

Item No. 18.	Classification: Open	Date: 22 July 2014	Meeting Name: Cabinet
Report title:		Non-Domestic Rates - Discretionary Rate Relief Policy for Retail Relief, Reoccupation Relief and New Build Empty Property Relief	
Ward(s) or groups affected:		All	
Cabinet Member:		Councillor Fiona Colley, Finance, Strategy and Performance	

FOREWORD – COUNCILLOR FIONA COLLEY, CABINET MEMBER FOR FINANCE, STRATEGY AND PERFORMANCE

The council is responsible for the billing and collection of non-domestic rates totalling £210m for the 2014/15 financial year. Following changes to local government funding and the introduction of the rate retention scheme with effect from 1 April 2013, the council retains 30% of this income.

The council currently grants discretionary rate relief to charities and other non profit making organisations using powers contained in Section 47 of the Local Government Finance Act 1988.

The council has been given additional powers to offer support to business through the provision of the following reliefs:

- Retail relief – to provide support to retailers as they look to adapt to changing consumer preferences with effect from 1 April 2014
- Reoccupation relief - to encourage thriving and diverse town centres by reducing the number of vacant shops with effect from 1 April 2014
- New build empty property relief – to help stimulate construction with effect from 1 October 2013.

Since these reliefs are a temporary measure for specified periods of time, the government has not introduced legislation to provide for these reliefs. It has instead stated that where local authorities use their powers contained in Section 47 of the Local Government Finance Act 1988 to grant these discretionary rate reliefs, the government will fully fund the reliefs granted through a central government grant and there is no cost to the council.

In line with our planning policies to deter the proliferation of betting shops, payday lenders and hot food takeaways on our high streets, these types of retail businesses will not be eligible for relief.

RECOMMENDATION

1. That cabinet approve the discretionary rate relief policy attached as Appendix A for retail relief, reoccupation relief and new build empty property relief.

BACKGROUND INFORMATION

2. The council has recently been granted powers to grant rate reliefs to encourage thriving and diverse town centres by reducing the number of empty shops, to support retailers as they look to adapt to changing consumer preferences and provide support to the construction industry.
3. Since these are temporary reliefs, the government is not changing legislation but will reimburse local authorities that use their discretionary powers under Section 47 of the Local Government Finance Act 1988 (which were introduced by the Localism Act 2011) to grant relief.
4. The government expects local authorities to grant relief to qualifying ratepayers.
5. The government has specified the criteria for each of the reliefs as outlined below and in the discretionary rate relief policy attached in Appendix A.

Retail relief

6. The government will fund relief of up to £1,000 to all occupied retail properties with a rateable value of £50,000 or less in each of the years 2014/15 and 2015/16.
7. To qualify for the relief, the property must be wholly or mainly used as a shop, restaurant, cafe or drinking establishment.
8. Details of the types of businesses that would qualify for the relief and those that would not qualify are listed in Appendix A.
9. Ratepayers who occupy more than one property will be entitled to relief for each of their eligible properties.
10. The amount of relief that can be awarded to ratepayers over a 3 year period is restricted however, it is very unlikely the threshold will be reached given the values involved.

Reoccupation relief

11. Properties that will qualify for the relief are occupied properties that:
 - were previously used for retail use
 - were empty for a period of twelve months or more immediately before their reoccupation
 - become reoccupied between 1 April 2014 and 31 March 2016.
12. In relation to a premises previous retail use, details of these are listed in Appendix A.
13. The new use of the reoccupied property can be for any use (not just for retail use) except for betting shops, payday loan shops and pawn brokers.
14. The relief will be available for 18 months from the first day of reoccupation where this is between 1 April 2014 and 31 March 2016, subject to the property being occupied continuously.

15. The relief available is 50% of the business rate liability after any mandatory or other discretionary reliefs (other than retail relief) have been granted, subject to the overall limit as outlined in line 10 above.

New build empty property relief

16. Properties that will qualify for this relief will be unoccupied properties that are wholly or mainly comprised of qualifying new structures.
17. The definition of 'new' is those properties completed less than 18 months previously and completed after 1 October 2013 and before 30 September 2016.
18. The definition of 'structures' is foundations, permanent walls and permanent roofs.
19. New structures are to be considered completed when the building or part of the building of which they form part is ready for occupation for the purpose it was constructed, unless a completion notice has been served, in which case it would be the date specified in the notice.
20. Where a property is created as a result of a split or merger of other properties, or where an existing property is altered (eg by adding an extension) the same test will apply, in that the new property must be wholly or mainly comprised of new structures.
21. The relief is for the property and it will continue to qualify on a change of owner.
22. The relief will apply for a period of 18 months from the date on which the property was completed, where a property is completed after 1 October 2013 and before 30 September 2016.
23. Where, during this 18 month period, a property is occupied and then becomes empty, the ratepayer would qualify for the relief for any relevant period in the 18 months, after the initial rate free period applicable to all empty properties has been applied.

