SHARED REVENUES AND BENEFITS JOINT COMMITTEE **30 MAY 2024**

SUBJECT:	**BUSINESS RATES UPDATE**
DIRECTORATE:	**CHIEF EXECUTIVE AND TOWN CLERK**
REPORT AUTHOR:	**EMMA-JANE BRODRICK, RECOVERY AND NNDR/BID TEAM LEADER**

1. Purpose of Report

1.1 To provide Joint Committee with an update on current issues within non-domestic rate.

2. Executive Summary

2.1 This report provides Shared Revenues and Joint Committee with an update on non-domestic rate, to include reference to City of Lincoln Council, North Kesteven District Council and West Lindsey District Council. The report is not intended to include non-domestic rate performance matters, as this is covered in the 'Performance Update' report before this Joint Committee today.

3. Background

3.1 The report includes some of the changes that have been announced as a result of the Government's financial support provided to businesses in the form of business rates relief. The report also focuses on the financial impact of recent appeals and reductions to rateable values.

4. NDR Charges and Significant Reliefs/Discounts

4.1 At the Autumn Statement on 22 November 2023, the Chancellor announced that the Government would continue to provide a package of business rates measures to support businesses in England.

- The retail, hospitality and leisure relief will continue for 2024/2025 at 75% up to £110,000 per business.
- A freezing of the small multipliers for a further year at 49.9p and an increase in the standard multiplier from 51.2p to 54.6p.

5. Retail, Hospitality and Leisure Relief 2023-24

5.1 Eligibility criteria for the Retail, Hospitality and Leisure Relief was set out by the Department for Levelling Up, Housing and Communities (DLUHC) and issued to Local Authorities on 20 December 2021. No changes were made to the qualifying criteria for the year 2023/2024. This can be found here:

- Business Rates Information Letter 9/2021 (publishing.service.gov.uk)
- Business Rates Relief: 2023/24 Retail, Hospitality and Leisure Scheme -

GOV.UK (www.gov.uk)

Business Rates Relief: 2024/25 Retail, Hospitality and Leisure Scheme - GOV.UK (www.gov.uk)

5.2 Properties that will benefit from the relief will be occupied hereditaments that are wholly or mainly being used:

a) as shops, restaurants, cafes, drinking establishments, cinemas and live music venues;
b) for assembly and leisure; or
c) as hotels, guest & boarding premises and self-catering accommodation.

5.3 DLUHC guidance provided further detailed lists of properties which fell into the above categories but made it clear that the list is not intended to be exhaustive. The list was intended to be a guide for Local Authorities (LA's) as to the types of uses that the Government considers for the purpose to be eligible for relief. LA's were required to determine for themselves whether particular properties not listed are broadly similar in nature to those above, and if so, to consider them eligible for the relief.

5.4 Government will reimburse LA's that use their discretionary relief powers under Section 47 of the Local Government Finance Act 1988 (amended).

5.5 In terms of Retail, Hospitality and Leisure Relief (previously known through the Expanded Retail Discount (ERD) scheme), the figures below reflect the significant reduction in the amounts awarded in the last three years with an estimate on the award to be granted in 2023/24.

Awarded	City of Lincoln	North Kesteven	West Lindsey	Annual Reduction
2020/21	£28,002,354	£6,748,970	£5,048,076	100%
2021/22	£9,544,369	£3,890,932	£2,288,599	66%(Apr-Jun) 100%(Jul-Mar)
2022/23	£2,840,236	£1,691,974	£1,032,508	50%
2023/24 End March 2024	£4,043,245 (estimate on ndr1 £3,906,616)	£2,326,887 (estimate on ndr1 £2,383,359)	£1,423,924 (estimate on ndr1 £1,486,748)	75%
2024/25	(estimate on ndr1 £4,003,220)	(estimate on ndr1 £2,336,514)	(estimate on ndr1 £1,509,920)	75%

Capping applies to all years with exception of 2020/21.

6. Potential Reductions to Rateable Value

6.1 Fire Stations and Hospitals

On 4 December 2020, the Valuation Office Agency (VOA) contacted all Local Authorities to advise they may start to see changes in the rateable values of hospitals and fire stations. These categories have been in discussion under the VOA's Group Pre-Challenge Review (GPCR) procedure.

6.2 Rating agents requested GPCR discussions in early 2020 and submitted checks against a representative sample of properties within each class. The GPCRs facilitated the provision and exchange of evidence culminating in agreed valuation schemes.

6.3 On average reductions will be around 10% on NHS and private hospitals, and 9% on fire stations however this will subject to wide variation dependant on the age of the properties.

Most reductions are needed to reflect the application of new age and obsolescence scales for non-industrial properties, following guidance given in the Upper Tribunal decision Hughes v York Museum. Larger reductions, in the region of 23%, are likely on:

- hospitals built after 2010 (further building costs were produced by the agents to support this); and
- older 1960s/70s built hospitals (particular those of a 'tower block design'; these having greater functional obsolescence).

