

WELWYN HATFIELD BOROUGH COUNCIL
CABINET – 9 JANUARY 2024
REPORT OF THE EXECUTIVE DIRECTOR (FINANCE AND TRANSFORMATION)

NON DOMESTIC RATING ACT 2023

1 Executive Summary

- 1.1 The purpose of this report is to update Cabinet on several areas of business rates administration that are changing as a result of the Non Domestic Rating Act. The majority of the changes have been the subject of Government commitments during 2021 and 2022. These changes will be effective from April 2024.

2 Recommendation(s)

- 2.1 Cabinet agrees to amend the existing business rates discretionary relief policy in appendix A, to take into account the changes in the Non Domestic Rating Act.
- 2.2 Cabinet note the other changes being introduced to mandatory reliefs.

3 Explanation

- 3.1 Improvement Relief - The Government has committed to provide, from 1 April 2024 and apply to works completed by 31 March 2028, a 12 month relief for ratepayers who remain in occupation of their property and who are facing higher bills where eligible improvements to an existing property have increased their rateable value and rates payable.
- 3.1.1 The qualifying works condition means that the works should increase the area of any building in or on the property, otherwise improve the physical state of the property or add to it rateable plant and machinery. Therefore, neither a newly constructed property nor a refurbished property (which had left the rating list during the works) will qualify. A change of use alone or the addition of land also will not qualify.
- 3.2 Heat Network Relief - Among measures to support decarbonisation the Government has, in 2022/23 and 2023/24, funded Councils to provide discretionary relief to separately assessed, low carbon heat networks. Through the Act, this relief will become mandatory from 1 April 2024. We do not have any businesses in the borough entitled to this relief.
- 3.3 Business Rates Multipliers - The business rates bill for a property is worked out by multiplying the rateable value of the property by the appropriate non-domestic multiplier. There are two multipliers: the national non-domestic rating multiplier and the small business non-domestic rating multiplier. The Government sets the multipliers for each financial year, and ahead of billing for the 2024/25 financial year, the government will commence provisions to ensure that annual increases in the small business multiplier and the national non-domestic multiplier are

automatically linked to the Consumer Prices Index (CPI) rather than the Retail Prices Index (RPI). The government will be able to provide by regulations that either multiplier is indexed by a figure less than CPI, and to determine by regulations which ratepayers are entitled to the small business multiplier in England.

- 3.3.1 From 1 April 2024, the small business multiplier will by default apply to all properties with a rateable value below the multiplier threshold (currently £51,000). This includes properties occupied by charities and unoccupied properties, which currently do not qualify for the small business multiplier.
- 3.4 Discretionary Rate Relief - This Act will remove the restriction on backdating of decisions concerning discretionary rate relief, where currently relief cannot be backdated to a preceding financial year, when 6 months into the new year. The Government has made regulations revoking all rules on discretionary relief contained in the Non-Domestic Rating (Discretionary Relief) Regulations 1989. This means that we will from 1 April 2024 be able to make decisions on discretionary reliefs fully retrospectively (in respect of the financial year 2023/24 onwards) and set our own rules for notifications of reliefs in our area.
 - 3.4.1 Notice periods can also change from the existing 12 months notice before discretionary relief can be removed from the start of a financial year. Appendix A includes proposed changes, in red, to our existing discretionary rate relief policy, where it is recommended that backdating is still limited to the preceding financial year.
- 3.5 Frequency of Revaluations - In 2016, the Government signalled its intention to change the five-year cycle of revaluations to three-yearly revaluations. Currently, the new rateable values set at a revaluation are based on the situation two years previously, so the latest 2023 revaluation is based on rental values as at 1 April 2021. Revaluations will formally now occur every 3 years, beginning in 2026.
 - 3.5.1 In order to support more frequent revaluations and to support linking of property and tax data, ratepayers will be under a statutory duty to provide information to the Valuation Office Agency, who set property rateable values. Gateways will be available for the Valuation office to share appropriate information with ratepayers, and for HMRC to share information with Local Authorities. This will be the subject of future regulations.
- 3.6 Rural Rate Relief - This change now provides for 100% mandatory relief for rural assessments. Rural mandatory had been at the rate of 50%, with local authorities encouraged to use their discretionary powers to top up the 50% mandatory relief to the full 100%. The Act now formalises these arrangements, so that 100% mandatory relief is awarded against qualifying rural properties. We do not have any such properties in the borough.
- 3.7 Completion Notices – A completion notice is a document that specifies the completion date on which a commercial premises becomes rateable and enters the rating list for business rates purposes. The Act closes the loophole where an assessment was either deleted or zero valued by the Valuation Office, due to, for example, major refit works, but such buildings could not be brought back into rating as they weren't new. In these cases, we had no other option than to wait until the site was reoccupied. The Act also includes buildings that have been subject to alterations. Completion Notices can therefore now be issued in both

these circumstances so that rates can be charged and will take effect from 2 months after Royal Assent, which was 26 October 2023.

Implications

4 Legal Implication(s)

4.1 The Non-Domestic Rating Act changes several areas of business rates administration. In the summer of 2023, the Bill had its final amending stage in the House of Lords and received Royal Assent 26 October 2023.

4.2 The improvement relief will be reviewed in 2028.

5 Financial Implication(s)

5.1 We will be reimbursed for all losses in income caused by the application of any caps to small business rate multiplier, through receipt of additional section 31 grant.

5.2 We will be reimbursed through section 31 grant for any loss in rating income from Heat Network and Improvement Relief awards.

5.3 The cost of awarding discretionary relief will be split between Welwyn Hatfield, Hertfordshire County Council and Central Government based on the following ratio. 40%:10%:50%. It should be noted this split is the first stage of the business rates retention calculation, prior to the tariff, the levy, section 31 adjustments and other factors. This means whilst the award of relief is split in this way, the final amount the council will be impacted by, could be different than the initial apportionment.

