

AMENDED AGENDA

CABINET MEETING



Date: Monday 24 February 2014
Time: 6.30 pm
Venue: Town Hall, High Street,
Maidstone

Membership:

Councillors Garland (Chairman), Greer, Moss,
Paine, Mrs Ring and J.A. Wilson

Page No.

1. Apologies for Absence
2. Urgent Items
3. Notification of Visiting Members
4. Disclosures by Members and Officers
5. Disclosures of lobbying
6. To consider whether any items should be taken in private because of the possible disclosure of exempt information

Continued Over/:

Issued on 19 February 2014

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**Alison Broom, Chief Executive, Maidstone Borough Council,
Maidstone House, King Street, Maidstone Kent ME15 6JQ**

KEY DECISION REPORTS

7. Report of the Head of Planning and Development - Maidstone Borough Local Plan Public Consultation Draft (Regulation 18)
8. Report of the Head of Planning and Development - Infrastructure Delivery Plan (IDP)
9. Report of the Head of Planning and Development - Community Infrastructure Levy - Preliminary Draft Charging Schedule

NON-KEY DECISION REPORTS

10. **Report of the Director of Environment and Shared Service - Business Rates - Retail Relief** **445 - 462**

MAIDSTONE BOROUGH COUNCIL

CABINET

MONDAY 24 FEBRUARY 2014

REPORT OF DIRECTOR OF ENVIRONMENT AND SHARED SERVICES

Report prepared by Stephen McGinnes

1. BUSINESS RATES - RETAIL RELIEF

1.1 Issue for Decision

1.1.1 To consider adopting a scheme for the administration of retail rate relief.

1.2 Reason for Urgency

1.2.1 An urgent decision is required in order to inform businesses of their rates liability commencing 1st April 2014.

1.3 Recommendation of Head of Revenues and Benefits

1.3.1 That Cabinet agrees to delegate authority to the Director of Environment and Shared Services, in consultation with the Cabinet Member for Corporate Services to agree and implement a scheme for the award of retail relief in line with the guidance provided by the Department for Communities and Local Government (DCLG).

1.3.2 That the scheme is to operate in 2014-15 and 2015-16 only, with no provision for awards to be backdated after 31st March 2016.

1.4 Reasons for Recommendation

1.4.1 As part of the Autumn Statement released on 5 December 2013 the Government announced that it would provide business rate relief of up to £1,000 to all occupied retail properties with a rateable value of £50,000 or less during 2014-15 and 2015-16.

1.4.2 The aim at a national level in making such relief available is to support town centres and retailers as they adapt to changing consumer preferences in how people shop.

- 1.4.3 At a local level it will enable the Council to gain national funding to reduce the rates liability of local retailers, supporting the High Street, business sector and local economy more generally.
- 1.4.4 The relief is to be awarded at the discretion of the Council and can be made available to those businesses wholly or mainly being used as shops, restaurants, cafes and drinking establishments. A full list of the types of businesses that will and will not be included can be found on pages 5 to 7 of appendix A.
- 1.4.5 It is estimated that up to 820 businesses would be eligible for the relief, the cost of which would be borne by Central Government.
- 1.4.6 The businesses would receive a reduction up to £1,000, reduced if the amount of rates payable is less than £1,000 due to the award of other forms of relief e.g. small business rates relief or the relief is awarded for less than a full year.
- 1.4.7 A paragraph will be included in all business rate bills stating that the rate payer should inform the Borough Council if it receives state aid in excess of the permitted limit and the relief will then be removed. The current state aid limit is €200,000 (cash grant equivalent) over a 3 year fiscal period. It is likely that national chains with smaller hereditaments could reach this limit, however until billing authorities start to award this relief they may not fall under the state aid rules.
- 1.5 Alternative Action and why not Recommended
- 1.5.1 The council could decide not to implement a scheme or introduce a restricted scheme to only apply in certain parts of the borough, fewer categories of properties or provide a lower level of reduction. In doing so it would limit the level of central government funding that is being brought into the borough to support retailers.
- 1.5.2 Equally the council could expand the scheme but the additional cost would need to be met by the Borough Council.
- 1.6 Impact on Corporate Objectives
- 1.6.1 In providing additional support to retailers the Council is actively promoting the corporate priority for Maidstone to be a good place to do business, with a growing economy and wide range of employment and business opportunities.
- 1.7 Risk Management

1.7.1 In introducing a scheme which provides a discount for 2 years only, businesses may feel that there has been a significant increase in the level of rates payable at the end of the discount period.

