

BABERGH DISTRICT COUNCIL

TO: Babergh Cabinet	REPORT NUMBER: BCa/22/41
FROM: Dave Busby - Cabinet Member Finance	DATE OF MEETING: 6 th February 2023
OFFICER: Melissa Evans - Director for Corporate Resources	KEY DECISION REF NO. CAB408

BUSINESS RATES RELIEF POLICIES

1. PURPOSE OF REPORT

- 1.1 The Government recently announced a Business Rates Retail, Hospitality and Leisure rate relief scheme and a new Supporting Small Business (SSB) relief scheme for 2023/24 as part of the autumn statement. This report provides an overview of these and explains the steps to be taken to implement these reliefs.

2. OPTIONS CONSIDERED

- 2.1 Option 1 - Cabinet approve the introduction of the discretionary Retail, Hospitality and Leisure and Support Small Business rate relief policies as set out in appendix 1 and 2 for the 2023/24 financial year and;
- 2.2 Delegate authority to the Director for Corporate Resources in consultation with the Cabinet Member for Finance to agree future changes to the discretionary Retail, Hospitality and Leisure and Supporting Small Business rate relief policies for the life of the 2023 rating list.
- 2.3 Option 2 - There is no mandatory requirement on billing authorities to provide retail, hospitality and leisure and support small business reliefs, however the Government is funding the scheme. It would be an opportunity missed to support local retailers.

3. RECOMMENDATIONS

- 3.1 That Cabinet approves the introduction of the discretionary Retail, Hospitality and Leisure and Supporting Small Business rate relief policies as set out in appendix 1 & 2 for the 2023/24 financial year.
- 3.1 That Cabinet give authority to the Director for Corporate Resources in consultation with the Cabinet Member for Finance to agree future changes to the discretionary Retail, Hospitality and Leisure and Supporting Small Business rate relief policies for the life of the 2023 rating list.

REASON FOR DECISION

To provide discretionary reliefs to support ratepayers in Babergh.

To enable the implementation of the discretionary schemes.

4. KEY INFORMATION

- 4.1 At the autumn statement on 17th November 2022, the Chancellor announced that the Government would provide a temporary Business Rates Retail, Hospitality and Leisure (RHL) rate relief scheme for 2023/24. Alongside this they also announced a new Supporting Small Business (SSB) relief scheme.
- 4.2 The RHL scheme will increase the level of relief from the current 50% to 75% for 2023/24, up to £110k per business.
- 4.3 The SSB scheme will cap increases in Business Rates for the smallest businesses losing eligibility or seeing reductions in small business rate relief (SBRR) or Rural Rate Relief (RRR) to £600 per year from 1st April 2023.
- 4.4 The Government expect local authorities to use their discretionary relief powers, under section 47 of the Local Government Finance Act 1998 (as amended), to grant RHL and SSB reliefs in line with the relevant eligibility criteria.
- 4.5 The Government will compensate local authorities for the cost of granting these reliefs via section 31 of the Local Government Act 2003.
- 4.6 As these reliefs are discretionary the Council can choose not to grant the relief if they consider that appropriate, for example where granting the relief would go against the Council's wider objectives for the local area. However, the Council need to recognise the support that these reliefs will give to local ratepayers and the local economy and the fact that the Government will fund these reliefs.
- 4.7 To introduce these reliefs, there is a requirement for the Council to have discretionary policies. Discretionary policies have been created based upon the criteria outlined in the Government guidance. The RHL policy can be found in appendix (a) and SSBR policy in appendix (b).
- 4.8 The relief under these schemes is likely to amount to subsidy, as part of the application process, ratepayers will be asked to confirm that by receiving this relief, they will not breach the minimal financial assistance thresholds (£315,000 in a three-year period).
- 4.9 There is a very short window to introduce these policies for 1st April 2023. To meet the Governments expectations the reliefs need to be applied to eligible ratepayer accounts for bills to be despatched early March 2023.

5. LINKS TO CORPORATE PLAN

- 5.1 Taking measures to implement these relief schemes will support the local economy.

6. FINANCIAL IMPLICATIONS

- 6.1 The Government will reimburse the Council and those major precepting authorities for the actual cost to them under the rates retention scheme of the relief that falls within the definitions in the guidance (using a grant under section 31 of the Local Government Act 2003). The Council will provide an estimate of the likely total cost for providing the relief in the National Non-Domestic Rate Return 1 (NNDR1) for 2023/24

and the actual outturn figures in the National Non-Domestic Rate Return 3 (NNDR3) 2023/24.

