

# BATH AND NORTH EAST SOMERSET COUNCIL DRAFT POLICY - NON DOMESTIC RATE RELIEF

## **Introduction**

The Localism Act of 2011 (“the Act”) amended the discretionary powers available to Councils with effect from 1<sup>st</sup> April 2012. Specifically, section 69 of the Act amended section 47 of the Local government Finance Act 1988 (“the 88 Act”). Section 47 of the 88 Act enables the Local Authority to grant relief to any ratepayer, including profit making organisations and individuals, with the proviso that awarding relief is in the interests of its Council Tax payers

Any use of this additional discretionary power would normally have to be funded in full by the local authority, as government funding is not normally available to offset the cost of granting this relief.

Since the introduction of The Act, the Government has introduced a number of measures aimed at providing business rate relief to qualifying ratepayers whilst guaranteeing to reimburse local authorities for the local share of discretionary relief by way of a grant under section 31 of the Local Government Act 2003 (“the 2003 Act”).

This additional Appendix to the Bath and North East Somerset Council Non Domestic Rate Relief Policy gives guidance to officers administering claims for discretionary relief under discretionary powers provided by the Act.

Appendix D covers:

1. Business Rates Revaluation Support
2. Support for Small Businesses Relief
3. Business Rates Relief Scheme for Pubs

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## 1) Business Rates Revaluation Support

### Background

- The legislation covering this discount is within Section 47 of the Local Government Finance Act 1988 as amended by The Localism Act 2011. Further references to Small and Medium Sized Enterprises are defined in this policy and should not be interpreted to have the same meaning as in EU law.
- The Government has committed to fund a relief scheme for Businesses adversely affected by the 2017 Business Rates revaluation. The intention is that the scheme will last for four years and will be funded by a S31 grant under the 2003 Act. The funding provided for this relief is as follows;

2017 - £392,000

2018 - £190,000

2019 - £78,000

2020 - £11,000

- Awards of relief made under S47 of the 88 Act usually amount to state aid. The state aid De-Minimis figure is approximately £55,000.00 per annum (This is the equivalent of \*€200,000 over three consecutive years).
- All the necessary adjustments are calculated by the billing authority. The relief is awarded after any other relevant reliefs have been applied except for Relief for Public Houses and is limited to the business rates liability of the ratepayer.
- Under the Act any discount is discretionary.
- The principles behind this relief scheme are that more support will be provided to Ratepayers seeing more significant increases in bills and those Ratepayers which occupy properties with lower rateable values.

### Proposal

- The Council will only award relief in respect of Hereditaments with Rateable Values below £200,000.00 as at 01.04.2017, which have seen an increase in rateable value of more than 12.5% between 31.03.2017 and 01.04.2017 as a result of the 2017 Revaluation.

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- Any Ratepayers who despite such an increase in Rateable Value have not seen an increase in their net bill for 2017/18 will not be eligible for this relief.

\* This figure expressed in sterling will be calculated based on the exchange rates applicable on the date that the decision is made to award the relief.

- Any Ratepayers which are not Small or Medium Enterprises; as defined below will not be eligible for this relief;
  1. They are an Enterprise: self-employed, family firms, partnerships, associations, companies regularly engaged in an economic activity, i.e. the sale of products or services at a given price on a direct market
  2. **AND** Under 250 employees<sup>1</sup>
  3. **AND** Annual Turnover not exceeding £43 million and/or Annual Balance Sheet Total not exceeding £37 million<sup>2</sup>
  4. They are Independent or, if they are a subsidiary or part of a group, the above thresholds must be applied to the wider group, they may not be a public body or controlled or owned by one.
  5. Public Bodies include;
    - Government departments, legislative bodies, and the armed forces
    - Local government, including Parish and Town Councils, Local Authority owned companies
    - National Health Service; including NHS & Foundation Trusts, practitioners who provide services under contract to the NHS
    - Maintained schools, Academy Schools and further and higher education institutions
    - Police
    - Fire
- Any Hereditaments which are empty are excluded from the scheme for the period that they are empty.
- Any Ratepayers who become liable after 01/04/2017 are excluded from this relief
- Any Ratepayers who would qualify for an award of this relief of £25 or less will not be eligible for this relief.
- Any retrospective changes in rateable value made after 01.04.2017 will be ignored for the purpose of calculating the amount of relief to be awarded.

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<sup>1</sup> Anyone who worked full-time within the Enterprise during the period covered by its last Financial Statements counts as one employee. Part-time, seasonal and those that did not work the full year are treated as fractions of one unit.

<sup>2</sup> According to their latest set of published Financial Statements.

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### Applications

Applications must be made on the prescribed forms supplied by the Authority, and supported with sufficient evidence to enable a determination to be made by the Authority. Checks may be made to ensure that applicants are eligible under the SME definition above. Applications for relief cannot be backdated more than 6 months following the end of the financial year to which they relate, even in the case of a change in the rating list by the Valuation Office Agency. All applications must be signed by a person of sufficient responsibility within the organisation, for example a Director or Company Secretary.

### Calculation of relief

Relief will be applied to the net Business Rates liability of each qualifying hereditament, after all other reliefs have been awarded, apart from relief for Public Houses. The rates of relief that will be applied are as follows;

% Increase in Net Liability between 2016 & 2017	Discount % of Net Liability (2017)
1-19%	4%
20-39%	8%
40-69%	16%
70% and above	32%

Furthermore, the award of relief will be limited to the lower of the amounts detailed in the table above and the increase in the net annual liability between 2016 and 2017.

