

Name of meeting: Cabinet

Date: 19 March 2019

Title of report: Discretionary Retail Discount Scheme 2019/20 & 2020/21

Purpose of report: To confirm the criteria for the Retail scheme

Key Decision - Is it likely to result in spending or saving £250k or more, or to have a significant effect on two or more electoral wards?	Yes
Key Decision - Is it in the Council's Forward Plan (key decisions and private reports?)	Yes If yes also give date it was registered 27/02/2019
The Decision - Is it eligible for call in by Scrutiny?	Yes If no give the reason why not
Date signed off by <u>Strategic Director</u> & name	Rachel Spencer-Henshall – 11 March 2019
Is it also signed off by the Service Director (Finance)?	Eamonn Croston – 27 February 2019
Is it also signed off by the Service Director for Legal Governance and Commissioning?	Julie Muscroft – 11 March 2019
Cabinet member portfolio	Give name of Portfolio Holder Cllr Graham Turner

Electoral wards affected: All

Ward councillors consulted: None

Public or private: Public

(Have you considered GDPR?)

Check: Yes – most of the properties affected will be occupied by business ratepayers, but there is no overall impact on GDPR as relief will be awarded based on the qualifying criteria.

1. Summary

- 1.1 Government announced a discretionary Business Rates Retail Discount Scheme as part of the Autumn Budget announcement on 29 October 2018. This was subsequently confirmed as part of the finalised Government Financial Settlement 2019-20 on 29 January 2019. This report sets out proposals for how the scheme will operate in Kirklees for 2019/20 and 2020/21. This particular relief applies to businesses with a rateable value of less than £51k.
- 1.1 There is a need to determine the qualifying criteria that will apply, having regard to the general guidance and criteria that has been issued by central government. Whilst there was a previous retail relief scheme in operation in 2014/15 and 2015/16, and the guidance issued is almost identical in most respects, the difference with this proposed scheme concerns the amount of relief available. Previously, the total amount of relief available in each case was restricted to the maximum of £1,000 in the first year and £1,500 in the final year of the scheme. Under the new scheme, the relief awarded will be one third of a qualifying ratepayer's net rates bill. Therefore, the amount awarded will be higher.
- 1.2 The scheme is aimed at occupied properties (not empty shops) with a rateable value of less than £51,000 in each of the financial years 2019/20 and 2020/21, and the type of businesses that may qualify are indicated in Appendices 1 and 2 although it should be noted that this is not an exhaustive list. For any relief awarded, there will be a compensating Government grant to the Council (referred to as a Section 31 business rates relief grant) exactly matched to the amount awarded; net neutral to the Council's overall budget position. Appendix 3 sets out Government prescribed non-qualifying uses, for information.

2 Information required to take a decision

- 2.1 By adopting a scheme, there is a clear line of accountability through the organisation in case of any dispute regarding decisions to award or refuse discretionary retail relief. Whilst the grant of relief is effectively 'discretionary' and therefore the authority could, in theory, choose not to grant the relief, authorities are nevertheless encouraged to consult members and adopt a scheme, particularly as the cost of granting relief is fully (i.e. 100%) funded by Government. Government anticipates that all billing authorities nationally will adopt the scheme.
- 2.2 The Council's system supplier Northgate are yet to release the software to calculate the retail relief so this change will take place after annual billing, with the relief being backdated to the 1st of April 2019. Therefore, the actual amount of relief likely to be awarded is unknown at this stage.
- 2.3 Government has indicated that it is expecting local authorities as much as possible to identify eligible businesses from rating records or other sources, rather than relying on eligible ratepayers to complete an application form, therefore, retail relief will be awarded automatically in the vast majority of cases. However, this will be subject to state aid rules.
- 2.4 Whilst Government guidance sets out general qualifying criteria, no list can ever be exhaustive. It would be impossible to list all of the many and varied retail uses that exist in the valuation list, including mixed use properties. It is in such cases that the authority will be expected to determine for itself whether particular properties are broadly similar in nature to those above and, if so, to consider them eligible for relief.