6 Risk Management Implications

6.1 A risk assessment has not been prepared in relation to the proposal in this report as there are no significant risks inherent in the proposals.

7 Security & Terrorism Implication(s)

7.1 There are no security and terrorism implications with the recommendation in this report.

8 Procurement Implication(s)

8.1 There are none.

9 Climate Change Implication(s)

9.1 The proposals in this report will not impact on greenhouse gas emissions.

10 Human Resources Implication(s)

10.1 There are none.

11 Health and Wellbeing Implication(s)

11.1 There are none.

12 Communication and Engagement Implication(s)

12.1 There has been consultation with local authorities on these proposed changes and the government has consulted with stakeholders.

13 Link to Corporate Priorities

13.1 The subject of this report is linked to the Council's Corporate Priority: A well run Council which puts our customers first.

14 Equality and Diversity

14.1 An initial impact assessment has been carried out on our proposed changes and there was not any negative impact identified on any of the protected groups under Equalities legislation.

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Welwyn Hatfield Council - Discretionary Rate Relief Policy

1. The Council awards Discretionary Rate Relief to Voluntary bodies, which further the Council's stated aims and objectives.
2. The Council treats all individual organisations within a generic group in the same manner in awarding rate relief, for example, all Girl Guides Associations will be treated the same.
3. Membership of the organisation should be open to as wide a section of the community as is reasonable to expect, with all members having equal status, irrespective of race, gender, disability, sexuality, age, creed, colour, nationality, religion, belief, political opinion or affiliation, gender reassignment, marital status, family connections, caring responsibilities, or unrelated criminal conviction.
4. The Council will take into account the ability of the organisation to pay their business rates, through examination of the last audited accounts and written representations made with the applications. Specific consideration will be given to reserves and balances. New organisations will need to supply projected accounts and proof of financial viability with their first application.
5. The majority of the people receiving the benefit of the organisation should be living or working within the borough. Discretionary relief will be awarded where the organisation is non-profit making and set up for charitable purposes for local residents where it can be demonstrated that the client base/customer is made up of at least 75% of Welwyn Hatfield residents.
6. The level and type of benefit received by the community through the activities of the organisation will be held to be those contained in the Articles of Association or official rulebook detailing the purpose of the body. This will be verified by the Council.
7. The level and standard of training facilities provided will be taken to be that advised by the organisation on application for rate relief and will be observed through inspection by Council officers as appropriate and will be reconsidered at a three yearly review.
8. Where organisations are charities, they receive 80% Mandatory Relief and up to a maximum of 20% Discretionary Relief depending on the abatement as set out in criterion 10. **Such organisations must provide evidence that any profit will be directed towards the furtherance of the Charity or achievement of the Charities objectives.**

9. Discretionary relief is awarded where a charity or non-profit making organisation is not a national charity but a local charity supporting local causes. With such organisations, up to 100% discretionary relief may be given. Every application will be considered on its own merits, taking into account the contribution the organisation makes to the local community.

10. Where the organisation runs a bar, offers catering and gaming machines, the level of discretionary rate relief may be reduced to the amounts shown below, depending on whether the organisation is a charity or not as follows:

- (a) Organisation with no Bar/catering or gaming machines – no reduction.
- (b) Organisation where the profits from Bar/catering or gaming machine are less than one-third of total income – 25% reduction.

If the catering is minor or the profit incidental it will be ignored. An example is where a club for young people sells crisps and sweets, another example is where the members of the club provide the food themselves and a visiting club may make a small contribution.

- (c) Organisations where a profit from bar/catering or gaming machine is one-third and $\frac{1}{2}$ of total income – 50% reduction.
- (d) Organisations where a profit from bar/catering or gaming machine is between $\frac{1}{2}$ and two-thirds of total income – 75% reduction.
- (e) A profit from bar/catering or gaming machine is more than two-thirds of total income – no entitlement to discretionary Relief.

If the above reduction applies the Rate Relief previously paid will be reduced. If, for example, the Organisation used to receive 50% relief and 10(b) applied the relief will be reduced to 37.5%.

11. It was noted that other groups may apply for Discretionary Rate Relief, for example schools who “opted out” under the 1988 Education Reform Act. The Council is obliged to give mandatory rate relief and discretionary rate relief will not be awarded in these cases.

12. There will be a rolling programme of review on a triennial basis so that a third of those organisations receiving rate relief are reviewed each year. This will allow the Council to scrutinise the accounts of an organisation to determine whether they are still eligible or not for rate relief.

13. Where a charity or non-profit making organisation does not run a bar or has income from catering then, in future, the triennial review will only be to confirm that:

- (i) The financial circumstances have not changed, so an account will not need to be submitted to the Council.
- (ii) The organisation still has the majority of its members or users from the borough.

- (iii) The running of the organisation meets the aims and objectives of the Council.

If the organisation has catering income where volunteers provide food and drink, and the income is insignificant and incidental; it may be ignored when applying criteria 10 set out above.

- 14. Discretionary rate relief will only be backdated to the start of the preceding financial year.
- 15. Discretionary rate relief will not be provided to precepting bodies or facilities managed by these bodies, for example school academies in receipt of funding from the Education and Skills Funding Agency.
- 16. Three months notice will be given to reduce or remove any discretionary rate relief awards and this will apply from the start of the financial year. Any such decisions will not be backdated. Such restrictions will not apply to any discretionary rate relief incorrectly claimed.
- 17. Ratepayers can make appeals against a decision not to award discretionary rate relief or where they believe the amount of relief awarded is unjust. Such appeals must be made in writing with additional supporting information to the Assistant Director (Finance).