



ANNEX 2

Tonbridge & Malling Borough Council
Policy for the granting of the new Relief Schemes
2017/18

Introduction

Over the past few years, a number of rate relief schemes have been led by Central Government but without specific legislative changes. The Council is keen to support such initiatives especially where they are designed to help local businesses and will look to maximise both the reliefs given as well as maximising any grants receivable. However, the Council reserves the right to vary its approach where thought appropriate.

All powers in relation to reliefs are administered under S47 of the Local Government Finance Act 1988 (and guidance is often provided), the Local Government and Rating Act 1997, the Local Government Act 2003 and the Localism Act 2011. However section 223 of the Local Government Act 1992 allows for delegation of decisions by the Council to Cabinet, Committees, Sub-Committees or Officers.

In the case of the Discretionary Relief scheme, Central Government is keen that individual Councils develop their own scheme to meet local needs. Government has allocated funds to the Council using a particular methodology, but it has been keen to point out that this should have no bearing on the actual scheme adopted by the Council.

This document covers all aspects of the new Relief Schemes which are available from April 2017. Where businesses apply for relief they will be granted (or not granted) relief in line with the following policy.

The decision to grant or not to grant discretionary relief is a matter purely for the Council. The Council's policy for granting other rate reliefs can be found on the Council's website www.tmbc.gov.uk

The Reliefs

The following reliefs are covered in this policy;

- **Local Public House Relief** (from 1 April 2017 for a one year period);
- **Supporting Small Businesses Relief** (from 1 April 2017 for a period of five years or until business pay their full rate charge or their transitional rate charge (calculated in accordance with the Non-Domestic Rating (Chargeable Amounts) (England) Regulations 2016); and
- **Local Discretionary Relief** (from 1 April 2017 for a period of up to four years).

Local Public House Relief

The Government has announced a new relief scheme for pubs that have a rateable value of below £100,000. Under the scheme, eligible pubs will receive a £1,000 discount on their bill. The relief will have effect for 2017/18 only.

The guidance from the government listed four questions that a public house needed to answer "Yes" to in order to be eligible. As this is a discretionary relief, businesses will have to apply for it to the Council however we will contact those we consider eligible.

If they self-declare that they can answer yes to each question, the discount will be applied. Warnings will be included that false declarations could lead to prosecution.

Supporting Small Businesses Relief

This relief is to be made available to those businesses that were seeing a large increase in their bills through the loss of some or all of the small business rates relief resulting from increases to their rateable values in the latest valuation exercise.

The government is not changing the legislation around transitional relief. Instead the government will, in line with the eligibility criteria for the Supporting Small Businesses scheme, reimburse billing authorities that use their discretionary relief powers, under section 47 of the Local Government Finance Act 1988, as amended, to grant relief. Central government will fully reimburse local authorities for the local share of the Supporting Small Businesses relief (using a grant under section 31 of the Local Government Act 2003).

To support these ratepayers, the Supporting Small Businesses relief will ensure that the increase per year in the bills of these ratepayers is limited to the greater of:

- a percentage increase p.a. of 5%, 7.5%, 10%, 15% and 15% 2017/18 to 2021/22 all plus inflation. Unlike the transitional relief scheme, for the first year of the scheme the percentage increase is taken against the bill for 31 March 2017 after small business rate relief or rural rate relief , or
- a cash value of £600 per year (£50 per month). This cash minimum increase ensures that those ratepayers paying nothing or very small amounts in 2016/17 after small business rate relief are brought into paying something

Those businesses affected will be identified and the relief automatically applied without the need to apply.

Local Discretionary Relief

In March 2017, Central Government announced that it would make available a discretionary fund of £300 million over four years from 2017-18 to support those businesses that face the steepest increases in their business rates bills as a result of the revaluation. Government determined that Councils would be best placed to determine how this fund should be targeted and administered to support those businesses and locations within their area that are in the greatest need.

Where Central Government leads an initiative such as the Discretionary Business Rates Relief Scheme, grants are often made available. This is not automatic and Central Government will look to the Council to adopt any recommended criteria when granting in these areas to ensure that any grant is paid.

Every authority within England is to be provided with a share of the fund to support their local businesses. This is to be administered through billing authorities' discretionary relief powers under section 47 of the Local Government Act 1988. The full effects of the financial allocation are shown below.

The allocation of monies to authorities and the methodology of the funding award is completely separate to the scheme itself and Government believes that local authorities are best placed to judge the particular circumstances of local ratepayers and direct the funding where it is most needed to support local economies.

The funding is not provided equally over the four-year period but in the following approximate proportions:

Year 1 (2017/18) 58%

Year 2 (2018/19) 28%

Year 3 (2019/20) 12%

Year 4 (2020/21) 2%

Councils will be compensated for any relief granted under section 31 of the Local Government Act 2003. The Government has decided underspend cannot be 'vired' from one year to the next.

Consultation

The Council has consulted with the major preceptors in relation to this scheme and has taken their comments into account when determining the eligibility criteria. This is an essential part of the Discretionary Business Rates Relief Scheme and is in line with the grant determination issued by the Department of Communities and Local Government (DCLG) No.31/3071.

The grant determination states that a condition of the fund is that consultation is undertaken with 'relevant authorities'. Relevant authorities for the purposes of this scheme means:

- a. Any (relevant) major precepting authority; and
- b. Any combined authority.

In the case of Tonbridge & Malling Borough Council only the relevant major precepting authorities have been consulted namely:

- a. Kent County Council; and
- b. The Kent Fire and Rescue Service

The financial effects to the Council of the Discretionary Business Rates Relief Scheme are shown in the following table;

Amount of discretionary fund awarded (£000s)

2017-18	2018-19	2019-20	2020-21
338	164	68	10

Administration of Discretionary Relief

The following section outlines the procedures followed by officers in granting, amending or cancelling discretionary relief and reduction. This is essentially laid down by legislation.

