

Birmingham City Council

Report to Cabinet

14 May 2024



Subject:	Business Rate Discretionary Rate Relief and Partly Occupied Relief (Section 44a) Policy Revisions	
Report of:	Fiona Greenway, Director of Finance & Section 151 Officer	
Relevant Cabinet Member:	Councillor John Cotton, Leader and Cabinet Member for Finance and Resources	
Relevant O &S Chair(s):	Councillor Jack Deakin, Resources O&S Committee	
Report author:	Tim Savill, Assistant Director Revenues, Benefits and Rents	
Are specific wards affected?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No – All wards affected
If yes, name(s) of ward(s):		
Is this a key decision?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
If relevant, add Forward Plan Reference: 012668/2024		
Is the decision eligible for call-in?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Does the report contain confidential or exempt information?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
If relevant, state which appendix is exempt, and provide exempt information paragraph number or reason if confidential:		

1. Executive Summary

1.1 Discretionary Rate Relief

The Council needs to revise its' discretionary rate relief policy due to the introduction of the new Non-Domestic Rating Act 2023. This Act removed from previous legislation the backdating rules for the award of discretionary business rates relief. The previous rules were prescribed, and the change is intended to give greater flexibility to authorities by allowing them to set their own rules. The Council is also proposing a revised (part occupied) s44a discretionary rate relief policy with a clearer eligibility criteria.

2. Recommendations

- 2.1 It is recommended that Cabinet approves the awarding of discretionary relief for the financial year in which the application is received unless the liability commences after the start of the financial year.
- 2.2 Should 2.1 above be approved, and the application is successful, it is further recommended that Cabinet approves the relief to be granted from the start date of the liability (option two in this report); and discretionary rate relief may be considered for the immediate previous financial year only, providing the application is received by 1st September of the following financial year. There will be no further backdating of relief given.
- 2.3 It is recommended that Cabinet approves the National Non-Domestic Rate (NNDR) Discretionary policy (Appendix 1) and the revised s44a policy (Appendix 2). The amended Section 44a (Partly Occupied Properties) does not present any major change in policy but has clearer definitions of the eligibility criteria.

3. Background

- 3.1 There is an immediate need for a revised discretionary rate relief policy due to the introduction of the new Non-Domestic Rating Act 2023, which received Royal Assent on 26th October 2023. This removed (from previous legislation) the backdating rules for the award of discretionary business rates relief. From 1st April 2024 local authorities can operate discretionary relief without restriction for the financial years 2023/24 onwards.
- 3.2 The previous rules were prescribed and fixed whereas the new rules afford more flexibility to authorities allowing them to set their own rules. From 1st April 2024 Birmingham's policy needs to clearly define which periods the council will award discretionary relief for and if it will allow the backdating of applications.
- 3.3 The draft amended policy takes into account two options for awarding business rates discretionary relief, as outlined in section 4 of this report.
- 3.4 Part occupied s44a relief is also a discretionary relief. This is a discretionary relief to reduce the amount payable by a ratepayer. The amount of reduction is calculated by a valuation office rateable value apportion of the occupied and unoccupied parts of the property, with full rates remaining payable on the occupied part. The part that is unoccupied must only be for a short period, with various other criteria required for eligibility as detailed in the policy.

3.5 The revised s44a policy has been drafted due to the council reviewing the requirements. It has been updated to reflect that Birmingham has a 100% rates retention and as section 44a is a discretionary relief any awards are a cost to the authority. The detail in the policy has clarified further and more robustly the criteria that must be satisfied for an application to be considered.

3.6 Retrospective applications are not allowed. A visit will be made to verify that the area stated in the application is not in use and is unoccupied, and thus protecting council funds from fraudulent claims.

4. Options considered and Recommended Proposal

4.1 Option One

4.1.1 Discretionary relief will only be awarded for the financial year in which the application is received, unless the liability commences after the start of the financial year in which case, if the application is successful relief will be granted from the start date of the liability.

4.1.2 Applications will not be considered for previous financial years. This would be a change from the previous legislated position.

4.2 Option Two - recommended

4.2.1 Discretionary relief will only be awarded for the financial year in which the application is received, unless the liability commences after the start of the financial year in which case, if the application is successful relief will be granted from the start date of the liability.

4.2.2 Discretionary rate relief may be considered for the immediate previous financial year only, providing the application is received by 1st September of the following financial year. There will be no further backdating of relief given.

4.2.3 This reflects the previous legislated position and the way the council has operated until now.

4.3 Option two is the officer recommendation; ratepayers ('not for profit' organisations) would not see any change in operation of the council's policy guidelines. Option two mirrors the legislation in place up to 31st March 2024. This would present no difficulties in administration – charities and not for profit organisations are used to this regime, which has been in place since 1990.

5. Consultation

5.1 The recommended option means that there will be no change to the existing arrangements and consultation has therefore not been needed.

6. Risk Management

6.1 The recommended option means that there will be no change to the existing arrangements. This helps to protect the council's financial position and provides certainty to charities and 'not for profit' organisations.

7. Compliance Issues:

7.1 How are the recommended decisions consistent with the City Council's priorities, plans and strategies?

7.1.1 The recommended proposal supports making Birmingham a great city to live by providing important financial support to charities and 'not for profit' organisations. The proposal is in line with the approach made by other councils.

7.2 Legal Implications

7.2.1 An updated discretionary rate relief policy is required in order to determine applications received after 31 March 2024. This includes periods pre-31 March 2024. The 2023 Non-Domestic Rating Act, removed the backdating provision contained in Section 47 of The Local Government Finance Act 1988, thus requiring local authorities to set their own backdating rules.

7.3 Financial Implications

7.3.1 The new policy is a replica of the outgoing policy with the removed statutory rules. The 2023/24 budget contained a £900,000 provision for unfunded reliefs (these are rate relief the council awards that the Government do not fund, such as small business rate relief and retail, hospitality and leisure relief).

7.3.2 Discretionary rate relief spend in previous years for 'unfunded charity' and 'not for profit' organisations were:

- 2020/21 – £235,048
- 2021/22 – £16,846
- 2022/23 – £205,647
- 2023/24 – £296,563 (across 29 accounts awarded up to 14.2.2024)

7.3.3 For section 44a, the relief awarded for 2023/24 was £72,000 across 4 accounts awarded up until 14.2.2024.

7.4 Procurement Implications (if required)

7.4.1 None

7.5 Human Resources Implications (if required)

7.5.1 None

7.6 Public Sector Equality Duty

7.6.1 No adverse implications identified. For full details, please see appendix 3.

7.7 Environmental and Sustainability Implications

7.7.1 No adverse implications identified. For full details, please see appendix 4.

8 Appendices

8.1 Appendix 1 – Business rates discretionary policy

8.2 Appendix 2 – Section 44a Policy

8.3 Appendix 3 – Equality Impact Assessment

8.4 Appendix 4 – Environmental and Sustainability Assessment

9 Background Documents

9.1 Not applicable