Where a ratepayer became liable for business rates between 02.04.2016 and 31.03.2017, their notional annual liability for 2016 will be calculated by dividing their net liability for the period in which they are liable for the 2016 financial year by the number of days within that year that they were liable and multiplying the sum by 365.

### Review

Funding has been confirmed by Government in 2017/18 and is indicated for the subsequent three financial years. Continued support to Businesses will therefore be dependent on confirmation of future years funding by Government. The allocation of funding is broadly fifty per cent smaller in year two and a further fifty per cent smaller in year three. In 2020/21, the fourth and final year, the anticipated award from Government is just £11,000. A review of the Business Rates Revaluation Support Relief scheme will therefore be undertaken for 2018/19 to ensure that support is most appropriately distributed and continues to support those SMEs experiencing the highest increases in their bills.

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### 2) Support for Small Businesses Relief

#### Background

The legislation covering this Relief is within Section 47 of the Local Government Finance Act 1988 as amended by The Localism Act 2011.

At the 2017 Spring Budget, the Government announced that a scheme of relief would be made available to those ratepayers facing large increases in their bills as a result of the loss of small business or rural rate relief as a consequence of changes in their Rateable Values following the 2017 Revaluation. The transitional relief scheme does not provide support in respect of changes in reliefs. Therefore, those ratepayers who lost some or all of their small business or rural rate relief may have faced very large percentage increases in bills from 1 April 2017.

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

**A.** 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

**B.** 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 Ratepayers on the Supporting Small Businesses relief scheme whose 2017 rateable values are £51,000 or more will not be liable to pay the supplement (1.3p) to fund small business rate relief while they are eligible for the Supporting Small Businesses relief scheme.

Ratepayers remain in the Supporting Small Businesses relief scheme for either 5 years or until they reach the bill they would have paid without the scheme. A change of ratepayer will not affect eligibility for the Supporting Small Businesses relief scheme but eligibility will be lost if the property falls vacant or becomes occupied by a charity or Community Amateur Sports Club. There is no Second property test for eligibility for the Supporting Small Businesses relief scheme. However, those ratepayers who during 2016/17 lost entitlement to small business rate relief because they failed the second property test but have, under the rules for small business rate relief, been given a 12 month period of grace before their relief ended can continue on the scheme for the remainder of their 12 month period of grace.

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The amount of relief awarded under the Supporting Small Businesses Relief Scheme will be recalculated as the law permits, in the event of a change of circumstances; for example if there is a retrospective change in Rateable Value.

Hereditaments eligible for Charity or Community Amateur Sports Club relief or hereditaments which are unoccupied are not eligible for Supporting Small Businesses Relief. And, for the avoidance of doubt, small business rate relief and rural rate relief should not be applied to further reduce the bill found under Supporting Small Business relief.

Awards of relief granted under S44a of the 88 Act should not be applied to further reduce the bill calculated under the Supporting Small Business scheme. All other discretionary reliefs, including Business Rates Revaluation Support Relief, and Business rates Relief for Pubs should be considered after the application of Supporting Small Business relief.

### **Calculation of relief**

The Council proposes to adopt the detailed guidance in the Business Rates Information Letter 4/2017 issued on 20<sup>th</sup> June 2017 to calculate awards of relief.

### **3) Business Rates Relief Scheme for Pubs**

#### **Background**

The legislation covering this Relief is within Section 47 of the Local Government Finance Act 1988 as amended by The Localism Act 2011.

At Spring Budget 2017, the Chancellor announced a £1,000 business rate discount for public houses with a rateable value of up to £100,000 for one year from 1 April 2017.

#### **Eligibility Criteria**

The scheme will be available to eligible occupied properties with a rateable value of less than £100,000. The majority of pubs are independently owned or managed and will not be part of chains. Where pubs are part of a chain, relief will be available for each eligible property in the chain, subject to meeting State Aid requirements.

Eligible properties must fulfil the following criteria;

- be open to the general public
- allow free entry other than when occasional entertainment is provided
- allow drinking without requiring food to be consumed
- permit drinks to be purchased at a bar.

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These types of properties will be excluded;

- restaurants
- cafes
- nightclubs
- hotels
- snack bars
- guesthouses
- boarding houses
- sporting venues
- music venues
- festival sites
- theatres
- museums
- exhibition halls
- cinemas
- concert halls
- casinos

These criteria are not exhaustive and in addition the Council may also consider whether the property demonstrates other characteristics of being a pub; for example being owned and operated by a brewery, and whether the property has planning permission to be used as a Pub.

### **Calculation of relief**

The amount of relief available for this scheme for 2017/18 is £1,000.00 for each eligible property. Eligibility for the relief and the relief itself will be assessed and calculated on a daily basis.

The relief will be awarded after any other reliefs granted under S47 of the 88 Act which are reimbursed by a grant paid under S31 of the 2003 Act.

### **Disputes**

There will be a right to apply for a review of any decision taken by the Authority under the rules set out in this appendix to the Non Domestic Rates Relief Policy. In the first instance the review will be undertaken by the Customer Services Team Leader responsible for Business Rates. There will be a final right of review to be determined by the Elected Member of the Authority with responsibility for the Resources Directorate.

### **State Aid**

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 discretionary relief will be State Aid compliant

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where it is provided in accordance with the De Minimis Regulations (1407/2013)<sup>1</sup>. 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). 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. 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). In basic terms this means discretionary assistance which could have the effect of distorting competition between similar undertakings within the European Union.<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2013:352:0001:0008:EN:PDF>