- 6.2 For 2022-23 there are currently around 489 ratepayers in receipt of the retail, hospitality and leisure discount amounting to around £2.3m of relief at no cost to the Council. Assuming the criteria is similar, the number of qualifiers should not change significantly, but the total value of relief will increase

7. LEGAL IMPLICATIONS

- 7.1 The Council can use discretionary relief powers, introduced by the Localism Act (under section 47 of the local Government Finance Act 1988, as amended) to grant relief under this Government scheme.

8. RISK MANAGEMENT

- 8.1 Key risks are set out below:

Key Risk Description	Likelihood 1-4	Impact 1-4	Key Mitigation Measures	Risk Register and Reference*
If qualifying ratepayers fail to apply for the relief, then they may encounter unnecessary trading difficulties.	3 – Probable	2 – Noticeable / Minor	Officers proactively identify cases that can apply for the relief. Take-up campaign	Finance and Commissioning & Procurement register - 012
Failure to apply the Government's subsidy rules in terms of discretionary relief awards could result in the Council not being fully reimbursed.	2 – Unlikely	3 – Bad	Design process to include questions in respect of subsidy. Ensure all applicants complete a subsidy declaration.	Finance and Commissioning & Procurement register - 013
Challenges / complaints against the decision making process	3 – Probable	2 – Noticeable / Minor	Ensure relief is awarded in line with the policies	Finance and Commissioning & Procurement register - 014

*Name of risk register where risk is currently documented and being actively managed and it's reference number

9. CONSULTATIONS

9.1 No direct consultation has been undertaken in respect of this proposal.

10. EQUALITY ANALYSIS

10.1 An Equality Impact Assessment (EIA) is not required as the policy relates to businesses and not individuals.

11. ENVIRONMENTAL IMPLICATIONS

11.1 None identified from this policy.

12. APPENDICES

Title	Location
Babergh 2023/24 Retail Hospitality and Leisure Policy	Appendix A
Babergh 2023/24 Support Small Business Policy	Appendix B

13. BACKGROUND DOCUMENTS

13.1 The autumn statement published 17/11/22.

13.2 Government guidance business rate relief: 2023/24 Retail, Hospitality and Leisure Scheme.

13.3 Government guidance business rate relief: 2023/24 Support Small Business Relief.

14. REPORT AUTHORS

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Babergh District Council

Retail, Hospitality and Leisure Business Rates Relief Policy 2023/24

1. Background

- 1.1. The Government announced at the Autumn Statement on 17 November 2022 that it will provide a business rates relief scheme for occupied retail, hospitality and leisure properties. Ratepayers that occupy more than one property will be entitled to relief for each of their eligible properties, subject to the £110,000 cash cap per business for all of their eligible properties in England. The value of the relief will be 75% of the bill and must be applied after mandatory reliefs and other discretionary reliefs funded by section 31 grants have been applied, except those introduced using the powers granted under the Localism Act 2011.

2. Introduction

- 2.1. Section 47 of the Local Government Finance Act 1988 gives Local Authorities the power to grant discretionary relief to properties that are occupied retail, hospitality or leisure hereditaments.

3. Available relief

- 3.1 Hereditaments which benefit from the relief will be those which for a chargeable day in 2023/24:
- 3.2 meet the eligibility criteria, and
- 3.3 the ratepayer for that chargeable day has not refused the relief for the eligible hereditament. The ratepayer may refuse the relief for each eligible hereditament anytime up to 30 April 2024. The ratepayer cannot subsequently withdraw their refusal for either all or part of the financial year.
- 3.4 For the purposes of section 47 of the 1988 Act, hereditaments where the ratepayer has refused the relief are outside of the scheme and outside of the scope of the decision of which hereditaments qualify for the discount and are therefore ineligible for the relief.
- 3.5 In line with the legal restrictions in section 47(8A) of the Local Government Finance Act 1988, billing authorities may not grant the discount to themselves, certain precepting authorities (e.g. a parish or county council) or a functional body, within the meaning of the Greater London Authority Act 1999
- 3.6 The relief will be applied against the net business rates bill after all other mandatory relief and, other discretionary reliefs funded by section 31 grants have been taken into account.
- 3.7 Where the net rate liability for the day, after all other reliefs but before the retail discount, is less than the discount, the maximum amount of discount will be no more than the value of the net rate liability.

