



Department for
Communities and
Local Government

Business Rates

Consultation on proposals on the design and
implementation of the locally administered Business Rates
Relief Scheme



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1. Scope of the consultation

A consultation paper issued by the Department for Communities and Local Government on behalf of the Secretary of State

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|------------------------------------|---|
| Topic of this consultation: | Business rates. This consultation paper sets out the Government's proposals for the design of a discretionary business rates support scheme, administered by local government. |
| Scope of this consultation: | <p>At the Budget on 8 March the Chancellor announced that the Government would provide £300m to support those business most effected by the revaluation.</p> <p>The Department for Communities and Local Government is consulting on proposals for how local government would design and implement this scheme.</p> |
| Geographical scope: | As a devolved function the proposed scheme only applies to authorities in England. |
| Impact Assessment: | No impact assessment has been produced for this consultation because this is a discretionary activity. |

Basic Information

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| To: | This consultation is open to everyone. We particularly seek the views of all English local authorities and the Local Government Association and of businesses and their representative bodies. |
| Body responsible for the consultation: | The Department for Communities and Local Government is responsible for conducting the consultation. |
| Duration: | The consultation will begin on 9 March 2017. The consultation will run for four weeks and will close on 7 April 2017. All responses should be received by no later than 7 April 2017. |
| Enquiries: | <p>During the consultation, if you have any enquiries, please contact:</p> <p>email: ndr@communities.gsi.gov.uk</p> <p>Tel: 030 3444 2518</p> |
| How to respond: | <p>You can respond by email or by post.</p> <p>Please respond by email to: ndr@communities.gsi.gov.uk</p> |

Alternatively, please send postal responses to:

Shaun Morroll
Department for Communities and Local Government
2nd Floor, NE, Fry Building
2 Marsham Street
London
SW1P 4DF

Responses should be received by close on 7 April 2017.

When responding, please make it clear which questions you are responding to.

When you reply it would be very useful if you could confirm whether you are replying as an individual or submitting an official response on behalf of an organisation and include:

- your name
- your position (if applicable)
- the name and address of your organisation (if applicable)and
- an e mail address (if you have one)

2. Introduction

- 2.1 At the Budget on 8 March, the Chancellor announced that the Government 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. Local government is 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.
- 2.2 The intention is that every billing authority in England will be provided with a share of the £300 million to support their local businesses. This will be administered through billing authorities discretionary relief powers under section 47 of the Local Government Act 1988.
- 2.3 The 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 Government will allocate the available funding to each billing authority area based on assumptions about how authorities will target their relief scheme.
- 2.4 The proposed funding allocations set out in this consultation paper are for the total amount of relief to be provided to ratepayers. Under the 50% business rates retention system, the reduction in business rates receipts resulting from the increased award of discretionary relief will generally result in a reduction in local authorities' business rates income under the 50% rates retention system of 50% of the value of the relief given. In London, and those areas which are piloting 100% rates retention from 2017-18, the loss of income will be higher. Once the 100% rates retention system is introduced everywhere with effect from 2019-20, authorities will see their income reduced by the entire value of the relief given. For any year, the funding arrangements will ensure that all authorities are compensated for the loss of income they incur by means of grant payments under s.31 of the Local Government Act 2003, or transfer payments between authorities.

3. Consultation Parameters

- 3.1 This consultation paper seeks views on the:
- Allocation of resources to local authorities (section 4)
 - Arrangements under which local authorities will be compensated for loss of income (section 5)

- Operation of discretionary relief schemes, including conditions to be attached to s.31 grants (section 6).

4. The Allocation of Resources to Local Authorities

- 4.1 The Government will make £300 million available to local authorities over four years from 2017-18, to provide discretionary relief to those ratepayers facing significant increases in their bills following the revaluation.
- 4.2 The Government is already providing support to such ratepayers through the transitional arrangements that it put in place following the revaluation; and through the additional support, announced at the Budget, to ratepayers who are losing some or all of their small business rate relief and to pubs.
- 4.3 The further £300 million is being made available for local authorities to develop their own discretionary relief schemes to deliver further targeted support to those hard-pressed ratepayers.
- 4.4 It will be for billing authorities, in collaboration with other authorities operating within their area, to design their discretionary relief schemes and determine the eligibility of ratepayers for support. The schemes must clearly set out the criteria that ratepayers across the local authority area, or within specific locations within their areas need to meet in order to qualify for discretionary relief.
- 4.5 The total resource available to support local authority's discretionary relief schemes is:

