

To the Chair and Members of the Council

Proposed changes to Discretionary Business Rates Reliefs

Relevant Cabinet Member(s)	Wards Affected	Key Decision
Mayor Ros Jones	All	K1268

EXECUTIVE SUMMARY

1. As part of the Autumn Statement 2014, the Government announced an amendment to the existing discretionary retail rate relief scheme and introduced a new discretionary transitional relief scheme for the period 1st April 2015 to 31st March 2017 for small and medium sized properties that are faced with a large increase in non-domestic rates liability following the ending of the existing, statutory, transitional relief scheme.

Discretionary Retail Rate Relief

2. As part of the Autumn Statement 2013, the Government announced that it would provide Business Rates Relief of up to £1,000 to some occupied retail properties with a rateable value of £50,000 or less. The property had to be wholly or mainly being used for the qualifying purpose such as a shop, restaurant, café or drinking establishment for visiting members of the public.
3. The Council adopted a local retail rate relief policy on the 6th March 2014 in line with the guidance issued by the Department for Communities and Local Government (DCLG) at that time. It was resolved that the policy would be reviewed dependent on Government funding. The current policy is listed as a background paper and the proposed revised policy at Appendix 1.
4. In the Autumn statement 2014 Government announced that the maximum level of relief available to qualifying properties would be increased to £1,500 for the 2015/16 financial year and that the Council would be reimbursed by Government for the cost of awarding this additional relief via a Section 31 Local Government Act 2003 grant.
5. As at the end of December 2014 there were 744 properties benefitting under the existing retail relief policy and the estimate of the amount of relief to be awarded for 2014/15 is currently £659k.

Discretionary Transitional Relief

6. The existing transitional relief scheme was introduced by Government on the 1st April 2010 and runs for a 5 year period, to the 31st March 2015. Government have taken the decision to postpone the revaluation of non-domestic properties for two years, from the 1st April 2015 to the 1st April 2017.

7. As changes to the transitional relief scheme would require primary legislation, and this relief is a temporary measure, Government announced they were introducing this new relief, particularly to help smaller businesses, and that it would be administered under the discretionary powers given to billing authorities under the Localism Act 2011.
8. The proposed scheme is intended to limit increases for small properties, rateable values less than £18,000, to 15% and medium sized properties, rateable values between £18,000 and £50,000, to 25%.
9. The Department of Communities and Local Government issued guidance on the 14th January 2015 about the operation and delivery of the policy which is due for implementation for qualifying properties from the 1st April 2015. The details of the eligibility criteria set out in the guidance states which properties will benefit from this relief and is detailed in the proposed policy at Appendix 2.
10. There are 78 properties currently in receipt of transitional relief, of these; it is estimated that 39 properties may qualify under the proposed scheme.

Discretionary Retail Rate Relief and Discretionary Transitional Relief

11. The guidance sets out the basis on which DCLG will reimburse billing authorities who adopt local schemes and use the discretionary powers (under section 47 of the Local Government Finance Act 1988 as amended by the Localism Act 2011) for awarding discretionary retail rate relief and discretionary transitional relief to qualifying properties.
12. If a billing authority chooses to offer further discounts to properties outside of the discretionary retail rate relief and discretionary transitional relief schemes, the cost of these would be met by the Council based on rate retention rules and would not be wholly reimbursed by the Government Grant paid under section 31 of the Local Government Act 2003.
13. The guidance does not replace existing legislation on non-domestic properties or any other relief. Other reliefs may also apply such as small business relief, charitable relief and re-occupation relief. Retail rate relief will be applied after these reliefs but before discretionary transitional relief which will be applied against the net bill after all other reliefs.
14. In accordance with section 47 of the Local Government Finance Act 1992 the Council is required to have regard to any relevant guidance issued by the Secretary of State when deciding whether to grant relief.
15. Ratepayers are entitled to relief for each of their eligible properties, subject to state aid de minimis limits.
16. Business rates legislation states the Authority may only grant relief if it would be reasonable to do so having regard to the interests of Council Tax payers in its area. Given the Government have committed to reimburse local authorities it is deemed to be in the interests of its Council Tax payers to award these discretionary reliefs.
17. Adopting local policies for discretionary transitional relief and amending the retail rate relief policy adopted by Council on the 6th March 2014 will support the Mayoral priority of assisting businesses to thrive and to develop