6.4 Whilst the initial reductions will flow from GPCR Challenges, the scheme reductions the VOA have agreed will likely be actioned on any existing and future Check cases; these can be actioned as soon as the VOA have confirmation all physical factors they hold in their surveys are correct.

6.5 **Hotels Occupied by Asylum Seekers**

Under Section 66(1) of the Local Government Finance Act 1988, a property is domestic if it is used for living accommodation with the only exception being in Section 66(2) which says a property is not domestic if it is being used in the course of a business providing short-stay accommodation to individuals whose sole or main residence is somewhere else.

Where a hotel is used to as accommodation for refugees/asylum seekers, the occupants do not have a sole or main residence elsewhere. Therefore, the hotel should be brought into the Council Tax listings with the maximum charge being a Band H property.

The Valuation Office have recently removed a hotel from the Non Domestic Rating list and brought this into the Council Tax listings as a Band H Council Tax dwelling.(not in our districts) The result of this is a loss of Non Domestic Rating income to the authority which is not offset by the amount of a Council Tax paid for a Band H dwelling.

The Valuation Office are making changes to properties that they know about, but as the Home Office will likely to have a register of the properties being used to house refugees/asylum seekers, this may increase the number of hotels that are removed from Non Domestic Rating listings.

6.6 **Museums**

Following a series of landmark cases regarding the valuation of museums, the Valuation Office confirmed that they would change the assessment of Museums for the purposes of business rates.

They announced that from 1st April 2023, museums in older buildings would be assessed on income and expenditure receipts, these had previously been assessed by the contractor's method which assesses the rateable value according to the cost of a rebuild. Sector bodies have long argued that this unfairly penalises museums for occupying historic properties or large spaces required to house and display collections. The result of this being that the rateable value is calculated at much higher levels of values that most museums could ever afford as rent.

The Valuation Office also announced that newer built museums, built after 2001, would continue to be assessed on the contractors' calculation.

For any of the older buildings that were to have their rateable value reduced to £1 from 1st April 2023, the Valuation Office informed ratepayers that they must appeal the 2017 listings under the Check, Challenge and Appeal system on their website.

Three museums, one built after 2001, put in appeals regarding the 2017 listings. The appeal in respect of the hereditament built after 2001 has been founded and appears to have been calculated on the receipts and expenditure process and not the contractors' basis as announced by the Valuation Office. Officers have now received the schedules with the backdated reduction of the rateable value to £1 with effect from 1st April 2017. These were actioned on the accounts before the 31st March 2024.

7. Business Rates Review

7.1 The final report for a Business Rates Review was also published at the Budget. The Budget and the Review commits in the longer term, to making improvements to the Business Rates system – these include the following;

More frequent revaluations, moving to a revaluation every three years starting from the revaluation which came into force on 1st April 2023, the next being 1st April 2026 and so on.

The process of revaluation starts approximately 2 years before the new valuations come into force. For the revaluation due on 1st April 2023, the rateable value will have been assessed based on the rental evidence on 1st April 2021. There will be a new duty on the ratepayer to provide the Valuation Office with the information.

7.2 For each revaluation, the Government introduces a Transitional Relief scheme. Transitional relief limits how much a bill can change each year. As the Ndr system is self-financing, historically these limits have limited both large increases and large decreases. In the Budget, the government announced a change to the Transitional relief scheme so that only increases were limited. For any reduction in the rateable value, a ratepayer will receive the full benefit of the reduction immediately.

Rateable values at 31st March 2023 are shown below:

Total RV	City of Lincoln	North Kesteven	West Lindsey
2017 list – RV	111,657,102	76,676,924	49,669,995
Hereditaments	3,589	3,458	3,051
2023 draft list – RV	109,146,624	84,565,162	53,638,108
Hereditaments	3,589	3,457	3,051
		Reduction is due to one assessment entering the Central Listings	
Changes to RV from 2017 to 2023	-2,510,478 -2.25%	7,888,238 10.3%	3,968,113 8.0%

7.3 **Heat Network Rate Relief Scheme**

As set out in the business rates information letter the government has published the guidance for Local Authorities on the operation of the Heat Networks relief scheme for 2023/24. The scheme is substantially unchanged from the guidance published for 2022/23. Local Authorities are to continue to deliver the discretionary relief using their discretionary powers for 2023-24 until the relief was made mandatory through the Non Domestic Rating Bill. This is now mandated from 1st April 2024.

This relief is targeted at hereditaments being used wholly or mainly as heat networks and has its own rating assessment. The relief is for those networks generating from a low carbon source to ensure that the policy supports decarbonisation.

Heat networks take heat or cooling from a central source(s) and deliver it to a variety of different customers such as public buildings, shops, offices, hospitals, universities and homes. By supplying multiple buildings, they avoid the need for individual boilers or electric heaters in every building. Heat networks have the potential to reduce bills, support local regeneration and be a cost-effective way of reducing carbon emissions from heating.