£ 300million

| 2017-18 | 2018-19 | 2019-20 | 2020-21 |
|----------------|----------------|----------------|----------------|
| 175 | 85 | 35 | 5 |

- 4.6 To allocate the resource between authorities the Government has assumed that authorities will provide support only to those ratepayers who are facing an increase in their bills following revaluation – and will make this a condition of the grant. It further assumes that, by and large, more support will be provided to;
- ratepayers or localities that face the most significant increases in bills; and
 - ratepayers occupying lower value properties

- 4.7 In line with those broad assumptions about how authorities will design their transitional relief schemes, we propose to allocate the available resource to each billing authority by:
- i. working out the total increase in bills (excluding the impact of transitional relief and other reliefs), for every rateable property in the billing authority's area that satisfies both the following conditions:
 - a. the rateable property has a rateable value for 2017-18 that is less than £200,000;
 - b. the increase in the rateable property's 2017-18 bill is more than 12.5% compared to its 2016-17 bill (before reliefs);
 - ii. summing the total increase in bills in all billing authority areas and distributing the available funding in each year in accordance with the formula:

$$A \times B/C,$$

Where:

A is the total funding available for the year;

B is the total increase in bills in an individual authority's area; and

C is the sum of the total increase in bills in all local authority areas.

- 4.8 Where the above formula produces an allocation of less than £100,000 in the first year of the programme, the amounts are topped-up to £100,000, in every case except that of the Isles of Scilly, which only has 445 rateable properties in total.

Question 1: Do you agree that individual local authorities should be responsible for designing and implementing their own discretionary relief schemes, having regard to local circumstances and reflecting local economies?

Question 2: Are the Government's assumptions about the design of local discretionary relief schemes reasonable?

Question 3: Is the allocation methodology reasonable?

5. Compensation Arrangements

- 5.1 The allocations set out at appendix 1 represent the maximum amount of discretionary relief that billing authorities can award for which they and major precepting authorities will be compensated through s.31 grant.

- 5.2 Any discretionary relief paid by billing authorities in respect of “revaluation support” in excess of their allocation will not attract s.31 grant.
- 5.3 In each year of the scheme, we propose to pay billing and major precepting authorities s.31 grant equivalent to their loss of income under the business rates retention scheme. Subject to paragraph 5.4 below, payments will be based on estimates of the relief to be provided to ratepayers, capped at the maximum of that year’s allocation (as set out at appendix 1). Grant will be paid to authorities in four equal instalments, quarterly in arrears – i.e. at the end of June, September and December 2017 and the end of March 2018.
- 5.4 The Government recognises that local relief schemes will vary across the country according to the circumstances of local ratepayers and wants to ensure that the profile of payments set out at appendix 1 provides the most effective support to local ratepayers and secures maximum value for money over the four years of the programme. The Government therefore would welcome views on whether local authorities should be given some flexibility to switch resources between years.
- 5.5 As set out above, in the same way as for other payments under the business rates retention system, we propose that payments to billing authorities and major precepting authorities should be made during the course of the year, based on estimates of the amount of relief that the billing authority will give. Amounts will be reconciled following the end of the year when outturn figures are available; with payments of any difference being made to, or from, billing authorities and major precepting authorities, depending on whether outturn figures are higher or lower than the original estimates.
- 5.6 The current programme will span the introduction of 100% business rates retention in 2019-20; and before then, we may create more 100% business rates pilots in 2018-19. Accordingly, local authorities’ shares of business rates under the business rates retention scheme will change over the life of the discretionary relief programme. If authorities are given flexibility to switch resources between years (see paragraph 5.4 above) this could result in a s.31 payment for a previous year being switched into a later year. If this were to happen and the payment was then insufficient to reimburse an authority for its loss of income in that year because the authority’s share of business rates had increased, the Government would provide the authority with additional s.31 grant to ensure that it is fully compensated for the relief given, up to the maximum of that year’s “total pot”.
- 5.7 To assist authorities with the calculation of in-year payments, end-year reconciliations and the annual switching of a proportion of any year’s grant into later

years, the Department will provide for the necessary data entries and calculations as part of NNDR1s and NNDR3s.

- 5.8 As 2017-18 NNDR1s are now complete, exceptionally, for 2017-18, billing authorities will be asked to complete a one-off estimate of the relief they will grant in that year at the end of June to coincide with the first payment of s.31 grant.

Question 4: Do you think that authorities should have some flexibility to switch resources between years to ensure relief provided meets local need and provides maximum value for money?

Question 5: Do you agree with the proposal that s.31 grant should be paid to compensate authorities for their loss of income under the rates retention scheme up to the maximum of that year's "total pot"?