Doncaster's economy. By ensuring all those who are entitled to the relief receive it will help to encourage inward investment to Doncaster and to help in regenerating the 'high street' in communities across the Borough

EXEMPT REPORT

18. Not exempt

RECOMMENDATIONS

19. That the Council increases the maximum level of relief (from 1st April 2015) available under the Business Rates Retail Relief policy to £1,500 for the financial year 2015/16.
20. The discretionary retail rate relief policy as amended and detailed at Appendix 1 of the report be adopted in line with the guidance issued by the DCLG
21. That the Council adopts a discretionary transitional relief policy as detailed at Appendix 2. This policy is in line with the guidance issued from the Department of Communities and Local Government.
22. It is proposed to award discretionary transitional relief for the years 2015/16 and 2016/17 to qualifying properties.
23. Ratepayers of qualifying properties are required to submit a state aid declaration prior to relief being awarded.

WHAT DOES THIS MEAN FOR THE CITIZENS OF DONCASTER?

24. Businesses who qualify for these reliefs will benefit from an increase in the level of relief available.
25. Some local businesses, which are facing a substantial increase in the business rate charge next year, will have this increase limited to either 15% or 25% depending on the size of the property concerned.
26. The cost of these reliefs will be fully funded by Central Government; therefore, there will be no cost to the citizens of Doncaster by awarding this relief.

BACKGROUND

Discretionary Retail Rate Relief

27. As part of the Autumn Statement 2013, the Government announced that it would provide Business Rates Relief of up to £1,000 to some occupied retail properties with a rateable value of £50,000 or less. The property had to be wholly or mainly being used for the qualifying purpose such as a shop, restaurant, café or drinking establishment for visiting members of the public.
28. Guidance issued by the DCLG at the time set out the basis on which they would reimburse local billing authorities who adopted a local policy and use the discretionary powers (under Section 47 of the Local Government Finance Act 1988 as amended by the Localism Act 2011) for awarding Discretionary Retail Relief to qualifying ratepayers.

29. A local policy was adopted by the Council on the 6th March 2014 in line with the guidance issued by DCLG at that time and it was resolved that the policy would be reviewed dependent on Government funding. The current policy is listed as a background paper.
30. In the autumn statement 2014 Government announced that the maximum level of relief available to qualifying properties would be increased to £1,500 for the 2015/16 financial year and that the Council would be reimbursed by Government for the cost of awarding this additional relief.
31. At the end of December 2014 there were 744 properties benefitting under the existing retail relief policy and the amount of relief awarded for 2014/15 is currently £659k. This is lower than anticipated due to a lack of take up of the policy, despite the Business Rates team contacting those ratepayers identified as potentially applying and advising ratepayers over the telephone when appropriate.

Discretionary Transitional Relief

32. As part of the autumn statement 2014, the Government announced it wants to provide non-domestic rates relief for the period 1st April 2015 to 31st March 2017 to small and medium sized properties that are faced with a large increase in non-domestic rates liability following the ending of the existing, statutory, transitional relief scheme.
33. The existing transitional relief scheme was introduced by Government on the 1st April 2010 and runs for a 5 year period, to the 31st March 2015. Government have taken the decision to postpone the revaluation of non-domestic properties for two years, from the 1st April 2015 to the 1st April 2017 and therefore some ratepayers could be faced with a large increase in their business rates liability.
34. The proposed scheme is intended to limit increases for small properties, rateable values less than £18,000, to 15% and medium sized properties, rateable values between £18,000 and £50,000, to 25%.
35. As discretionary relief constitutes state aid we require a signed declaration from the ratepayer for each qualifying property, without this there is the possibility that relief could be awarded incorrectly and we may not then be reimbursed by central government.
36. We have used our current system data to identify properties that may qualify for this relief and this indicates that 78 properties are currently in receipt of transitional relief, of these it appears that 39 properties may qualify under the proposed scheme.
37. Business rates legislation states the Council may only grant relief if it would be reasonable to do so having regard to the interests of Council Tax payers in its area. Given the Government have committed to reimburse local authorities for the cost of awarding this relief, it is deemed to be in the interests of its Council Tax payers to award the additional Business Rate Retail Relief. It will also support the mayoral priority of assisting Businesses to thrive and to develop Doncaster's economy. By ensuring all those who are entitled to the relief receive it will help to encourage inward investment to Doncaster and to help in regenerating the 'high street' in communities across the Borough