KEY ISSUES FOR CONSIDERATION

Policy implications

24. The government funding for the new reliefs applies where the circumstances that attract the relief occur during specific periods:
 - Retail relief – 1 April 2014 to 31 March 2016
 - Reoccupation relief - 1 April 2014 to 31 March 2016
 - New build empty relief – 1 October 2013 to 29 September 2016
25. Therefore the discretionary rate relief policy provides for the reliefs to be granted where the government will be fully funding the granting of reliefs through a central government grant and there is no cost to the council.

Resource implications

26. The cost of rate relief is met from a central government grant. The estimated amount of relief for the financial year 2014/15 are estimated in the table below:

Type	No. of properties	Value of relief	Total value
Retail rate relief	3,261	£1,000	£3,261,000
Reoccupation rate relief	86	50%	£284,820
New build empty property rate relief	1	100%	£25,064
Total	3,348	-	£3,570,884

Community impact statement

27. This policy provides equality of access to discretionary relief, due to clear criteria for the award of relief and consideration of all applications in the same timescales.

Consultation

28. The policy gives effect to central government initiatives to grant rate reliefs to encourage thriving and diverse town centres by reducing the number of empty shops, to support retailers as they look to adapt to changing consumer preferences and provide support to the construction industry. The cost of the reliefs will be reimbursed by central government and consultation has not been undertaken.

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Director of Legal Services

29. As identified above, Section 47 of the Local Government Finance Act 1988 and subsequent amending legislation provides the provisions and criteria for awarding discretionary rate relief. The Localism Act 2011 amended Section 47 of the Local Government Finance Act 1988 to allow local authorities to reduce the business rates of any local ratepayer (not just those who can currently be granted discretionary relief), via a local discount scheme.
30. Statutory guidance states that any discretionary rate relief or local discount scheme must be in the interests of the wider council taxpayer.
31. It is the responsibility of the billing authority to agree and set the duration of the award of such relief, at which time due regard will be had to the Public Sector Equality Duty.

Strategic Director of Finance and Corporate Services (FC14/007)

32. This report seeks cabinet approval to the discretionary rate relief policy, attached as Appendix A, for retail relief, reoccupation relief and new build empty property relief. The financial implications are contained in the body of this report

33. The strategic director of finance and corporate services notes that this policy is fully funded by a central government grant and that there is no cost to the council for granting the reliefs. The officer time to enact this policy can be contained within existing staff resources.

BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
None		

APPENDICES

No.	Title
Appendix A	Non Domestic Rates Discretionary Rate Relief Policy - Retail relief, Reoccupation Relief and New build empty property relief

AUDIT TRAIL

Cabinet Member	Councillor Fiona Colley, Finance, Strategy & Performance	
Lead Officer	Duncan Whitfield, Strategic Director of Finance and Corporate Services	
Report Author	Norman Lockie, Operations Manager (Revenues)	
Version	Final	
Dated	11 July 2014	
Key Decision?	No	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER		
	Officer Title	Comments Sought
	Director of Legal Services	Yes
	Strategic Director of Finance and Corporate Services	Yes
	Cabinet Member	Yes
	Date final report sent to Constitutional Team	11 July 2014

Discretionary rate relief policy

Southwark Council
Non-domestic rates
Discretionary
rate relief policy
for
Retail relief,
Reoccupation relief
&
New build empty property relief

1.0 Introduction

- 1.1 This policy relates to retail, reoccupation and new build empty property rate relief that the Council has a discretionary power to award under Section 47 of the Local Government Finance Act 1988, as amended by the Localism Act 2011 and is effective from 1 April 2014.

2.0 Discretionary rate relief – retail relief

- 2.1 To qualify for retail relief, a property must be occupied, have a rateable value of £50,000 or less and be wholly or mainly used as a shop, restaurant, cafe or drinking establishment
- 2.2 The amount of relief that will be granted is up to £1,000 per year in respect of the periods 1 April 2014 to 31 March 2015 and 1 April 2015 to 31 March 2016
- 2.3 The eligibility for the relief and the amount of relief to be granted will be assessed and calculated on a daily basis. The calculation of the amount of relief that will be granted for a property will be calculated using the formula:

$$\text{Amount of relief to be granted} = \text{£}1000 \times \frac{A}{B}$$

Where:

A is the number of days in the financial year that the property is eligible for relief; and

B is the number of days in the financial year

The 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. This will be calculated ignoring any prior year adjustments in liabilities which fall to be liable on the day

Where a new property is created as a result of a split or merger during the financial year, or where there is a change of use, will be considered afresh for the relief on that day

- 2.4 The following types of occupation are considered as retail use and will therefore qualify for this relief:

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 (excluding Town and Country Planning (Use Classes) Order 1987 (as amended) **A5 Hot food takeaways** - For the sale of hot food for consumption off the premises)
- Sandwich shops
- Coffee shops
- Pubs
- Bars

2.5 The following types of occupation are not considered to be retail use for the purpose of this relief, and will therefore not qualify for 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, bureaux 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 advisors, tutors)
- Post office sorting office

- 2.6 Properties that are not reasonably accessible to visiting members of the public are also not considered to be retail use for the purposes of this relief.
- 2.7 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.
- 2.8 The applicant or their authorised representative must complete an application form which includes a declaration regarding state aid. An inspection of the property may be made as part of the decision making process.
- 2.9 This relief will only be available between 1 April 2014 and 31 March 2016

3.0 Discretionary rate relief – reoccupation relief

- 3.1 To qualify for relief, the following circumstances must apply to a property:
- when last occupied, it must have been used for retail use
 - it has been empty for a period of twelve months or more immediately before the reoccupation
 - it has been reoccupied between 1st April 2014 and 31st March 2016
- 3.2 The previous usage of a property that is considered retail use is:

Properties that were previously 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 were 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 were 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, payday lenders, betting shops, pawn brokers)
- Other services (e.g. estate agents, letting agents, employment agencies)

Properties that were being used for the sale of food and/or drink to visiting members of the public:

- Restaurants
- Takeaways(excluding Town and Country Planning (Use Classes) Order 1987 (as amended) **A5 Hot food takeaways** - For the sale of hot food for consumption off the premises)
- Sandwich shops
- Coffee shops
- Pubs
- Bars

- 3.3 The new use of the reoccupied property can be for any use (not just for retail use), except for betting shops, payday loan shops and pawn brokers.
- 3.4 The relief will be available for 18 months from the first day of reoccupation where this is between 1st April 2014 and 31st March 2016, subject to the property being occupied continuously.
- 3.5 The relief available is 50% of the business rate liability after any mandatory or other discretionary reliefs (other than retail relief) have been granted, subject to State Aid de minimis limits.
- 3.6 Where a new property has been created by a split or merger of properties, the new property will qualify for reoccupation relief where at least half of the floor area of the new property is made up of retail properties that have been empty for 12 months or more (subject to meeting the other criteria outlined in 3.1, 3.2 and 3.3 above).
- 3.7 Where a property in receipt of reoccupation relief becomes unoccupied for any period of time less than 12 months it will not be eligible for any further reoccupation relief on occupation.
- 3.8 A property that has previously received reoccupation relief and becomes empty for 12 months or more will be eligible for an additional 18 months reoccupation relief if the criteria outlined in 3.1, 3.2 and 3.3 are met.
- 3.9 The relief runs with the property rather than the ratepayer. Where there is a change of ratepayer, the new ratepayer can benefit from the remaining term of the relief, subject to the new ratepayers State Aid de minimis limits.

3.10 The applicant or their authorised representative must complete an application form which includes a declaration regarding state aid. An inspection of the property may be made as part of the decision making process.

3.11 This relief will only be available between 1 April 2014 and 31 March 2016

4.0 Discretionary rate relief –new build empty property relief

4.1 Properties that will qualify for this relief are all unoccupied properties that are wholly or mainly comprised of qualifying new structures.

4.2 In order to qualify for the relief, the premises must be wholly or mainly comprised of qualifying new structures. Structures are defined as:

- a) Foundations; and/or
- b) Permanent walls; and/or
- c) Permanent roofs

New is defined as;

- a) Completed less than 18 months previously; and
- b) Completed after 1st October 2013 and before 30th September 2016

4.3 New structures are to be considered completed when the building or part of the building of which they form part is ready for occupation for the purpose it was constructed, unless a completion notice has been served, in which case it would be the date specified in the notice.

4.4 Where a property is created as a result of a split or merger of other properties, or where an existing property is altered (eg by adding an extension) the same test will apply, in that the new property must be wholly or mainly comprised of new structures.

4.5 The relief is for the property and it will continue to qualify on a change of owner, subject to State Aid de minimis limits

4.6 The relief will apply for a period of 18 months from the date on which the property was completed, where a property is completed after 1st October 2013 and before 30th September 2016.

4.7 Where, during this 18 month period, a property is occupied and then becomes empty, the ratepayer would qualify for the relief for any relevant period in the 18 months, after the initial rate free period applicable to all empty properties has been applied.

4.8 The relief is granted to the property rather than the ratepayer, therefore subsequent owners may also qualify

4.9 The applicant or their authorised representative must complete an application form which includes a declaration regarding state aid.

5.0 Appeals

- 5.1 Where an application for discretionary rate relief is refused, any appeal against this decision must be made in writing, together with evidence to support the reasons for the appeal
- 5.2 The appeal will be considered by a manager who has not previously considered the application. The decision reached will be notified in writing within 14 days
- 5.3 If an appeal is unsuccessful, then judicial review is the means by which a decision of a billing authority under its power to grant discretionary rate relief may be challenged. Independent legal advice must be sought if this course of action is taken.