Question 6: Do you agree with the proposals for administering payments, including in-year payments based on estimates, end-year reconciliations and payments quarterly in arrears?

6. Operational Issues

Determining Schemes

- 6.1 Billing authorities will be responsible for designing the discretionary relief schemes that are to operate in their areas. However, the Government expects billing authorities to discuss options with their major precepting authorities at an early stage and to consult them before adopting any scheme and where applicable consult their combined authority.
- 6.2 We will place conditions on the s.31 grant that we pay billing authorities requiring them to consult their major precepting authorities and where applicable their combined authority.

Notice Periods

- 6.3 The Non-Domestic Rating (Discretionary Relief) Regulations 1989 (S.I. 1989/1059)¹ require authorities 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, local authorities may still make decisions which are conditional upon

¹ The Non-Domestic Rating (Discretionary Relief) Regulations 1989 No. 1059.

eligibility criteria or rules for calculating relief which allow the amount of relief to be amended within the year to reflect changing circumstances.

- 6.4 Therefore, when making an award for the support for ratepayers, local authorities must ensure in the conditions of the award that the relief can be recalculated in the event of a change to the rating list for the property concerned (retrospective or otherwise). This is so that the relief can be re-calculated if the rateable value changes.

State Aid

- 6.5 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 the support for ratepayers will be State Aid compliant where it is provided in accordance with the De Minimis Regulations (1407/2013)².

- 6.6 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). Local authorities should familiarise themselves with the terms of this State Aid exemption, in particular the types of undertaking that are excluded from receiving De Minimis aid (Article 1), the relevant definition of undertaking (Article 2(2)³) and the requirement to convert the aid into Euros⁴.

- 6.7 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. Note that 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). Where local authorities have further questions about De Minimis or other aspects of State Aid law, they should seek advice from their legal department in the first instance ***Discretionary Relief in Enterprise Zones?***

- 6.8 Where an eligible property is also eligible for Enterprise Zone relief, then Enterprise Zone relief should be granted and, until the introduction of 100% business rates retention, this will be funded under the rates retention scheme by a deduction from the central share (or, in the case of 100% business rates plots, from a separate s.31 grant). Local authorities should not provide discretionary relief under their schemes for “revaluation support” to properties which would otherwise qualify for Enterprise Zone government funded relief.

² <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2013:352:0001:0008:EN:PDF>

³ The ‘New SME Definition user guide and model declaration’ provides further guidance:

http://ec.europa.eu/enterprise/policies/sme/files/sme_definition/sme_user_guide_en.pdf

⁴ http://ec.europa.eu/budget/contracts_grants/info_contracts/infoeuro/infoeuro_en.cfm

6.9 If a property in an Enterprise Zone is not eligible for Enterprise Zone relief, or that relief has ended, discretionary relief for “revaluation support” may be granted.

Other Discretionary Reliefs reimbursed by s.31 grants

6.10 Similarly, if a property is eligible for discretionary relief under schemes for which s.31 grant is payable – for example, “new empty property” relief, or “local newspaper relief” – authorities should first award relief under those schemes and claim s.31 grant funding in the normal way. Only having awarded relief under those schemes, should they then award additional relief for “revaluation support” in accordance with local schemes.

Grant Conditions

6.11 In line with paragraphs 5.6 and 6.2 above, we propose to place conditions on the s.31 grants that we give to authorities. The conditions will require grant to be used to support only ratepayers facing an increase in their bills following revaluation; and to require billing authorities to consult their major precepting authorities and, where appropriate, combined authorities, before adopting any discretionary relief support scheme.

Question 7: Do you agree the grant conditions are appropriate?

7. About this consultation

This consultation document and consultation process have been planned to adhere to the Consultation Principles issued by the Cabinet Office.

Representative groups are asked to give a summary of the people and organisations they represent, and where relevant who else they have consulted in reaching their conclusions when they respond.

Information provided in response to this consultation, including personal information, may be published or disclosed in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 1998 (DPA) and the Environmental Information Regulations 2004).

If you want the information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence. In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department.

The Department for Communities and Local Government will process your personal data in accordance with DPA and in the majority of circumstances this will mean that your personal data will not be disclosed to third parties.
Individual responses will not be acknowledged unless specifically requested.

Your opinions are valuable to us. Thank you for taking the time to read this document and respond.

Are you satisfied that this consultation has followed the Consultation Principles? If not or you have any other observations about how we can improve the process please contact DCLG Consultation Co-ordinator.

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or by email to: consultationcoordinator@communities.gsi.gov.uk