OPTIONS CONSIDERED

38. To adopt the increase in the level of retail rate relief
39. To not adopt the increase in the level of retail rate relief available.
40. Consideration has been given to awarding transitional relief prior to the issuing of the annual bills for 2015/16, however, due to the timing of the announcement, the release of the guidance by Department of Communities and Local Government and as we require a signed state aid declaration this was not considered to be feasible.
41. There is a Discretionary Rate Relief policy in place for awards of relief for charitable and not for profit organisations, retail rate relief for retail properties with a rateable value of £50,000 or less and reoccupation relief for properties which have been empty for more than 12 months. However, as the qualifying criterion is fundamentally different, none of these policies could be used for the proposed discretionary transitional relief scheme.

REASONS FOR RECOMMENDED OPTION

42. Section 47 of the Local Government Finance Act 1988 (as amended) requires a local authority to have regard to any relevant guidance issued by the Secretary of State when deciding whether to grant relief. Not adopting this increase in retail rate relief or the new transitional relief could lead to a legal challenge.
43. The relief is fully funded by Government and will benefit local business without affecting the finances of the authority or its council tax payers.

IMPACT ON THE COUNCIL'S KEY PRIORITIES

44.

Priority	Implications
<p>We will support a strong economy where businesses can locate, grow and employ local people.</p> <ul style="list-style-type: none"> • <i>Mayoral Priority: Creating Jobs and Housing</i> • <i>Mayoral Priority: Be a strong voice for our veterans</i> • <i>Mayoral Priority: Protecting Doncaster's vital services</i> 	<p>Awarding relief for those qualifying businesses will help to assist businesses to thrive and to assist in the development of Doncaster's economy.</p>
<p>We will help people to live safe, healthy, active and independent lives.</p> <ul style="list-style-type: none"> • <i>Mayoral Priority: Safeguarding our Communities</i> • <i>Mayoral Priority: Bringing down the cost of living</i> 	
<p>We will make Doncaster a better place to live, with cleaner, more sustainable communities.</p> <ul style="list-style-type: none"> • <i>Mayoral Priority: Creating Jobs and Housing</i> • <i>Mayoral Priority: Safeguarding our Communities</i> • <i>Mayoral Priority: Bringing down the cost of living</i> 	
<p>We will support all families to thrive.</p> <ul style="list-style-type: none"> • <i>Mayoral Priority: Protecting Doncaster's vital services</i> 	
<p>We will deliver modern value for money services.</p>	
<p>We will provide strong leadership and governance, working in partnership.</p>	

RISKS AND ASSUMPTIONS

45. Failure to award relief in line with the Government's criteria and guidance could risk that we are not properly reimbursed for relief awarded which does not comply with the Section 31 grant conditions.
46. Our forecast for the cost of retail rate relief, as detailed in paragraph 5, is based on ratepayers who currently qualify for this relief. No account has been taken of ratepayers who may, due to the increased level of relief, exceed the state aid de-minimis threshold. Ratepayers will be reminded of the need to declare all de-minimis aid awarded and of their obligation to advise us if the award of the relief will exceed this level.
47. For discretionary transitional relief Government have suggested, due to the number of properties involved, that billing authorities may wish to consider using a manual calculation process rather than relying on changes to existing computer systems to determine eligibility for transitional relief.
48. Our software supplier, Northgate, have not yet announced how and if they intend to administer this relief within our existing computer system.
49. There has been no commitment from Government to fund any changes required to the system. Therefore, it is proposed to use a manual calculation, supported by spreadsheet formula, to calculate eligibility and the level of discretionary transitional relief to be applied.

LEGAL IMPLICATIONS

50. Local authorities can award Discretionary Rate Relief for retail properties as described using its powers under Section 47 of the Local Government Finance Act 1988 as amended by the Localism Act 2011.
51. The Non-Domestic Rating (Chargeable Amounts) Regulations 2009 (Statutory instrument 2009/3343) details the calculation of transitional relief under the statutory transitional relief scheme
52. The legislation states that the authority may only grant relief if it would be reasonable to do so having regard to the interests of persons liable to pay council tax set by it. Given that Government has committed to reimburse local authorities for the cost of awarding this additional relief, it is deemed to be in the interests of its council taxpayers to award this relief. It also requires a local authority to have regard to any relevant guidance issued by the secretary of state when deciding whether to grant relief.