For these purposes, a heat network is a facility, such as a district heating scheme, which supplies thermal energy from a central source to consumers via a network of pipes for the purposes of space heating, space cooling or domestic hot water. Hereditaments wholly or mainly providing heat for a different purpose (such as an industrial process) are not eligible. The government will keep under review the incidence of heat networks in any industrial process context and whether they should benefit from the relief.

The test should be applied to the hereditament as a whole and heat network relief is not available on part of a hereditament. Many small and medium scale heat networks, such as common heating systems in multi-occupied buildings or estates, do not give rise to a separate business rates bill. In these cases, the heat network forms part of the services of the properties which have a wider purpose (e.g. offices) and therefore would not be eligible for Heat Network Relief.

8. Business Rates Avoidance and Evasion Consultation

8.1 In the Spring budget on 15 March 2023, the Chancellor announced that the government would consult on measures to tackle business rates avoidance and evasion.

A consultation paper was provided in July 2023, with a target date of 27 September 2023 for responses.

The Ministerial Foreword of this consultation stated -

The vast majority of those who engage with the business rates system do so honestly and transparently. Ratepayers pay the taxes that are due and enjoy the benefits of the reliefs and exemptions to which they are entitled. Rating agents assist their clients competently and adhere to a high professional standard when dealing with billing authorities and the Valuation Office Agency (VOA).

But there is also a small minority who seek to exploit the business rates system, either through false reporting, or through contrived means which circumvent the spirit and intention of the law. The former is evasion, the latter, avoidance. These practices unfairly shift the burden of business rates onto the honest majority, and result in loss of revenue which should be used for vital public services.

One of the most prevalent rates avoidances schemes is to ‘reoccupy’ a property for 6 weeks and 1 day, empty the property again and claim a further 3 month exemption. The occupation is contrived for the sole purpose of claiming a further period of empty exemption. Due to caselaw involving Makro Properties v Nuneaton and Bedworth (2012) and Principled Offsite Logistics Ltd v Trafford Council, the occupation has to be minimal such as moving a few boxes into a warehouse. Estimated losses to the shared service over 2022-23 for this type of rates avoidance is estimated to be - City of Lincoln £636k, North Kesteven £87k, and West Lindsey £65k.

Whilst not illegal, the practice is considered to be rates avoidance and companies have been set up for the sole purpose of abusing this loophole in the legislation.

In March 2024, the consultation resulted in:

- the extension of the empty property relief ‘reset period’ to be increased from six weeks to three months with effect from 1.4.2024.
- the announcement of a further consultation on adopting a ‘general anti-avoidance rule’ for business rates in England
- and a commitment from the government to improve communication about ‘rogue’ business rates agents.

9. Non Domestic Rating Bill – Royal Assent 26th October 2023

9.1 This bill made a number of changes to Non Domestic Rating.

One of the changes removed the 6 month backdating rule for discretionary rate relief decisions in England.

The Act creates section 47(6A) which says that a decision, by a billing authority in England, with regards a day is invalid if the day falls before 31 March 2023 and the decision is made more than 6 months after the end of the financial year to which it relates, i.e. the backdating rule does not apply to decisions in respect of 2023-24 onwards.

This is likely to mean that with effect from 1 April 2024 we will be able to make decisions on discretionary reliefs fully retrospectively (in respect of the financial year 2024/25 onwards....").

The other significant change is the decoupling of the multipliers and, in effect, the abolition of the small business supplement from 1 April 2024. This means that Government can choose to raise the two multipliers by different amounts.

The bill also paves the way for data sharing between the VOA, HMRC and billing authorities. The authorities already have a sharing agreement with the VOA but due to the changes with what they can now share, we expect a new sharing agreement and protocol to be announced by the VOA.

10. Strategic Priorities

10.1 Both authorities look to protect those who may be experiencing final hardship. The Revenues Team is mindful of the strategic priorities when engaging with business ratepayers as they look to recover the business rate.

11. Organisational Impacts

11.1 **Finance**

There are no direct financial implications arising as result of this report.

11.2 **Legal Implications including Procurement Rules**

There are no legal nor procurement implications as a direct result of this report.

11.3 **Equality, Diversity & Human Rights**

The equality implications have been considered within this report. In bringing forward any change to the existing criteria for awarding discretionary relief, consideration will be given as to whether a full Equality Impact Assessment is required.

12. Risk Implications

12.1 A Risk Register is in place for the Revenues and Benefits Shared Service.

13. Recommendation

13.1 Members are requested to note this report.

Is this a key decision?	No
Do the exempt information categories apply?	No
Does Rule 15 of the Scrutiny Procedure Rules (call-in and urgency) apply?	No
How many appendices does the report contain?	None
List of Background Papers:	None

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