SHARED REVENUES AND BENEFITS JOINT COMMITTEE **19 SEPTEMBER 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 Shared Revenues and Benefits Joint Committee with an update on current issues within non-domestic rate.

2. Executive Summary

2.1 This report provides Shared Revenues and Benefits 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

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)]

This relief has been extended for the year 2024/25.

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 2024/25.

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	£2,326,887	£1,423,924	75%
2024/25 **End June 2024**	£3,892,960 (estimate on ndr1 £4,003,220)	£2,333,899 (estimate on ndr1 £2,336,514)	£1,455,413 (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 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.

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 1 April 2023, the next being 1 April 2026 and so on.

The process of revaluation starts approximately 2 years before the new valuations come into force. Therefore, the work has begun on collection of information for the list that will come into force on 1 April 2026

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.

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 1 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 26 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.

9.2 Occupied for Purposes of Prayer

Further to the rates mitigation schemes that are widely advertised on the internet, authorities are seeing a new scheme where empty properties are being 'let' to 'religious groups' for religious worship and ceremonies.

A number of authorities are reporting that they are being informed that an empty restaurant, empty warehouse etc is being used in this way. This would attract an exemption, but the property must be registered as a property for religious worship and ceremonies with the Registrar General.

The Registrar General has been notified by several local authorities of our concerns.

10. Intention to Abolish Mandatory Relief for Private Schools

10.1 The abolition of mandatory relief for private schools was outlined in the technical note on applying VAT to school fees, published on the 26 July 2024.

The intention is to remove entitlement to mandatory relief for private schools from April 2025 with primary legislation being introduced after the Autumn budget in October 2024.

11. Strategic Priorities

11.1 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.

12. Organisational Impacts

12.1 Finance

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

12.2 Legal Implications including Procurement Rules

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

12.3 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.

13. Risk Implications

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

14. Recommendation

14.1 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
Lead Officer:	Emma-Jane Brodrick, Recovery and NNDR/BID Team Leader. Emma-Jane Brodrick@lincoln.gov.uk