STATE AID

53. State Aid law is complex and is the means by which the European Union (EU) regulates state funded support to business. Providing Discretionary relief to ratepayers is likely to amount to State Aid. However, Retail Relief will be State Aid compliant where it is provided in accordance with the De Minimis Regulations (1407/2013) which allow an undertaking to receive up to 200,000 euros around £164,000 of De Minimis aid in a 3 year period, consisting of the financial year and previous two fiscal years. There are also undertakings that are excluded from receiving De Minimis aid.

54. For each award a State Aid declaration letter needs to be sent for the ratepayer to sign and either declare any other aid they have received and that they do not exceed the De Minimis threshold, or to refuse the relief if they have or if they are exempt. As we are required to send this to prospective ratepayers, we also may need to include a question on what the property is wholly and mainly used for and if they have visiting members of the public. It may be appropriate to issue this before relief is awarded. Relief could then be awarded on receipt of the completed declaration. This would avoid granting the relief incorrectly and then having to attempt to recover the amount later.
55. As some of the ratepayers are retail undertakings with many properties nationally they may be in breach of the State Aid De Minimis levels with Retail Relief alone as well as other funding they may have received.

FINANCIAL IMPLICATIONS

Discretionary Retail Rate Relief

56. Discretionary retail rate relief is estimated at £1,039,546, which is split between the preceptors: Central Government £512,193, the Council £516,805 and South Yorkshire Fire & Rescue Authority (SYFRA) £10,548.
57. Central Government will fully reimburse the Council for its share (£516,805) and SYFRA for their share of this relief (£10,548) via a grant under section 31 of the Local Government Act 2003 in 2015/16. At the end of the year the actual outturn will be calculated and any difference to the estimate will be paid to, or recovered from, the Council and SYFRA. Any shortfall will be met from the Business Rates Contingency budget £414k.

Discretionary Transitional Relief

58. It is estimated that 39 properties may qualify for discretionary transitional relief in 2015/16 and 26 in 2016/17 at a cost of £41,000 and £29,000 respectively, assuming a 2% increase per annum in Business Rates liability. The cost of this relief is split between the preceptors: Central Government £20,500, the Council £20,090 and South Yorkshire Fire & Rescue Authority (SYFRA) £410 for 2015/16 and £14,500, £14,210 and £290 respectively for 2016/17.
59. Central Government will fully reimburse the Council for its share and SYFRA for their share of discretionary transitional relief (£20,500 in total for 2015/16 and £14,500 in total for 2016/17) via a grant under section 31 of the Local Government Act 2003. Actual payments will be made based on the annual Business Rates Outturn Return.
60. The Department of Communities and Local Government have not increased the cost of collection allowance to cover the additional costs from awarding the relief as discretionary rate relief. It will require additional work and costs issuing state aid declarations, assessing eligibility, awarding relief and to cover additional costs for the changes, postage, staff time, publicity costs, development of local policies, challenges and appeals, cash flow etc. which will be met from Revenues and Benefits budgets.

61. Since the localisation of Business Rates from the 1st April 2013 transitional relief has been fully funded by Government. Under the statutory scheme transitional relief was calculated prior to any other relief being awarded. Under this policy, transitional relief is calculated after other reliefs. This means that there will be an additional, local, cost of awarding business rates relief which are not covered by section 31 grant, for example small business rates relief, charity relief etc.

EQUALITY IMPLICATIONS

62. These reliefs are available to all ratepayers who occupy properties that meet the qualifying criteria, each case will be determined on its own merits in line with the guidance, therefore there are no direct equality implications.

CONSULTATION

63. Due to the short timescales there has been minimal consultation with officers and senior members.
64. It has not been feasible to undertake public consultation other than with the Mayor and cabinet members and the representative for SY Fire and rescue. The introduction of the discretionary policy will benefit those qualifying cases affected by the transitional relief changes.
65. This report has significant implications in terms of the following:

Procurement		Crime & Disorder	
Human Resources		Human Rights & Equalities	
Buildings, Land and Occupiers	x	Environment & Sustainability	
ICT		Capital Programme	

BACKGROUND PAPERS

66. Business Rates Information Letter 2014/11 - December 2014.
Business Rates Discretionary Retail Relief Policy adopted by Full Council on 6 March 2014
Department for Communities and Local Government – Business rates extension of transitional relief for small and medium properties guidance.