3 Implications for the Council

- 3.1 Relief is calculated on a daily basis. Where a property is empty, retail relief cannot be granted. As soon as a property is reoccupied, relief can be awarded once again subject to the retail use being one of the qualifying retail uses.
- 3.2 Appendix 1 provides details of the types of property that the Government considers to qualify, Appendix 3 provides details of the types of property that the Government considers as non-qualifying uses and which will also be adopted by the authority, unless they have been identified in appendix 2.
- 3.3 Examples of properties that are “broadly similar” in use are listed in Appendix 2. These are retail uses that are not specifically covered in Appendix 1 but it is considered that the retail use is similar in nature to other qualifying categories. Approval of the uses listed in Appendix 2 will allow for relief to be granted in those cases as well and will provide greater clarity of decision making.
- 3.4 The list of property types in Appendix 2 is not an exhaustive list; therefore, delegated responsibility is also sought for officers to award relief to other properties types that are deemed to meet the criteria or are broadly similar.
- 3.5 **Working with People**
N/A
- 3.6 **Working with Partners**
N/A
- 3.7 **Place Based Working**
N/A
- 3.8 **Improving outcomes for children**
N/A
- 3.9 **Other (eg Legal/Financial or Human Resources)**
Financial
- 3.10 The value of relief will be one third of the net rates bill and will be applied after mandatory and other discretionary reliefs funded by section 31 grants have been applied to the account. Any locally funded reliefs, however, have to be applied after the Retail relief.
- 3.11 The cost of providing the discount scheme in 2019/20 and 2020/21 is unknown at this point. Central government will reimburse the authority in full for the actual cost under the rates retention scheme of the relief awarded.
- 3.12 The Government is conducting a New Burdens assessment on the delivery of the scheme. Such funding will cover costs associated in providing the retail relief scheme, including software development costs. All councils have been awarded the same amount of funding, at £1,725.

Legal

- 3.13 All discretionary rate reliefs must be awarded in accordance with section 47 Local Government Finance Act 1988 together with the Non-Domestic Rating Discretionary Rate Relief Regulations 1989 and in accordance, where appropriate, with the State Aid 'De Minimis' regulations. The cost of the relief will be met by the council making a claim for Government grant under section 31 Local Government Act 2003.
- 3.14 There is no statutory right of appeal against any decision not to award relief. However, the Council does currently allow ratepayers to write in and inform the Council why they consider the decision is wrong, i.e. if they consider we have not taken all relevant information into account. At this point the Council will check the original decision and take account of any additional information provided by the ratepayer. Kirklees will write and confirm the outcome of the 'redetermination'. The redetermination decision will be final.
- 3.15 As indicated above, Retail Relief is awarded subject to the rules on State Aid. 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). The intention will be to award the relief based on the criteria outlined in the appendix 1 and 2, and a message will be added to the rate bill confirming that state aid rules apply; It will be the ratepayer's responsibility to confirm that the award of relief breaches state aid limits, and they must notify the Council of this so relief can be cancelled. Further information is also available in the business rates leaflet on the Councils website. If we leave the EU on 29th March 2019 there may be an implementation period during which the state aid rules continue to apply. If UK leaves without a withdrawal agreement the Government intends to legislate to continue the state aid regime with consequential changes to reflect departure from the EU.

4. Consultees and their opinions

None.

5. Next steps and timelines

- Approve the Retail scheme as outlined in the report
- Implement to Retail scheme and award the relief.

6. Officer recommendations and reasons

- 6.1 Cabinet is recommended to approve the implementation of the Discretionary Retail Discount Scheme in 2019/20 and 2020/21 as set out in this report.
- 6.2 That Cabinet approve the list in Appendix 2 along with the delegation to officers to undertake the administration of the scheme, and related process, including the determination of any other broadly similar property uses.

7. Cabinet portfolio holder's recommendations

The Cabinet portfolio holder supports the above recommendations

8. **Contact officer**

Steven Bird - Head of Welfare and Exchequer Services
Jacqui Wilson - Senior Manager Welfare and Exchequer Services

9. **Background Papers and History of Decisions**

Business Rates Retail Discount – Guidance – Ministry of Housing, Communities & Local Government – November 2018 (see link below)
<https://www.gov.uk/government/publications/business-rates-retail-discount-guidance>
Business Rates Information Letter (5/2018) – 4 December 2018 – Ministry of Housing, Communities & Local Government
Business Rates Information Letter (1/2019) – 14 February 2019 – Ministry of Housing Communities & Local Government
Link below for new burdens funding
<https://www.gov.uk/government/publications/retail-discount-new-burdens-software-costs>

10. **Service Director responsible**

Eamonn Croston – Service Director -Finance

Appendix 1

Government prescribed qualifying uses

i. Hereditaments that are being used for the sale of goods to visiting members of the public:

- Shops (such as: florists, bakers, butchers, grocers, greengrocers, jewellers, stationers, off licences, 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
- 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

Appendix 2

Examples of properties that are “broadly similar” in use

An analysis of property description codes on the rating list identified a number of borderline cases that do not fit within either of the qualifying or non qualifying categories listed by the government.