- 3.8 Ratepayers that occupy more than one property will be entitled to relief for each of their eligible properties, subject to the £110,000 cash cap per business for all of their eligible properties in England.

4. Awarding relief

- 4.1 Hereditaments that meet the eligibility for the Retail, Hospitality and Leisure scheme will be occupied hereditaments which meet all of following conditions for the chargeable day:

- a. they are wholly or mainly being used:
- i. as shops, restaurants, cafes, drinking establishments, cinemas or live music venues,
 - ii. for assembly and leisure; or
 - iii. as hotels, guest & boarding premises or self-catering accommodation

- 4.2. We consider shops, restaurants, cafes, drinking establishments, cinemas, and live music venues to mean:

(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: hairdressers, 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

(iv) Hereditaments which are being used as cinemas

(v) Hereditaments that are being used as live music venues:

- Live music venues are hereditaments wholly or mainly used for the performance of live music for the purpose of entertaining an audience. Hereditaments cannot be considered a live music venue for the purpose of business rates relief where a venue is wholly or mainly used as a nightclub or a theatre, for the purposes of the Town and Country Planning (Use Classes) Order 1987 (as amended).
- Hereditaments can be a live music venue even if used for other activities, but only if those other activities (i) are merely ancillary or incidental to the performance of live music (e.g. the sale/supply of alcohol to audience members) or (ii) do not affect the fact that the primary activity for the premises is the performance of live music (e.g. because those other activities are insufficiently regular or frequent, such as a polling station or a fortnightly community event).
- There may be circumstances in which it is difficult to tell whether an activity is a performance of live music or, instead, the playing of recorded music. Although we would expect this would be clear in most circumstances, guidance on this may be found in [Chapter 16 of the statutory guidance](#) issued in April 2018 under section 182 of the Licensing Act 2003.

4.3 We consider assembly and leisure to mean:

i. Hereditaments that are being used for the provision of sport, leisure and facilities to visiting members of the public (including for the viewing of such activities).

- Sports grounds and clubs
- Museums and art galleries
- Nightclubs
- Sport and leisure facilities
- Stately homes and historic houses
- Theatres
- Tourist attractions
- Gyms
- Wellness centres, spas, massage parlours
- Casinos, gambling clubs and bingo halls

ii. Hereditaments that are being used for the assembly of visiting members of the public.

- Public halls
- Clubhouses, clubs and institutions

4.4 We consider hotels, guest & boarding premises and self-catering accommodation to mean:

i. Hereditaments where the non-domestic part is being used for the provision of living accommodation as a business:

- Hotels, Guest and Boarding Houses
- Holiday homes
- Caravan parks and sites

4.5. To qualify for the relief the hereditament should be wholly or mainly being used for the above qualifying purposes. 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.

4.6. The list set out above is not intended to be exhaustive as it would be impossible to list the many and varied uses that exist within the qualifying purposes. However, it is intended to be a guide as to the types of uses that the Council considers for this purpose to be eligible for relief. The Council will determine 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.

4.7 The list below sets out the types of uses that the Council does not consider to be an eligible use for the purpose of this discount. The Council will determine whether particular properties are broadly similar in nature to those below and, if so, to consider them not eligible for the discount

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, short-term loan providers, betting shops)
- Medical services (e.g vets, dentists, doctors, osteopaths, chiropractors)
- Professional services (e.g solicitors, accountants, insurance agents/ financial advisers, employment agencies, estate agents, letting agents)
- Post office sorting offices

5. Administration of applications for relief

- 5.1. The Council's Shared Revenues Partnership will identify the potential properties that may be eligible for the discount. It is for the ratepayer to opt out if they are already receiving maximum State Aid.
- 5.2. The Council's Shared Revenues Partnership will administer all applications for the discount and determine the amount of discount to be awarded.
- 5.3. Decisions regarding the discount will be notified to the ratepayer in writing within 28 days of the decision, or as soon as reasonably practicable. Unsuccessful applicants will be given reasons for any refusal to award relief.