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DONCASTER METROPOLITAN BOROUGH COUNCIL

BUSINESS RATES DISCRETIONARY RETAIL RELIEF POLICY

Background

1. Local Authorities have the power to grant Discretionary Rate Relief to Ratepayers that meet certain criteria. The amount of relief granted is used to reduce the amount the Ratepayer owes in Business rates.
2. As part of the Autumn Statements in 2013 and 2014, the Government announced that it will provide funding for Business Rates Relief of up to £1,000 for 2014/15 and up to £1,500 for 2015/16 to some occupied retail properties with a rateable value of £50,000 or less. The property has to be wholly or mainly being used for the qualifying purpose.
3. As this is a measure for the years 2014/15 and 2015/16 only, the Government is not changing the legislation around awarding reliefs available to properties. Instead it has provided guidance from the Department of Communities and Local Government on 23rd January 2014. This sets out the detailed criteria which Central Government will use to reimburse local authorities, who use their discretionary relief powers.
4. The council would like to support qualifying local retail Business by utilising its discretionary powers through the application of this policy.

Legislation

5. Section 47 of the Local Government Finance Act 1988, as amended by the Localism Act 2011, states the Authority may only grant relief if it would be reasonable to do so having regard to the interests of persons liable to pay council tax set by it. It also requires a local authority to have regard to any relevant guidance issued by the Secretary of State when deciding whether to grant relief.
6. Providing discretionary relief to ratepayers is likely to amount to State Aid. However Retail Relief will be State Aid compliant where it is provided in accordance with the De Minimis Regulations (1407/2013).
7. The De Minimis Regulations allow an undertaking to receive up to €200,000, around £164,000, of De Minimis aid in a three year period (consisting of the current financial year and the two previous financial years).
8. To administer De Minimis aid it is necessary for the local authority to establish that the award of aid will not result in the undertaking having received more than €200,000, around £164,000 of De Minimis aid. Exchange rates will be calculated using the currency converter shown on the link below.

http://ec.europa.eu/budget/contracts_grants/info_contracts/infoeuro/infoeuro_en.cfm

Who Pays For The Relief Granted?

9. 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). The Government expects local government to grant relief to qualifying ratepayers.

Purpose

10. The purpose of this Policy is to specify how the Council will operate its discretionary powers and to indicate the factors we will consider when deciding if retail relief can be awarded.
11. The Council will consider awarding Retail Rate Relief to all ratepayers who meet the qualifying criteria. We will deal with each application for Relief on its merits and treat all organisations that apply for Retail Rate Relief equally and fairly. We will share information with other public bodies and grant funders to prevent and detect fraud and duplication of assistance in respect of Business Rates.

Consultation

12. Due to the very short timescales from receiving the guidance from the Government it has not been possible to undertake public consultation or consultation on this policy. The Mayor and Cabinet and major preceptor representative of South Yorkshire Fire have been consulted.

Claiming Discretionary Retail Rate Relief

13. In order to receive relief the council have to be satisfied that the qualifying criteria are met. For each award a State Aid declaration must be submitted by the ratepayer to declare any other aid received and to confirm they do not exceed the De Minimis threshold.
14. We will award relief in circumstances where we consider an organisation may be entitled to relief and will provide a form/ declaration to assist in identifying those Businesses entitled to relief. The form/declaration must be completed by the ratepayer or a person authorised to sign on behalf of the ratepayer.
15. We may request any reasonable evidence in support of the application.

Period of Award

16. The start date of the relief will normally be the 1st April 2014.
17. For applications where the qualifying criteria are not met until after this date, the start date of the relief will be the date that the qualifying conditions are met up to and including 31st March 2016 (which is the last date that relief will be awarded based on the current information from Government).
18. The minimum period of relief that can be awarded is one day.
19. Entitlement to relief will cease on the 31st March 2016, however should funding be extended the policy to award relief may also be extended.

Entitlement to relief will cease from such date that one or all of the qualifying criteria are not met, if sooner.

20. No relief will be awarded for a period prior to 1st April 2014.

How we will decide whether to award Discretionary Rate Relief?

21. Relief may be awarded where:-

- the rateable value is £50,000 or less;
- the property is occupied;
- the property is wholly or mainly being used as a shop, restaurant, café or drinking establishment to visiting members of the public .

