the proposed policy is set at the limit of the relief that the Government will fund.

Consultation

None.

Reasons for Recommendation

Members are asked to approve the policy in Appendix A for adoption by the Council to ensure local businesses receive the maximum amount of reliefs available to them.

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

Finance Officer Clearance ID
Legal Officer Clearance HAK

⁴ Specifically X in regulation 8(2) for years commencing 1 April 2015 and 2016 should be assumed to be 125

DIRECTOR'S SIGNATURE *(electronic)* APPENDED IN HARD COPY

To confirm that the Financial and Legal Implications have been considered and the Executive Member has cleared the report.

Appendix 1 – Trafford’s National Non-Domestic Rates Discretionary Rate Relief Policy



TRAFFORD
COUNCIL

**National Non-Domestic Rates Discretionary
Rate Relief Policy**

V2 – January 2015

Ian Duncan CPFA
Director of Finance

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.
- 1.2 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 every application will be determined on its merits having regard to the following guidelines.
- 1.3 Applications will generally be refused where:-
 - 1.3.1 A substantial portion of the organisation's income comes from bar receipts;
 - 1.3.2 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;
 - 1.3.3 80% mandatory relief is already given except for Scout and Guide headquarters and Citizens Advice Bureaux;
 - 1.3.4 A club is run for political purposes;
 - 1.3.5 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;
 - 1.3.6 The applicant is a Housing Association.
- 1.4 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

GUIDELINES FOR NEW BUILD EMPTY PROPERTY RELIEF AND RETAIL RELIEF

2.0 Section 69 of the Localism Act 2011 amends Section 47 of the Local Government Finance Act to grant relief in any circumstances. The government have determined that the Council can use its discretionary powers under the Localism Act to grant new build empty property relief, retail rate relief and reoccupation rate relief for retail premises. The granting of these reliefs is delegated to the Director of Finance who will consider applications from organisations that meet the criteria having regard to the following guidelines:

2.1 New Build Empty Property Relief

The council can use its discretionary powers to exempt all newly built commercial property completed between 1 October 2013 and 30 September 2016 from empty property rates for the first 18 months, up to state aid limits. Determination and award of any exemption will be in accordance with the Department for Communities and Local Government, Business Rates New Build Empty Property Guidance (<https://www.gov.uk/government/publications/business-rates-new-build-empty-property>)

2.2 Rate Relief for occupied retail properties with a rateable value of £50,000 or less.

This relief of up to £1,000 in 2014/15 and **up to £1,500 in 2015/16** may be provided to occupied retail properties with a rateable value of £50,000 or less subject to local discretion.

To qualify for the relief the retail property should be wholly or mainly being used as a shop, restaurant, cafe or drinking establishment. In a similar way to other reliefs (such as charity relief), this is a test on use rather than occupation. Therefore, retail properties which are occupied but not wholly or mainly used for the qualifying purpose will not qualify for the relief.

The Director of Finance will consider each award based on individual merits and will refuse the award where it is considered that the business/retail property is not supporting the Council's wider objectives or is determined to be having a detrimental impact on neighbourhoods and communities.

2.2.1 Eligible retail business use:

For the purposes of this discount the Council considers shops, restaurants, cafes and drinking establishments to mean:

A. Retail properties that are being used for the sale of goods to visiting members of the public:

Shops (such as: florist, bakers, butchers, grocers, greengrocers, jewellers, stationers, off licence*, chemists, newsagents, hardware stores, supermarkets, etc.)

Charity shops

Opticians
Post offices
Furnishing shops/ display rooms (such as: carpet shops, double glazing)
Car/ caravan show rooms
Second hand car lots
Markets
Petrol stations
Garden centres
Art galleries (where art is for sale/hire)

- B. Retail properties that are being used for the provision of the following services to visiting members of the public:

Hair and beauty services (such as: hair dressers 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
DVD/ video rentals
Tool hire
Car hire

- C. Retail properties 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

2.2.2 Non-eligible retail business use:

The list below sets out the types of uses that the Council does not consider to be retail use for the purpose of this relief.

- A. Retail properties 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, bureau de change, payday lenders, betting shops, pawn brokers)
Other services (e.g. estate agents, letting agents, employment agencies)
Medical services (e.g. vets, dentists, doctors, osteopaths, chiropractors)
Professional services (e.g. solicitors, accountants, insurance agents/ financial advisers, tutors)
Post office sorting office

B. Retail properties that are not reasonably accessible to visiting members of the public.

2.2.3 Relief amounts

The total amount of Retail Relief available for each property for each of the years under this scheme is up to £1,000 in 2014/15 and up to £1,500 in 2015/16. The amount does not vary with rateable value and there is no taper. There is no relief available under this scheme for properties with a rateable value of more than £50,000.

