

Discretionary Rate Relief Policy Update – Retail Discount (Business Rates)

15 January 2019

Report of Interim Financial Services Manager

PURPOSE OF REPORT				
This report seeks approval of a draft Discretionary Retail Discount Scheme, designed in line with MHCLG guidance and financed by Government grant, to provide financial support to occupied “retail” businesses for a two year period from April 2019, in recognition of changing consumer behaviour in the high street.				
Key Decision	X	Non-Key Decision	Referral from Cabinet Member	
Date Included on Key Decision Notice			3.1.19	
This report is public.				

RECOMMENDATIONS OF COUNCILLOR WHITEHEAD:

- (1) That the Discretionary Retail Discount Scheme as set out at *Appendix A* be approved, effective from April 2019 (*Option 1 as set out in the report*).

1 BACKGROUND

- 1.1 The Government, announced in the Autumn Budget 2018 that it will provide a business rates Retail Discount scheme for occupied retail properties with a rateable value of less than £51,000 in each of the years 2019-20 and 2020-21. The value of discount should be one third of the bill, and must be applied after mandatory reliefs and other discretionary reliefs funded by S31 government grants have been applied.
- 1.2 The Government has provided guidance in terms of the operation and delivery of any policy, anticipating that local authorities will include details of the relief to be provided to local ratepayers in their bills for 2019/20. The Guidance Note is provided on the following link: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/760973/Retail_Discount_Guidance.pdf
- 1.3 The guidance sets out the criteria which central Government considers for this purpose to be retail and as such eligible for discount, encompassing properties used wholly or mainly as shops, restaurants, cafes and drinking establishments. It is intended that qualifying properties are used for the provision of services to visiting members of the public.

- 1.4 At the same time the guidance also sets out the types of uses the Government does not consider to be retail (eg. Financial Services, Medical services and professional services – solicitors etc).
- 1.5 It is for individual local billing authorities to determine its local scheme and whether to grant retail discount on a case by case basis in line with the policy. Although the lists are not exhaustive, the local authority will decide whether particular retail properties not listed, are broadly similar to those on the list of qualifying properties.
- 1.6 It should be noted also that the Council is precluded from awarding discretionary relief to itself or any other precepting authorities.
- 1.7 Any award of revaluation support must also take account of any other relief entitlement.

2 PROPOSAL DETAILS

- 2.1 Drawing on the Government guidance, **Appendix A** sets out a proposed discretionary Retail Discount Scheme to provide rate relief to business rate payers in occupation of retail properties.

3 DETAILS OF CONSULTATION

- 3.1 There is no formal requirement for consultation. However, in the past the County Council has confirmed that they see the Council as very much the expert in this area, with a request to be kept informed as to the Council's eventual scheme.

4 OPTIONS & OPTIONS ANALYSIS (INCLUDING RISK ASSESSMENT)

4.1 Option 1 – Agree to the proposal as recommended

This policy sets out a formal approach to distributing this new discretionary retail relief, providing guidance for officers and a consistent platform in dealing with applications. The approach adopted seeks to maximise use of the grant in an open and equitable way, drawing on Government guidance, and therefore risks associated with any challenge are considered small and manageable.

4.2 Option 2 – Suggest amendments to the proposed policy

Any such amendments would need to have regard to statutory requirements, and therefore should this option be chosen, extra time will be needed to consider the full implications prior to the re-consideration of an amended policy. There is some reputational risk associated with further delay as the Government are keen for billing authorities to have their scheme up and running in time for annual billing.

4.3 Option 3 – Do nothing and refuse all applications.

A blanket policy of refusal leaves the Council vulnerable to an appeal to the Local Government Ombudsman, which could result in a charge of maladministration.

5 OFFICER PREFERRED OPTION AND COMMENTS

- 5.1 It is recommended that Option 1 be approved. The policy enables a formal approach to decision making, with criteria in line with Government guidance, benefiting small to medium retail businesses on the high street.

6 CONCLUSION

- 6.1 The proposals as set out are considered to be fair and reasonable as a way to distribute available funds, drawing on Government guidance.

RELATIONSHIP TO POLICY FRAMEWORK

The report is in line with the Council Plan ambition to be a thriving and prosperous economy, creating strong conditions for growth so that businesses thrive and jobs are created.

CONCLUSION OF IMPACT ASSESSMENT

(including Health & Safety, Equality & Diversity, Human Rights, Community Safety, HR, Sustainability and Rural Proofing):

The policy demonstrates the commitment to assist smaller retail businesses throughout the area with their bills, in recognition of the changing customer behaviour on the high street. Whilst initial estimates are a little vague as programmes are not yet in place for future year's calculations, the policy is expected to benefit in excess of 750 ratepayers with total grant awarded in the region of £850k.