22. Examples of types of use for retail relief purposes which are considered to mean shops, restaurants, cafés and drinking establishments are :-

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, garage doors)
- Car/caravan show rooms
- Second hand car lots
- Markets
- Petrol stations
- Garden centres
- Art galleries (where art is for sale/hire)

Properties 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
- DVD/video rentals
- Tool hire
- Car hire

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 and Bars

23. Examples of types of use which the Government does not consider to be retail for the purposes of the relief:-

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

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

24. The list is not intended to be exhaustive, if a use is broadly similar to those above, it will be considered eligible for relief. Conversely, if properties that are not broadly similar in nature to those listed will not be eligible for relief.

How much will we award?

25. The maximum amount of relief available for each property under this scheme for 2014/15 is £1,000 and for 2015/16 is £1,500

26. Retail Rate Relief will be awarded after taking in to consideration other relief's, excluding relief awarded under the existing Discretionary Rate Relief Policy and the Discretionary Transitional Relief Scheme and will be no more than the net rate liability if this is less than £1,000 for 2014/15 or £1,500 for 2015/16.

27. Ratepayers that occupy more than one property will be entitled to retail relief on each of their eligible properties subject to EU State Aid De Minimis limits.

28. A new hereditament created because of a split or merger during the financial year or a change of use will be considered afresh for the relief from that date.

29. Retail Relief will not be awarded where the ratepayer would otherwise qualify for Government funded Enterprise Zone relief.

How Payments will be made

30. All relief awarded will be credited to the ratepayer's Business Rates account.

Notifications

31. The Council will inform the ratepayer applying in writing of the outcome of their application for Retail Rate Relief.

32. Where the application is not successful, the notification will provide reasons why we have decided not to award Retail Rate Relief and the applicant's right to ask us to look at the decision again.

33. Where the application is successful, the notification will include the following information:-

- The period of the award.
- The amount of Rate Relief to be awarded for the period.

Overpayments

34. The Council will recover all overpayments of Retail Rate Relief through the organisation's Business Rates account.

Right of Appeal

35. If you are aggrieved by a decision made under this policy, you must write and tell us why you think the decision is wrong, e.g. whether the published criteria has been properly applied.

36. Your case will then be considered by someone who has not been involved in the original determination.

37. They will thoroughly check all the information we hold regarding the property along with the details in the Retail Rate Relief application and any further information you have provided. They will decide whether or not the criteria have been properly applied. They could then: -

- Decide not to change the decision;
- Change the decision and award Retail Rate Relief

38. They will write to tell you what has happened, normally within 21 days of reconsidering your appeal.

Fraud

39. The Council is committed to the fight against fraud in all its forms. An organisation who tries to fraudulently apply for Retail Rate Relief by falsely declaring their circumstances or providing a false statement or evidence in support of their application, may have committed an offence under the Theft Act 1968. Where we suspect that such a fraud may have occurred, the matter will be investigated in line with the Council's Anti-Fraud Strategy. This may lead to criminal proceedings being instigated.

Publicity and Information

40. The Council will include information about Retail Rate Relief in the Business rates Section of the Council's website and other appropriate places.

Review

41. The policy will be reviewed periodically, taking into account any changes in legislation or guidance from Central Government regarding the funding for this relief.

DONCASTER METROPOLITAN BOROUGH COUNCIL

BUSINESS RATES DISCRETIONARY TRANSITIONAL RELIEF POLICY

Background

1. Local Authorities have the power to grant discretionary rate relief to ratepayers that meet certain criteria. The amount of relief granted is used to reduce the amount the ratepayer owes in business rates.
2. As part of the autumn statement in December 2014, the Government announced that it will provide funding for business rates relief for qualifying properties the financial years 2015/16 & 2016/17.
3. As this is a temporary measure that applies to the financial years 2015/16 & 2016/17 only, Government is not changing the legislation around the reliefs available to properties. Instead the Government will reimburse Local Authorities for the local share, in line with the eligibility criteria set out in guidance issued on the 15th January 2015. This sets out the detailed criteria which Central Government will use to reimburse Local Authorities, who use their discretionary relief powers.
4. The Council would like to support qualifying local business by utilising its discretionary powers through the application of this policy.