6. £110,000 Cash Cap/Small Amounts of Financial Assistance Subsidy

- 6.1 In line with the conditions set by the government, a ratepayer may only claim up to £110,000 of support under the 2023/24 Retail, Hospitality and Leisure Relief Scheme for all of their eligible hereditaments. This cash cap applies at a Group company level (so holding companies and subsidiaries cannot claim up to the cash cap for each company) and also to organisations which, although not a company, have such an interest in a company that they would, if they were a company, result in its being the holding company.
- 6.2 Furthermore, the Retail, Hospitality and Leisure Relief Scheme is subject to the Minimal Financial Assistance limits under the Subsidy Control Act. This means no recipient can receive over £315,000 over a 3-year period (consisting of the current financial year and the 2 previous financial years). Extended Retail Discounts granted in 2021/22 do not count towards the limit. Covid business grants received from local government and any other subsidy claimed under the Minimal Financial Assistance or Small Amounts of Financial Assistance limit over the 3-year period should be counted
- 6.3 To claim the Retail, Hospitality and Leisure relief you must not have exceeded either the £110,000 cash cap for 2023/24 or the Minimal Financial Assistance limit of £315,000 over 3 years (including 2023/24). Further details of the cash cap and subsidy control can be found at: <https://www.gov.uk/government/publications/business-rates-relief-202324-retail-hospitality-and-leisure-scheme-local-authority-guidance>.

7. Duration of awards

- 7.1 The award of the discount will be made for a fixed period ending on 31st March 2024. The only exception is where the business rates liability of a qualifying business ends before this date.

8. Managing the risk of Fraud

- 8.1 Neither the Council, nor the Government will accept deliberate manipulation of the scheme of fraud. Any application caught falsifying information to gain relief will face prosecution and any funding will be recovered from them.
- 8.2 All information is subject to internal and external audit check, as well as Government body check

9. Data Protection and use of data

- 9.1 All information and data provided by application shall be dealt with in accordance with the Council's Data Protection policy and Privacy Notices which are available to view on the Council's website.

10. Right of appeal

- 10.1 There is no statutory right of appeal against a decision made by the Council in respect of the discount. However, the Council will review the decision if the ratepayer is dissatisfied with the outcome. This review will be carried out independently by the SRP Operations Manager in consultation with the Council's Section 151 Officer.
- 10.2 If an unsuccessful applicant decides to request a review, they will still need to continue to pay their rates bill. Once the review has been conducted, the ratepayer will be informed in writing whether the original decision has been revised or upheld. Notification of the decision will be made within 28 days, or as soon as reasonably practicable.
- 10.3 The right of appeal process does not affect a ratepayer's legal right to challenge the decision by way of a judicial review.

Babergh District Council

Supporting Small Business Relief Scheme 2023/24

1. Introduction

- 1.1 The Government announced at the 2022 Autumn Statement that the 2023 Supporting Small Business (SSB) scheme will cap bill increases at £600 per year for any business losing eligibility for some or all Small Business Rate Relief or Rural Rate Relief at the 2023 revaluation. SSB was first introduced at the 2017 revaluation to support ratepayers facing bill increases greater than the Transitional Relief caps due to loss of Small Business Rate Relief or Rural Rate Relief.
- 1.2 For 2023/24 to 2025/26, the government will, in line with the eligibility criteria set out in this guidance, reimburse local authorities that use their discretionary relief powers under section 47 of the Local Government Finance Act 1988 (as amended), to grant 2023 Supporting Small Business Relief.
- 1.3 The Council have decided to grant relief strictly in accordance with Central Government guidelines.

2. Who is eligible for the relief and how much relief will be available

- 2.1 2023 Supporting Small Business Relief (SSBR) will help those ratepayers who as a result of the change in their rateable value at the revaluation are losing some or all of their Small Business, Rural Rate Relief or 2017 SSBR and, as a result, are facing large increases in their bills. Charities and Community Amateur Sports Clubs, who are already entitled to mandatory 80% relief, are not eligible for 2023 SSBR.
- 2.2 To support these ratepayers, 2023 SSBR will ensure that the increase in the bills [\[footnote 1\]](#) of these ratepayers is limited to a cash value of £600 per year. This cash maximum increase ensures that ratepayers do not face large bill increases in 2023/24 after transitional relief and small business rate relief (as applicable) have been applied. In order to simplify the scheme, the 2023 SSBR will not include minimum percentage bill increases (unlike the 2017 scheme).
- 2.3 Those on 2023 SSBR whose 2023 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 2023 SSBR.
- 2.4 The 2017 SSBR scheme was provided to support small and medium ratepayers who had seen large increases in their bills at the 2017 revaluation. They have, therefore, had 6 years of support to allow them to adjust to their full 2017 bills. Therefore, for those ratepayers receiving 2017 SSB relief in 2022/23, any eligibility for 2023 SSBR will end on 31 March 2024. Relief for these ratepayers will be awarded for one year only so that the relief can then be withdrawn on 31 March 2024 without further notice. All other eligible ratepayers remain in 2023 SSBR for either 3 years or until they reach the bill they would have paid without the scheme [\[footnote 2\]](#). A change of ratepayers will not affect eligibility for the Supporting Small Business scheme but eligibility will be lost if the property falls vacant or becomes occupied by a charity or Community Amateur Sports Club.