An Equality Impact Assessment is attached at Appendix B.

LEGAL IMPLICATIONS

The Government confirms that billing authorities should deliver their local scheme through the use of discretionary relief powers, under S47 of the Local Government Finance Act 1988, in a similar way to other central Government initiatives.

Providing retail discount to ratepayers is likely to amount to State Aid. State Aid is the means by which the European Union regulates state funded support for businesses. However, the support for ratepayers will be State Aid compliant where it is provided in accordance with the De Minimis Regulations (Commission Regulation 1407/2013).

Retail discount will appear on bills for 2019/20, and it will be for retailers to make statutory declarations in relation to receiving other de minimis state aid, or to refuse the retail discount.

FINANCIAL IMPLICATIONS

The Council will be reimbursed for expenditure, using a grant under Section 31 of the Local Government Act 2003 and therefore it is not expected that the introduction of this new policy will incur additional expenditure. However, if awards are made outside the framework of the Government guidelines, the Council runs the risk of incurring additional expenditure in these specific cases.

OTHER RESOURCE IMPLICATIONS, such as Human Resources, Information Services, Property, Open Spaces:

No other implications

SECTION 151 OFFICER'S COMMENTS

The Interim s151 Officer has contributed to this report, which is in his name (as Interim Financial Services Manager).

MONITORING OFFICER'S COMMENTS

The Monitoring Officer has been consulted and has no further comments.

BACKGROUND PAPERS

N/A

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**LOCAL DISCRETIONARY RETAIL DISCOUNT SCHEME
LANCASTER CITY COUNCIL**

This scheme forms part of the Council's wider Local Discretionary Rate Relief Policy. It sets out the principles upon which the Council will administer retail discount for occupied retail properties with a rateable value of less than £51,000.

This document sets out the broad framework of principles to be used in decision making for this new scheme in line with Government guidance, covering two financial years from 1 April 2019 (i.e. ending on 31 March 2021).

The value of discount awarded will be one third of the bill (33.33%), to be applied after mandatory reliefs and other discretionary reliefs funded by S31 grants have been applied.

Any retail discount granted under this scheme will be reviewed each year but normally expire on 31st March 2021, subject to a change in circumstances that falls outside the principles of the scheme (ie. property becomes empty, change of use) in which case relief will be apportioned to the qualification dates.

Scheme Principles:

To qualify for Retail Relief a property must be:

- Occupied
- Have a Rateable value of less than £51,000 (this is shown on your Business Rate bill)
- Be wholly or mainly used for Retail Purposes as shops, restaurants cafes and drinking establishments.

To qualify for the relief the business premises should be wholly or mainly being used as a shop, restaurant, cafe or drinking establishment. Properties that are occupied but not wholly or mainly used for the qualifying purpose will not qualify for the relief.

Properties considered to be retail for the purposes of this relief:

1) Properties 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 licence, 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)

2) 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

3) 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

The list above, whilst not exhaustive, is a guide as to the type of uses that the government considers to be retail for this purpose. Relief will be granted for occupation that is broadly similar in nature to those listed above.

As this relief is discretionary, the Council will not grant support in any case where it is not considered appropriate to do so, for example where granting the relief would go against the authority's wider objectives for the local area (eg. sex shop).

Properties that are not broadly similar in nature to those listed above; or are broadly similar in nature to those listed below will not normally be eligible for relief. However, the Council reserves the right to consider favourably, individual businesses contributing to a healthy high street, where the provision of service in the area to visiting members of the public is beneficial to the community as a whole.

Properties not considered to be retail for the purposes of this relief:

1) 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 offices

2) Properties that are not reasonably accessible to visiting members of the public

- Government guidance does not consider other assembly or leisure uses beyond those listed in this guidance to be retail uses for the purpose of the discount. For example, cinemas, theatres and museums are outside the scope of the scheme, as are nightclubs and music venues which are not similar in nature to the properties described above. Properties used for sport or physical recreation (e.g. gyms) are also considered outside the scope of this discount.

Decision Making & Appeals:

Where there is doubt in determining discount, the local authority will exercise their discretion with reference to the above list, considering the interests of the ratepayer and that of council tax payers in general, taking into consideration local factors.

In line with the Council's wider rate relief decision-making arrangements all decisions regarding the granting of applications of relief under this Policy are finally determined by the Deputy Director (Customer Services)/Head of Shared Services under delegated powers.

Under the Local Government Finance Act 1988, there is no statutory right of appeal against the Council's use of discretionary powers. However, the Council will accept a customer's request for a review of its decision, with appeals to be presented to the Interim Financial Services Manager for further consideration.