Legislation

5. Section 47 of the Local Government Finance Act 1988, as amended by the Localism Act 2011, states the Authority may only grant relief if it would be reasonable to do so having regard to the interests of Council Tax payers in its area. It also requires a Local Authority to have regard to any relevant guidance issued by the Secretary of State when deciding whether to grant relief.
6. The Non-Domestic Rating (Chargeable Amounts) Regulations 2009 (Statutory instrument 2009/3343) details the calculation of transitional relief under the statutory transitional relief scheme.
7. Providing discretionary relief to ratepayers is likely to amount to state aid. However transitional relief will be state aid compliant where it is provided in accordance with the de minimis regulations (1407/2013).
8. The de minimis regulations allow an undertaking to receive up to €200,000, around £164,000, of de minimis aid in a three year period (consisting of the current financial year and the two previous financial years).
9. To administer de minimis aid it is necessary for the Local Authority to establish that the award of aid will not result in the undertaking having received more than €200,000, around £164,000 of De Minimis aid. Exchange rates will be calculated using the currency converter shown on the link below:

http://ec.europa.eu/budget/contracts_grants/info_contracts/infoeuro/infoeuro_en.cfm

Who Pays For The Relief Granted?

10. 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). The Government expects Local Authorities to grant relief to qualifying ratepayers.

Purpose

11. The purpose of this policy is to specify how the Council will operate its discretionary powers and to indicate the factors we will consider when deciding if transitional relief can be awarded.
12. The Council will consider awarding transitional relief to all ratepayers who meet the qualifying criteria. We will deal with each application for relief on its merits and treat all organisations that apply for transitional relief equally and fairly. We will share information with other public bodies and grant funders to prevent and detect fraud and duplication of assistance in respect of business rates.

Consultation

13. Due to the very short timescales from receiving the guidance from the Government it has not been possible to undertake public consultation on this policy. It will benefit those ratepayers affected by the impact of the transitional relief changes. The Mayor and Cabinet have been consulted.

Claiming discretionary transitional relief

14. In order to receive relief the Council have to be satisfied that the qualifying criteria are met and that awarding relief will be in line with state aid rules. For each award a state aid declaration must be submitted by the ratepayer to declare any other aid received and to confirm they do not exceed the de minimis threshold and are not excluded from receiving de minimis aid.
15. We will award relief in circumstances where we consider a Ratepayer may be entitled to relief and will provide a form/declaration to those ratepayers who we have identified as potentially qualifying for this relief. The form/declaration must be completed by the ratepayer or a person authorised to sign on behalf of the ratepayer.
16. We may request any reasonable evidence in support of the application.

Period of Award

17. The start date of the relief will normally be the 1st April 2015.
18. For applications where the qualifying criteria are not met until after this date, the start date of the relief will be the date that the qualifying conditions are met up to and including 31st March 2017 (which is the last date that relief will be awarded based on the current information from Government).
19. The minimum period of relief that can be awarded is one day.

20. Entitlement to relief will end when one or more of the qualifying criteria are not met or the 31st March 2017, whichever is the earliest. However, should funding be extended the policy to award relief may also be extended.

21. No relief will be awarded for a period prior to 1st April 2015.

How we will decide whether to award Discretionary Rate Relief?

22. Relief may be awarded where a property:-

- Has a rateable value of £50,000 or less (based on the 1st April 2010 rateable value or the substituted day in the case of properties which are split or merged);
- Would have received transitional relief in 2015/16 or 2016/17 had the statutory transitional relief scheme continued in its current format with the following exceptions:-
 - The cap on increases for small properties (Rateable Value less than £18,000) in both 2015/16 and 2016/17 will be 15%.
 - The cap on increases for medium properties (Rateable Value between £18,000 and £50,000) in both 2015/16 and 2016/17 will be 25%.
 - The level of relief will be calculated after all other reliefs have been awarded.

23. For the avoidance of doubt, for the years 2015/16 and 2016/17 relief will be calculated as if The Non-Domestic Rating (Chargeable Amounts) (England) Regulations 2009 were as follows:-

- Regulation 8 (2) - the value of x is 125
- Regulation 8 (3) - the value of x is 115
- Regulation 8 (6) - the value of Q is 1.019

24. Where the ratepayer does not meet the state aid de-minimis regulations relief will not be awarded.

How much will we award?

25. The level of relief will be calculated as follows :-

- Identify properties which would have qualified for transitional relief in 2015/16, had the statutory scheme continued.
- Calculate the actual rates bill for those properties in 2015/16 after all other reliefs assuming transitional relief has ended.
- Calculate the rates bill for those properties in 2015/16 after all other reliefs assuming that transitional relief continued in accordance with paragraph 23.
- Calculate the difference between step 2 and step 3; this will be the level of the relief.