1.7.2 The restrictions on state aid are complex and are likely to be unfamiliar to many small businesses, resulting in an increase in enquiries.

To mitigate this risk, an explanatory note will be issued to those businesses that qualify for relief.

1.8 Other Implications

1.8.1

1. Financial	X
2. Staffing	
3. Legal	
4. Equality Impact Needs Assessment	
5. Environmental/Sustainable Development	
6. Community Safety	
7. Human Rights Act	
8. Procurement	
9. Asset Management	

1.8.2 Financial – It is estimated that retail rate relief will be awarded to 820 businesses, at a cost of £760,000. Central Government will reimburse the Council and major precepting authorities 40% of the cost, representing the share of business rates that the council would otherwise retain under the rates retention scheme.

1.9 Relevant Documents

1.9.1 Appendices

Appendix A – Retail Relief Guidance DCLG

1.9.2 Background Documents

None.

IS THIS A KEY DECISION REPORT?

THIS BOX MUST BE COMPLETED

Yes

No

If yes, this is a Key Decision because:

.....

Wards/Parishes affected:

.....



Department for
Communities and
Local Government

Business Rates

Retail Relief – Guidance

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January 2014

ISBN: 978-1-4098-4119-7

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Business Rates Retail Relief – Guidance

About this guidance

1. This guidance is intended to support local authorities in administering the “Retail Relief” announced in the Autumn Statement on 5 December 2013. This Guidance applies to England only.
2. This guidance sets out the detailed criteria which central Government will use to determine funding relief for retail properties. The Guidance does not replace existing legislation on retail properties or any other relief.
3. Enquiries on this measure should be addressed to:
ndr@communities.gsi.gov.uk

Introduction

4. The retail sector is changing, particularly due to internet shopping, and many high streets are experiencing challenges as they look to adapt to changing consumer preferences in how people shop. The Government wishes to support town centres in their response by providing particular support to retailers.
5. The Government announced in the Autumn Statement on 5 December 2013 that it will provide a 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.
6. This document provides guidance to authorities about the operation and delivery of the policy. Government anticipates that local authorities will include details of the relief to be provided to eligible ratepayers for 2014-15 in their bills for the beginning of that year.

Section 1:

Retail Relief

How will the relief be provided?

7. As this is a measure for 2014-15 and 2015-16 only, the Government is not changing the legislation around the reliefs available to properties. Instead the Government will, in line with the eligibility criteria set out in this guidance, reimburse local authorities that use their discretionary relief powers, introduced by the Localism Act (under section 47 of the Local Government Finance Act 1988, as amended) to grant relief. It will be for individual local 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). The Government expects local government to grant relief to qualifying ratepayers.
8. Central government will reimburse billing authorities and those major precepting authorities within the rates retention system for the actual cost to them under the rates retention scheme of the relief that falls within the definitions in this guidance. Local authorities will be asked to provide an estimate of their likely total cost for providing the relief in their National Non Domestic Rate Return 1 (NNDR1) for 2014-15 and 2015-16. Central government will provide payments of the local authorities' share to authorities over the course of the relevant years.

Which properties will benefit from relief?

9. Properties that will benefit from the relief will be occupied hereditaments with a rateable value of £50,000 or less, that are wholly or mainly being used as shops, restaurants, cafes and drinking establishments.
10. We consider shops, restaurants, cafes and drinking establishments to mean:
 - i. **Hereditaments 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)

ii. Hereditaments that are being used for the provision of the following services to visiting members of the public:

- Hair and beauty services (such as: 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

iii. Hereditaments that are being used for the sale of food and/ or drink to visiting members of the public:

- Restaurants
- Takeaways
- Sandwich shops
- Coffee shops
- Pubs
- Bars

11. To qualify for the relief the hereditament 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, hereditaments which are occupied but not wholly or mainly used for the qualifying purpose will not qualify for the relief.
12. The list set out above is not intended to be exhaustive as it would be impossible to list the many and varied retail uses that exist. There will also be mixed uses. However, it is intended to be a guide for authorities as to the types of uses that government considers for this purpose to be retail. Authorities should determine for themselves whether particular properties not listed are broadly similar in nature to those above and, if so, to consider them eligible for the relief. Conversely, properties that are not broadly similar in nature to those listed above should not be eligible for the relief.
13. As the grant of the relief is discretionary, authorities may choose not to grant the relief if they consider that appropriate, for example where granting the relief would

go against the authority's wider objectives for the local area. We would encourage councillors to be consulted on the final scheme that the local authority adopts, so there is a clear line of accountability in case of a dispute on the final local scheme that is adopted.