The guidance issued makes it clear that authorities need to determine themselves whether particular properties not listed are broadly similar in nature to those listed as qualifying categories, to consider them eligible for the relief.

The list below sets out the types of uses that have been identified where it is considered that relief should apply and it is recommended that these uses should be treated as qualifying uses in addition to those listed in government guidelines. *(please note this is not an exhaustive list and other categories may be added if they are also broadly similar in use)*

- **Art Studio** – if a gallery and where art is up for sale. If the premises are used as a gallery only, then relief should not be applicable.
- **Boxing Clubs** – on the basis that the clubs provide a valuable service that encourages fitness and well being, particularly in younger people.
- **Builders Merchants & Premises** – these are considered similar to hardware stores that qualify for relief because members of the public can generally visit and purchase goods.
- **Car & Caravan Sales Sites** – 2nd hand car lots and car showrooms are eligible for relief, so relief should be awarded in these cases also as the uses are essentially the same.
- **Car Wash & Premises** – as similar to petrol filling stations that are eligible. Members of the public visit the premises and are provided with a service which is not dissimilar to that of a petrol station.
- **Chapel of Rest & Premises** – funeral directors are listed as a qualifying retail use
- **Children’s Play gyms / Childcare Providers** – play facilities could be considered leisure use and therefore not eligible. However, other authorities including Leeds City Council award a local discount to childcare providers / private day nurseries and regular government guidance has been issued previously to all local authorities encouraging use of the discretionary powers available to grant relief to such facilities.
- **Chiropractors / Osteopaths** – whilst the guidance issued suggests that such types of business should not qualify but makes provision for opticians to qualify, we should recognise that these facilities provide important local services and provide relief to premises that are open for members of the public to attend to receive treatment that cannot otherwise be offered at a hospital or other clinic.
- **Dance Studios / Dance Schools** - on the basis that the clubs provide a valuable service that encourages fitness and well being, particularly in younger people, but not exclusively.
- **Fitness Centre / Gym** – the guidance suggests that these facilities are not qualifying retail uses. However, if the authority has an overriding objective to improve general health and

fitness, then it should be appropriate to grant relief in such cases to ensure their viability going forward.

Appendix 2 (continued)

Examples of properties that are “broadly similar” in use

- **Indoor Climbing Centre** – again, this is another leisure activity where members of the public visit and encourages fitness and well being.
- **Indoor Football Centre** – as for the above
- **Kennels / Catteries** – many of these are businesses that are provided by local people, and in a similar way to childcare facilities that allow parents to work, without these types of services, there are often limitations in the ability of local residents being able to go on holiday without the concern of having to leave pets unattended.
- **Pharmacy & Premises** – optometrists are listed as a qualifying use and these premises are not only used for dispensing medicine on prescription, so should qualify.
- **Tyre and Exhaust Centre & Premises** – similar to vehicle repair workshops
- **Trampoline / Skateboarding Park** – as for other similar retail leisure uses, such as climbing or indoor football centres
- **Vehicle Repair Workshop & Premises** – second hand car lots and car showrooms are qualifying uses and such premises provide a service to members of the public as well.
- **Veterinary Surgeons** - these are specifically excluded along with a number of other medical uses, such as doctors and osteopaths where funding mechanisms are probably in place to cover the cost of such expenditure. However, veterinary practices are often local practices providing a facility for local people and we may wish to consider granting relief in such cases as well.

Appendix 3

Government prescribed non qualifying uses

The list below sets out the types of uses that the Government does not consider to be retail use for the purposes of this relief.

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, 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 advisers, tutors)
- Post office sorting offices

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

The Government does not consider other assembly or leisure uses to be retail uses for the purposes of the discount. This applies to:-

- Cinemas
- Theatres
- Museums
- Nightclubs
- Other music venues
- Properties used for sport or physical recreation e.g. gyms