26. Where the level of relief calculated takes a ratepayer over the state aid de-minimis level, relief will be capped at a level which keeps them inside these regulations.

Splits, mergers, and changes to existing properties

27. Where a new property has been created by a split or merger of property(s) after the 1st April 2015, the new property may be eligible for transitional relief providing that the parent property qualified for transitional relief under this policy.

28. Changes in rateable value which take effect from a later date will be calculated in accordance with the rules in the statutory transitional relief scheme.
29. Where a property which qualifies for relief under this scheme is subject to a change of circumstances, for example a change in rateable value or an award of another business rates relief, transitional relief awarded under this policy will be recalculated. This recalculation will take place regardless of the year in which the change arises.
30. The relief will be awarded in respect of the property rather than the ratepayer. Where a property is in receipt of Transitional Relief under this policy and a new ratepayer becomes liable for the property they may also benefit from transitional relief under this policy, subject to the new ratepayer's State Aid de minimis limits.

How will the relief work in Enterprise Zones?

31. Where a property is eligible for Enterprise Zone relief, that relief will be awarded. If a property in an Enterprise Zone is not eligible for Enterprise Zone relief, or that relief has ended, transitional relief may be awarded.

How Payments will be made

32. All relief awarded will be credited to the ratepayer's business rates account.

Examples

33. If a ratepayer would have been eligible for transitional relief with a cap of 25% in 2015/16 then their bill is calculated as follows:

	Step 1	Step 2	Step 3	Step 4
	2014/15	2015/16	2015/16	2015/16
Bill before any reliefs	£7,065	£7,200	£7,200	£7,200
Transitional Relief – had the scheme continued	£938	£0	£20	£0
Net bill before relief under this policy	£6,127	£7,200.	£7,180	£7,200
Localism Discount under this policy	£0	£0	£0	£20
Net Rates Bill	£6,127	£7,200	£7,180	£7,180

The value of the transitional relief had the scheme continued is £20. In practice extending transitional relief will be achieved by awarding a localism act discount which is calculated at the end of the bill. But because there are no other reliefs the value of the discount to ensure transitional relief continues is also £20.

34. If the same ratepayer also receives 80% charitable mandatory relief then their bill is calculated as follows:

	Step 1	Step 2	Step 3	Step 4
	2014/15	2015/16	2015/16	2015/16
Bill before any reliefs	£7,065	£7,200	£7,200	£7,200
Transitional Relief – had the scheme continued	£938	£0	£20	£0
Net bill before relief under this policy	£6127	£7,200	£7,180	£7,200
Charitable Relief	£4,902	£5,760	£5,744	£5,760
Localism Discount under this policy	£0	£0	£0	£4
Net Rates Bill	£1,225	£1,440	£1,436	£1,436

Notifications

35. The Council will inform the ratepayer applying in writing of the outcome of their application for transitional relief.

36. Where the application is not successful, the notification will provide reasons why we have decided not to award transitional relief and the applicant's right to ask us to look at the decision again.

37. Where the application is successful, the notification will include the period of the award and the amount of relief awarded for the period.

Overpayments

38. The Council will recover all overpayments of transitional relief through the ratepayer's business rates account.

Right of Appeal

39. If you are aggrieved by a decision made under this policy, you must write and tell us why you think the decision is wrong, e.g. whether the published criteria has been properly applied.

40. Your case will then be considered by someone who has not been involved in the original determination.

41. They will thoroughly check all the information we hold regarding the property along and any further information you have provided. They will decide whether or not the criteria have been properly applied. They could then: -

- a. Decide not to change the decision;
- b. Change the decision and award transitional relief

42. They will write to tell you what has happened, normally within 21 days of reconsidering your appeal.

Fraud

43. The Council is committed to the fight against fraud in all its forms. An organisation who tries to fraudulently apply for Retail Rate Relief by falsely

declaring their circumstances or providing a false statement or evidence in support of their application, may have committed an offence under the Theft Act 1968. Where we suspect that such a fraud may have occurred, the matter will be investigated in line with the Council's Anti-Fraud Strategy. This may lead to criminal proceedings being instigated.

Publicity and Information

44. The Council will include information about transitional relief in the business rates Section of the Council's website and other appropriate places.

Review

45. The policy will be reviewed periodically, taking into account any changes in legislation or guidance from Central Government regarding the funding for this relief.

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