14. The list below sets out the types of uses that government does not consider to be retail use for the purpose of this relief. Again, it is for local authorities to determine for themselves whether particular properties are broadly similar in nature to those below and, if so, to consider them not eligible for the relief under their local scheme.

i. Hereditaments that are being used for the provision of the following services to visiting members of the public:

- Financial services (e.g. banks, building societies, cash points, 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

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

How much relief will be available?

15. The total amount of government-funded relief available for each property for each of the years under this scheme is £1,000. 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. Of course, councils may use their discretionary powers to offer further discounts outside this scheme (and under local rate retention, 50 per cent of the cost would be locally funded and 50 per cent funded by central government).

16. The eligibility for the relief and the relief itself will be assessed and calculated on a daily basis. The following formula should be used to determine the amount of relief to be granted for a particular hereditament in the financial year:

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

Where:

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

B is the number of days in the financial year

17. The relief will be applied against the net bill after all other reliefs.

18. 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 should be calculated ignoring any prior year adjustments in liabilities which fall to be liable on the day.
19. 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.

State Aid

20. State Aid law is the means by which the European Union regulates state funded support to businesses. 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)¹.
21. 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). Local authorities should familiarise themselves with the terms of this State Aid exemption, in particular the types of undertaking that are excluded from receiving De Minimis aid (Article 1), the relevant definition of undertaking (Article 2(2)²) and the requirement to convert the aid into Euros³.
22. To administer De Minimis 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 of De Minimis aid. Note that the threshold only relates to aid provided under the De Minimis Regulations (aid under other exemptions or outside the scope of State Aid is not relevant to the De Minimis calculation). Section 3 of this guidance contains a sample De Minimis declaration which local authorities may wish to use. Where local authorities have further questions about De Minimis or other aspects of State Aid law, they should seek advice from their legal department in the first instance⁴.

Splits, mergers, and changes to existing hereditaments

23. The relief should be applied on a day to day basis using the formula set out above. A new hereditament created as a result of a split or merger during the financial year, or where there is a change of use, should be considered afresh for the relief on that day.

¹ <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2013:352:0001:0008:EN:PDF>

² The 'New SME Definition user guide and model declaration' provides further guidance: http://ec.europa.eu/enterprise/policies/sme/files/sme_definition/sme_user_guide_en.pdf

³ http://ec.europa.eu/budget/contracts_grants/info_contracts/infoeuro/infoeuro_en.cfm

⁴ Detailed State Aid guidance can also be found at:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/15277/National_State_Aid_Law_Requirements.pdf

How will the relief work in Enterprise Zones?

24. Where a property is eligible for Enterprise Zone relief, that relief should be granted and this will be funded under the rates retention scheme by a deduction from the central share. If a property in an Enterprise Zone is not eligible for Enterprise Zone relief, or that relief has ended, Retail Relief may be granted in the normal way, and this would be reimbursed by grant under section 31 of the Local Government Act 2003. Local authorities should not claim funding for retail relief on properties which would otherwise qualify for Enterprise Zone government funded relief.

Section 2 – Calculation examples for 2014-15

Example 1 – An occupied shoe shop with a rateable value of £40,000

Rateable Value = £40,000

Rates due (excluding any reliefs) = £40,000 x 0.482 = £19,280

Minus 12 months retail relief = £19,280 - £1,000 = £18,280

Rates due (including retail relief) = **£18,280**

Example 2 – A shoe shop with a rateable value of £40,000 that is unoccupied between 1 April 2014 and 30 September 2014 and is then occupied until 31 March 2015.

Rateable Value = £40,000

Rates due (excluding any reliefs) = £40,000 x 0.482 = £19,280

Minus 3 months (no empty rates payable) = £40,000 x 0.482 x $\frac{91}{365}$ = £4,806.79

Minus 6 months retail relief (01/10/14-31/03/15) = £1,000 x $\frac{182}{365}$ = £498.63

Total due for year = **£13,974.58**

Example 3 – An occupied shoe shop with a rateable value of £10,000 that is in receipt of small business rate relief of £1,554 per year.

Rateable Value = £10,000

Rates due (excluding any reliefs) = £10,000 x 0.471 = £4,710

Minus small business rate relief of 33% = £4,710 - £1,554 = £3,156

Minus 12 months retail relief = £3,156 - £1,000 = £2,156

Rates due (including all reliefs) = **£2,156**

Example 4 – An occupied charity shop with a rateable value of £10,000 that is in receipt of mandatory charitable rate relief

Rateable Value = £10,000

Rates due (excluding any reliefs) = £10,000 x 0.471 = £4,710

Minus charitable rate relief of 80% = £4,710 - £3,768 = £942

Minus 12 months retail relief = £942 - £942 (max relief allowable) = £0

Rates due (including all reliefs) = £0

Example 5 – A shoe shop with a rateable value of £30,000 that has occupied premises previously used as a jewellers shop that was empty for more than 12 months immediately prior to occupation.