The eligibility for the Retail Relief and the relief itself will be assessed and calculated on a daily basis. The Retail Relief will be applied against the net bill after all other reliefs. Where the net rate liability for the day after all other reliefs but before Retail Relief is less than the Retail Relief, the maximum amount of this relief will be no more than the value of the net rate liability.

Ratepayers that occupy more than one property will be entitled to relief for each of their eligible properties, subject to State Aid de minimis limits. Information on the state aid de minimis can be found on the following website <https://www.gov.uk/state-aid>

2.3 Reoccupation Relief for Retail Premises.

A temporary 50% occupied rate relief will be granted for new occupants of retail premises that have been empty for a year or more at the point of occupation. The duration of the relief is 18 months. The relief is available to businesses that move into empty property on or after 1 April 2014 and on or before 31 March 2016. The definition of retail for the purposes of considering this relief will be taken from the DCLG Retail Relief guidance as above.

PART THREE

GUIDELINES FOR THE EXTENSION OF TRANSITIONAL RELIEF FOR SMALL AND MEDIUM PROPERTIES

3.0 Section 69 of the Localism Act 2011 amends Section 47 of the Local Government Finance Act to grant relief in any circumstances. The government have determined that the Council can use its discretionary powers under the Localism Act to grant transitional relief to ensure eligible properties receive the same level of protection they would have received had the transitional relief scheme extended into 2015/16 and 2016/17. The granting of these reliefs is delegated to the Director of Finance who will consider applications from organisations that meet the criteria having regard to the following guidelines:

3.1 Which properties will benefit from relief?

3.1.1 Properties that will benefit are those with a rateable value up to and including £50,000 who would have received transitional relief in 2015/16 or 2016/17 had the existing transitional relief scheme continued in its current format. In line with the existing thresholds in the transitional relief scheme, the £50,000 rateable value threshold should be based on the rateable value shown for 1 April 2010 or the substituted day in the cases of splits and mergers.

3.1.2 This policy applies to transitional relief only (i.e. those moving to higher bills).

3.2 How much relief will be available?

3.2.1 Eligible properties will receive the same level of protection they would have received had the transitional relief scheme extended into 2015/16 and 2016/17. The transitional relief scheme should be assumed to remain as it is in the current statutory scheme⁵ except that:

- a. the cap on increases for small properties in both 2015/16 & 2016/17 should be assumed to be 15% (before the increase for the change in the multiplier)⁶, and
- b. the cap on increases for other properties (up to and including £50,000 rateable value) in both 2015/16 and 2016/17 should be assumed to be 25% (before the increase for the change in the multiplier)⁷.

3.3 The scheme applies only to properties up to and including £50,000 rateable value based on the value shown for 1 April 2010 or the substituted day in the cases of splits and mergers. Changes in rateable value which take effect from a later date should be calculated using the normal rules in the transitional relief scheme⁸. For the avoidance of doubt, properties whose rateable value is £50,000 or less on 1 April 2010 (or the day of merger) but increase above £50,000 from a later date will still be eligible for the relief. Where necessary the Valuation Office Agency will continue to issue certificates for the value at 31 March 2010⁹ or 1 April 2010¹⁰. The relief should be calculated on a daily basis.

⁵ As prescribed in the Non-Domestic Rating (Chargeable Amounts) (England) Regulations 2009 No. 3343.

⁶ Specifically, X in regulation 8(3) for the years commencing 1 April 2015 and 1 April 2016 should be assumed to be 115

⁷ Specifically X in regulation 8(2) for years commencing 1 April 2015 and 2016 should be assumed to be 125

⁸ i.e. "N over J" for reductions or "N minus J" for increases.

3.4 Recalculations of relief

- 3.4.1 As with the current transitional relief scheme, the amount of relief awarded should 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.
- 3.4.2 The Non-Domestic Rating (Discretionary Relief) Regulations 1989 (S.I. 1989/1059)¹¹ require authorities to provide ratepayers with at least one year's notice in writing before any decision to revoke or vary a decision so as to increase the amount the ratepayer has to pay takes effect,. Such a revocation or variation of a decision can only take effect at the end of a financial year. But within these regulations, local authorities may still make decisions which are conditional upon eligibility criteria or rules for calculating relief which allow the amount of relief to be amended within the year to reflect changing circumstances.
- 3.4.3 Therefore, when making an award for the extension of transitional relief, local authorities should ensure in the conditions of the award that the relief can be recalculated in the event of a change to the rating list for the property concerned (retrospective or otherwise). This is so that the relief can be re-calculated if the rateable value changes.

4.0 Right of Appeal.

In all cases where an organisation is aggrieved, an appeal may be made in writing to the Director of Finance.

⁹ Regulations 15 or 16, SI 2009 No. 3342.

¹⁰ Regulation 14 SI 2009 No.3343.

¹¹ The Non-Domestic Rating (Discretionary Relief) Regulations 1989 No. 1059.