State Aid:

State Aid is any assistance or subsidy given to an organisation by the State (Central Government, devolved administrations, regional and local authorities) or by companies and agencies established by the state to distribute public support; which distorts or threatens to distort competition (i.e. the organisation receiving the State Aid is in a stronger competitive position relative to its competitors).

Under the De Minimis Regulations EC 1407/2013 the ratepayer is required to confirm if they have received any other State Aid that when added together exceeds in total €200,000 (approx. £181,000), including any other rates relief (other than exemptions, transitional or mandatory reliefs) granted for premises other than the one receiving retail discount.

You do not need to complete a declaration unless you have received any other De Minimis State Aid (this includes Retail Discount granted for other properties). However, if you have received any other De Minimis State Aid, you should download a declaration form from the website ([link required](#)) and complete and return the form to confirm that the award of Retail Discount does not exceed the overall limit of €200,000.

For further guidance on State Aid please visit www.gov.uk/state-aid.

Retail discount will appear on bills for 2019/20, and it will be for qualifying retailers to make statutory declarations in relation to receiving other de minimis state aid, or in refusing the retail discount offered.

Equality Impact Assessment

Section 1: Details

Service	Corporate
Title and brief description (if required)	Discretionary Rate Relief Policy Update – Retail Relief Support
New or existing	Existing
Author/officer lead	Adrian Robinson (Head of Shared Service)
Date	28 December 2018

Does this affect staff, customers or other members of the public?

Yes, the business community in the local authority area

Section 2: Summary

What is the purpose, aims and objectives?

The scope of the report relates only to non-domestic rate relief, introducing a new discretionary rate relief scheme covering a 2 year period, to distribute Government funded grant by way of retail discount, to those ratepayers operating a retail business in the area, with a rateable value of less than £51k. This support is provided in recognition of a change in customer behaviour in the high street, given the on-line retail economy.

Who is intended to benefit and how?

The policy affects business ratepayers as a whole, but more specifically small to medium retail businesses in the area with a rateable value of less than £51k to recognise that many may be facing an uncertain future and difficulty on the high street due to changing customer behaviour.

A discretionary fund has been established by the Government to provide support for two years, to be awarded to qualifying retail businesses to mitigate the effects of this change. The rate bills of qualifying businesses will reduce by one third (33.33%) for both 2019/20 and 2020/21.

The Council will target occupied retail businesses, with a rateable value of less than £51,000. However, discount will not be granted to empty properties, or where it is not considered appropriate to do so, given the authority's wider objectives for the local area.

Section 3: Assessing impact

Is there any potential or evidence that this will or could:		
• Affect people from any protected group differently to others?		No
• Discriminate unlawfully against any protected group?		No
• Affect the relations between protected groups and others?		No
• Encourage protected groups to participate in activities if participation is disproportionately low (won't always be applicable)?		No
• Prevent the Council from achieving the aims of its' Equality and Diversity Policy?		No

If yes, please provide more detail of potential impact and evidence including:	
<ul style="list-style-type: none"> - A brief description of what information you have and from where eg getting to know our communities data, service use monitoring, views of those affected ie discussions or consultation results? - What does this tell you ie negative or positive affect? 	
Age (including older and younger people and children)	No other evidence or expectation of any specific impact.
Disability	No evidence or expectation of any specific impact.
Faith, religion or belief	No evidence or expectation of any specific impact.
Gender (including marriage, pregnancy and maternity)	No evidence or expectation of any specific impact.
Gender reassignment	No evidence or expectation of any specific impact.
Race	No evidence or expectation of any specific impact.
Sexual orientation (Including Civic Partnership)	No evidence or expectation of any specific impact.
Rural communities	Businesses in rural communities treated in the same way as all other businesses and will benefit in the same way. Therefore no evidence or expectation of any specific impact.
People on low incomes	Revaluation Support has been designed to assist small to medium sized businesses in the area, providing discount on their rate liability. Some of the ratepayers may be linked to low income households.

Section 4: Next steps

Do you need any more information/evidence eg statistics, consultation? If so, how do you plan to address this?

No.

How have you taken/will you take the potential impact and evidence into account?

The proposed scheme uses Government guidance to target occupied retail properties with a rateable value of less than £51,000. No application form is involved in order to maximise the impact of this support.

Qualifying properties will be identified and retail relief will be shown on 2019/20 bills, (granting a discount of 1/3 of the value), thus providing an immediate impact to ratepayers through reduced instalments.

How do you plan to monitor the impact and effectiveness of this change or decision?

Through general collection rates, take-up, feedback etc.