A fresh application for discretionary relief will be necessary for each financial year or at such time-period as the Council determines.

Relief cannot be awarded to any hereditament occupied by a Billing or Precepting Authority (excepted hereditament).

Applications for relief under this scheme

The Council is keen to identify ratepayers who may qualify for the relief and as such will look to encourage certain ratepayers to apply. The Council will look to simplify the application process wherever possible, but it will expect any ratepayers to provide such information as is required by the Council to support their application.

The Council has decided that relief under the scheme will be awarded using the following criteria:

- The scheme is designed to assist ratepayers who have suffered significant increases in rate liability due to the revaluation and the subsequent increase to their Rateable Value;
- Relief will not be granted where a hereditament has a rateable value of £200,000 or more at 1 April 2017;
- Relief will not be awarded where mandatory relief is granted;

In assessing any potential entitlement to an award under this scheme, the Council will compare the following:

- The rate liability of the ratepayer at 31 March 2017 after any reliefs and reductions; and
- The rate liability of the ratepayer at 1 April 2017 taking into account any transitional relief or discretionary relief already awarded;
- Relief will only be given to premises which are liable for occupied rates. No relief within this scheme will be granted for unoccupied premises;
- Relief will only be granted to ratepayers who were in occupation at 31 March 2017 and in occupation on 1 April 2017 and for each day subsequently.
- Ratepayers taking up occupation after the 1 April 2017 will not be eligible for relief on the basis that new ratepayers would not have suffered from increases due to a revaluation;
- Relief will be targeted to local businesses and not those businesses that are national or multi-national in nature. Local businesses are, for the purposes of this scheme, those which have premises wholly in the Councils area;
- Relief may be awarded for more than one premises as long as all other criteria are met;

Relief will not be awarded where:

- the ratepayer has applied for a reduction under S44a of the Local Government Finance Act 1988; or
- the hereditament is used for the purposes of Public Services; or
- the hereditament has an increase in Rateable Value after the 1 April 2017 which increases the rate charge above the 1 April 2017 value.

Amount of Relief

The amount of relief is tapered and will be calculated as follows:

2017/18

Relief will be awarded where the calculation would result in an increase of more than 2% or £250 whichever is the higher;

2018/19

Award = 2017/18 award x 48% (for clarity this will be 48% of the relief awarded in 2017/18)

2019/20

Award = 2018/19 award x 41% (for clarity this will be 41% of the relief awarded in 2018/19)

2020/21

Award = 2019/20 award x 15% (for clarity this will be 15% of the relief awarded in 2019/20)

Variation and amendment of relief under the scheme

As with all reliefs, the amount of relief awarded under the Discretionary Businesses Rates Relief Scheme will be recalculated in the event of a change of circumstances. In effect relief is calculated on a daily basis in line with the ratepayer's liability on that day. This will include, for example, a backdated change to the rateable value of the hereditament. This change of circumstances could arise during the year in question or during a later year.

The Non-Domestic Rating (Discretionary Relief) Regulations 1989 (S.I. 1989/1059) requires the Council to provide ratepayers with at least one year's notice in writing before any decision to revoke or vary a decision so as to increase the amount the ratepayer has to pay takes effect. Such a revocation or variation of a decision can only take effect at the end of a financial year. But within these regulations, the Council may still make decisions which are conditional upon eligibility criteria or rules for calculating relief which allow the amount of relief to be amended within the year to reflect changing circumstances.

Reporting changes in circumstances

Where any award is granted to a ratepayer, the Council will require any changes in circumstances which may affect the relief to be reported as soon as possible and in any event not more than 21 days from the happening of the event. This will be important where the change would result in the amount of the award being reduced or cancelled e.g. where the premises comes unoccupied or is used for a purpose other than that determined by the Council as eligible for relief.

Where a change of circumstances is reported, the relief will, if appropriate be revised or cancelled. Where any award is to be reduced, the Council will look to recover the amount from the date the change of circumstances occurred.

Discretionary Relief – EU State Aid requirements

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

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

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

Where the relief to any one business is greater than the De Minimis level, then permission will need to be obtained from the European Commission. In such cases the matter will be referred to the Department for Communities and Local Government (DCLG) for advice and then referred back to the Council for consideration. It will be for the ratepayer to provide confirmation as to whether the State Aid provisions apply to them.

In all cases, where discretionary relief is to be granted or where liability is to be reduced, when making an application, ratepayers will be required to provide the Council with sufficient information to determine whether these provisions are applicable in their case.

Fraud

Where a ratepayer falsely applies for any relief or where the ratepayer provides false information, makes false representation, or deliberately withholds information in order to gain relief, prosecutions will be considered under the Fraud Act 2006.

Appeals

Where the Council receives an appeal from the ratepayer regarding the granting, non-granting or the amount of any discretionary relief, the case will be reviewed by the Revenues Manager. Where a decision is revised then the ratepayer shall be informed, likewise if the original decision is upheld.

Where the ratepayer continues to be aggrieved by the decision, the case will be referred to the section 151 Officer for review. Where appropriate, cases of this nature may also be referred to the Executive member as appropriate.

Ultimately the formal appeal process for the ratepayer is Judicial Review although the Council will endeavour to explain any decision fully and openly with the ratepayer.

The Council will provide this service and guidance free of charge. Ratepayers are encouraged to approach the Council direct and NOT pay for such services through third parties.