- 2.5 There is no second property test for eligibility for the 2023 SSBR scheme. However, those ratepayers who during 2022/23 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 2023 SSBR scheme for the remainder of their 12 month period of grace.
- 2.6 The Council's Shared Revenues Partnership will identify the potential properties and determine the amount of relief to be awarded

3. Recalculation of relief

- 3.1 The amount of relief awarded under SSBR will be calculated in the event of a change of circumstances including the following:
- This could include, for example, a backdated change in rateable value, or the hereditament; or
 - The awarding of another relief.
- 3.2 The Council will, in effect, calculate the award on a daily basis taking into account the above, and the relief will be re-calculated if the rateable value changes.

4. Other Reliefs

- 4.1 Hereditaments eligible for charity or Community Amateur Sports Club relief or hereditaments which are unoccupied are not eligible for SSBR.

In accordance with Central Government guidelines, all other discretionary reliefs, will be considered after the application for SSBR.

5. Subsidy control

- 5.1 The 2023 SSBR is likely to amount to a subsidy. Therefore, any relief provided under this scheme will need to comply with the UK's domestic and international subsidy control obligations. Further Government guidance is available at [Complying with the UK's international obligations on subsidy control: guidance for public authorities - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/guidance/complying-with-the-uk-s-international-obligations-on-subsidy-control)
- 5.2 To the extent that a local authority is seeking to provide relief that falls below the Minimal Financial Assistance (MFA) thresholds, the Subsidy Control Act allows an economic actor (e.g. a holding company and its subsidiaries) to receive up to £315,000 in a three-year period (consisting of the 2023/24 year and the two previous financial years). MFA subsidies cumulate with each other and with other subsidies that fall within the category of 'Minimal or SPEI financial assistance'. BEIS COVID-19 business grants and any other subsidies claimed under the Small Amounts of Financial Assistance limit of the Trade and Cooperation Agreement should be counted under the £315,000 allowance.
- 5.3 In those cases where it is clear to the local authority that the ratepayer is likely to breach the MFA limit then the authority should automatically withhold the relief.

Otherwise, local authorities may include the relief in bills and ask the ratepayers, on a self-assessment basis, to inform the authority if they are in breach of the MFA limit.

6. Duration of awards

- 6.1 As with other reliefs, the amount of SSB awarded will be recalculated in the event of a change of circumstances. This could include, for example, a backdated change to the rateable value or to the hereditament. This change of circumstances could arise during the year in question or during a later year but no later than 31 March 2026.

7. Managing the risk of Fraud

- 7.1 Neither the Council, nor the Government will accept deliberate manipulation of the scheme of fraud. Any application caught falsifying information to gain relief will face prosecution and any funding will be recovered from them.
- 7.2 All information is subject to internal and external audit check, as well as Government body check.

8. Data Protection and use of data

- 8.1 All information and data provided by application shall be dealt with in accordance with the Council's Data Protection policy and Privacy Notices which are available to view on the Council's website.

9. Right of appeal

- 9.1 There is no statutory right of appeal against a decision made by the Council in respect of discretionary relief. However, the Council will review the decision if the ratepayer is dissatisfied with the outcome. This review will be carried out independently by the SRP Operations Manager in consultation with the Council's Section 151 Officer.
- 9.2 If an unsuccessful applicant decides to request a review, they will still need to continue to pay their rates bill. Once the review has been conducted, the ratepayer will be informed in writing whether the original decision has been revised or upheld. Notification of the decision will be made within 28 days, or as soon as reasonably practicable.
- 9.3 The right of appeal process does not affect a ratepayer's legal right to challenge the decision by way of a judicial review.

1 Prior to the Business Rates Supplement (2p for properties in London with a rateable value of more than £70,000) and City of London multiplier (which in 2022/23 is 1.2p higher for all properties in London). The level of these supplements are unchanged at the revaluation but changes in the amounts paid through the supplements are outside the transitional relief scheme and the 2023 SSBR.

2 This will be the bill in the main transitional relief scheme or the ratepayer's final bill.