Rateable Value = £30,000

Rates due (excluding any reliefs) = £30,000 x 0.482 = £14,460

Minus reoccupation relief of 50% = £14,460 - £7,230 = £7,230

Minus 12 months retail relief = £7,230 - £1,000 = £6,230

Rates due (including all reliefs) = **£6,230**

Section 3 – State Aid

Sample paragraphs that could be included in letters to ratepayers for 2014-15 about Retail Relief

The Government announced in the Autumn Statement on 5 December 2013 that it will provide a relief of up to £1000 to all occupied retail properties with a rateable value of £50,000 or less in each of the years 2014-15 and 2015-16. Your current rates bill includes this Retail Relief for 2014-15.

Awards such as Retail Relief are required to comply with the EU law on State Aid⁵. In this case, this involves returning the attached declaration to this authority if you have received any other De Minimis State Aid, including any other Retail Relief you are being granted for premises other than the one to which this bill and letter relates, and confirming that the award of Retail Relief does not exceed the €200,000 an undertaking⁶ can receive under the De Minimis Regulations EC 1407/2013.

Please complete the declaration and return it to the address above. In terms of declaring previous De Minimis aid, we are only interested in public support which is De Minimis aid (State Aid received under other exemptions or public support which is not State Aid does not need to be declared).

If you have not received any other De Minimis State Aid, including any other Retail Relief you are being granted for premises other than the one to which this bill and letter relates, you do not need to complete or return the declaration.

If you wish to refuse to receive the Retail Relief granted in relation to the premises to which this bill and letter relates, please complete the attached form and return it to the address above. You do not need to complete the declaration. This may be particularly relevant to those premises that are part of a large retail chain, where the cumulative total of Retail Relief received could exceed €200,000.

Under the European Commission rules, you must retain this letter for 3 years from the date on this letter and produce it on any request by the UK public authorities or the European Commission. (You may need to keep this letter longer than 3 years for other purposes). Furthermore, information on this aid must be supplied to any other public authority or agency asking for information on 'De Minimis' aid for the next three years.

⁵ Further information on State Aid law can be found at <https://www.gov.uk/state-aid>

⁶ An undertaking is an entity which is engaged in economic activity. This means that it puts goods or services on a given market. The important thing is what the entity does, not its status. Thus a charity or not for profit company can be undertakings if they are involved in economic activities. A single undertaking will normally encompass the business group rather than a single company within a group. Article 2.2 of the de minimis Regulations (Commission Regulation EC/ 1407/2013) defines the meaning of 'single undertaking'.

'DE MINIMIS' DECLARATION

Dear []

BUSINESS RATES ACCOUNT NUMBER: _____

The value of the business rates retail relief to be provided to [name of undertaking] by [name of local authority] is £ [] (Euros []).

This award shall comply with the EU law on State Aid on the basis that, including this award, [name of undertaking] shall not receive more than €200,000 in total of De Minimis aid within the current financial year or the previous two financial years). The De Minimis Regulations 1407/2013(as published in the Official Journal of the European Union L352 24.12.2013) can be downloaded at <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2013:352:0001:0008:EN:PDF>.

Please list all previously received De Minimis aid below, including the total amount of this and any other Retail Relief you are being granted.

Amount of De Minimis aid	Date of aid	Organisation providing aid	Nature of aid
€	1 April 2014 – 31 March 2015	Local authorities (for the Retail Relief total you do not need to specify the names of individual authorities)	Retail Relief

I confirm that:

- 1) I am authorised to sign on behalf of _____[name of undertaking]; and
- 2) _____[name of undertaking] shall not exceed its De Minimis threshold by accepting this Retail Relief.

SIGNATURE:

NAME:

POSITION:

BUSINESS:

ADDRESS:

DATE:

REFUSAL OF RETAIL RELIEF FORM

Name and address of premises	Business rates account number	Amount of Retail Relief

I confirm that I wish to refuse Retail Relief in relation to the above premises.

I confirm that I am authorised to sign on behalf of _____ [name of undertaking].

SIGNATURE:

NAME:

POSITION:

BUSINESS:

ADDRESS:

DATE: