

Public Document Pack



RUSHMOOR BOROUGH COUNCIL

CABINET

*at the Council Offices, Farnborough on
Tuesday, 19th September, 2017 at 7.00 pm
in Concorde Room, Council Offices, Farnborough*

To:

Councillor D.E. Clifford, Leader of the Council
Councillor K.H. Muschamp, Deputy Leader and Business, Safety and Regulation
Portfolio Holder

Councillor Barbara Hurst, Health and Housing Portfolio Holder
Councillor G.B. Lyon, Concessions and Community Support Portfolio Holder
Councillor M.L. Sheehan, Leisure and Youth Portfolio Holder
Councillor P.G. Taylor, Corporate Services Portfolio Holder
Councillor M.J. Tennant, Environment and Service Delivery Portfolio Holder

Enquiries regarding this agenda should be referred to Chris Todd, Democratic
Services, on 01252 398825 or e-mail: chris.todd@rushmoor.gov.uk

A G E N D A

1. **MINUTES** – (Pages 1 - 4)

To confirm the Minutes of the Meeting held on 22nd August, 2017 (copy attached).

2. **NEW BUSINESS RATES DISCRETIONARY RATE RELIEF (REVALUATION)
POLICY** – (Pages 5 - 30)
(Councillor Gareth Lyon, Concessions and Community Support Portfolio Holder)

To consider Report No. FIN1728 (copy attached), which sets out a proposed new policy to reduce business rates liabilities to those worst affected by the 2017 revaluation.



RUSHMOOR BOROUGH COUNCIL

CABINET

*Tuesday, 22nd August, 2017 at 7.00 pm
at the Council Offices, Farnborough*

Councillor D.E. Clifford, Leader of the Council
Councillor K.H. Muschamp, Deputy Leader and Business, Safety and Regulation
Portfolio Holder

Councillor Barbara Hurst, Health and Housing Portfolio Holder
Councillor G.B. Lyon, Concessions and Community Support Portfolio Holder
Councillor M.L. Sheehan, Leisure and Youth Portfolio Holder
Councillor P.G. Taylor, Corporate Services Portfolio Holder
Councillor M.J. Tennant, Environment and Service Delivery Portfolio Holder

The Cabinet considered the following matters at the above-mentioned meeting. All executive decisions of the Cabinet shall become effective, subject to the call-in procedure, from **5th September, 2017**.

27. **MINUTES –**

The Minutes of the meeting of the Cabinet held on 25th July, 2017 were confirmed and signed by the Chairman.

28. **REVENUE BUDGET MONITORING AND FORECASTING 2017/18 - POSITION AT JULY, 2017 –**

(Councillor Paul Taylor, Corporate Services Portfolio Holder)

The Cabinet considered Report No. FIN1726, which set out the anticipated financial position for 2017/18, based on the monitoring exercise carried out during July, 2017. Members were informed that savings and efficiencies of around £550,000 were required for the year and that this target had been met, substantially, by two major reductions in expenditure, in relation to the new waste collection, recycling, grounds' maintenance and street cleansing contract and the results of the Mutually Agreed Resignation Scheme (MARS). It was reported that the balance of the General Fund stood at £2 million at the start of 2017/18, which was at the top of the range set out in the Medium Term Financial Strategy. For this reason, no transfers to or from the

Stability and Resilience Fund were proposed at the present time. Members noted that a good take-up of the green waste collection scheme had boosted income to the Council.

The Cabinet NOTED the latest Revenue Budget monitoring position, as set out in Report No. FIN1726.

29. **CAPITAL PROGRAMME MONITORING AND FORECASTING 2017/18 - POSITION AT JULY, 2017 –**
(Councillor Paul Taylor, Corporate Services Portfolio Holder)

The Cabinet received Report No. FIN1727, which provided the latest forecast regarding the Council's Capital Programme for 2017/18, based on the monitoring exercise carried out during July, 2017. The Report advised that the Capital Programme for 2017/18, allowing for slippages from the previous financial year and additional approvals, totalled £36,988,000. It was noted that £15 million had been allocated for the acquisition of investment properties during 2017/18 but that any purchases were likely to be made later in the financial year to allow for a full and proper assessment of potential market opportunities.

The Cabinet NOTED the latest Capital Programme monitoring position, as set out in Report No. FIN1727.

30. **COUNCIL PLAN FIRST QUARTER 2017/18 PERFORMANCE UPDATE REPORT –**
(Councillor David Clifford, Leader of the Council)

The Cabinet received Report No. DMB1703, which set out the Council's performance management monitoring information for the first quarter of the 2017/18 municipal year.

The Cabinet NOTED the progress made towards delivering the Council Plan 2017/18, as set out in Report No. DMB1703.

31. **THAMES BASIN HEATHS SPECIAL PROTECTION AREA AVOIDANCE AND MITIGATION STRATEGY UPDATE –**
(Councillor Martin Tennant, Environment and Service Delivery Portfolio Holder)

The Cabinet considered Report No. PLN1727, which set out proposed changes to the Rushmoor Thames Basin Heaths Avoidance and Mitigation Strategy, to incorporate arrangements with Hart District Council to allow development schemes within Rushmoor to utilise surplus Suitable Alternative Natural Green Space (SANG) within the Hart area.

Members heard that the proposal would allow for the delivery of 1,500 net new homes in the Farnborough area. It was noted that, due to the location of the SANG, the proposal would not provide mitigation for development in the Aldershot area and, in this respect, further SANG capacity would need to be sought. In response to a question, it was explained that this proposal would not affect Hart District Council's ability to deliver its required housing over the coming period.

The Cabinet RESOLVED that

- (i) the amendments to the Rushmoor Thames Basin Heaths Avoidance and Mitigation Strategy, based on the draft set out in Appendix I of Report No. PLN1727, be approved;
- (ii) the arrangements for developers to secure SANG capacity in Hart's area, based on the draft set out in Appendix II to the Report, be approved; and
- (iii) the Head of Planning, in consultation with the Portfolio Holder for Environment and Service Delivery, subject to being satisfied that the location, capacity and costs of the SANG provision offered were suitable to support the needs of development in Rushmoor, be authorised to approve and publish the final versions of the documents set out in Appendices I and II of the Report, following discussion and agreement with Natural England.

32. **NEW COMMUNITY NOTICEBOARD - NORTH TOWN –**
(Councillor Martin Tennant, Environment and Service Delivery Portfolio Holder)

The Cabinet considered Report No. COMM1716, which set out a request to authorise the Head of Community and Environmental Services to apply for planning permission for a new community noticeboard to be erected in Holly Road, Aldershot. Members were informed that an award of £500 from the Community Ward Grants Scheme would be used to pay for the new noticeboard and the cost of submitting the planning application. It was explained that the existing community noticeboard, located in the shopping area, had been in a damaged condition but had recently been replaced.

The Cabinet RESOLVED that the Head of Community and Environment be authorised to apply for planning permission for the new community noticeboard in Holly Road, as set out in Report No. COMM1716.

The Meeting closed at 7.22 p.m.

D.E. CLIFFORD
LEADER OF THE COUNCIL

This page is intentionally left blank

CABINET

COUNCILLOR GARETH LYON
CONCESSIONS AND COMMUNITY SUPPORT
PORTFOLIO HOLDER
REPORT NO. FIN1728

19 SEPTEMBER 2017

KEY DECISION? ~~YES~~/NO

**NEW BUSINESS RATES DISCRETIONARY RATE
RELIEF (REVALUATION) POLICY**

SUMMARY AND RECOMMENDATIONS:

Cabinet are recommended to:

- 1) Establish a local Discretionary Rate Relief Policy for reducing business rates liabilities to those Ratepayers who have been worse affected by the 2017 revaluation, and;
- 2) Delegate responsibility for applying the reliefs to the Head of Financial Services.

1. INTRODUCTION

- 1.1 This report seeks to adopt a local policy to enable the Council to award Discretionary Relief with effect from 1 April 2017 to small and medium businesses that have been most affected by the 2017 National Business Rates Revaluation.

2. BACKGROUND

- 2.1 In the Spring Budget 2017, on 8th March 2017, the Chancellor announced three new schemes of Discretionary Rate Relief to support those Business Ratepayers who are having large increases to their bills following the national 2017 revaluation.
- 2.2 These new reliefs are known as Supporting Small Businesses Relief, Pub Relief and Business Rates Discretionary Rate Relief (Revaluation).
- 2.3 The Government provided guidance, which sets out the criteria for awarding Supporting Small Businesses Relief and Pub Relief. These policies were approved by Cabinet on 25 July 2017.
- 2.4 The government has also provided guidance for Business Rates Discretionary Rate Relief (Revaluation). However, this relief is more complex and required consultation with other precepting authorities.
- 2.5 The scheme has now been finalised following consultation with other precept authorities and set out in this report accordingly.

3. DETAILS OF THE PROPOSAL

General

- 3.1 Full details of Discretionary Revaluation Relief are included in Appendix 1 of this report. A summary of this relief is outlined in paragraphs 3.2 to 5.3 below.
- 3.2 The Chancellor announced that a discretionary fund of £300 million would be made available over four years from 2017/18 to support those businesses that face the steepest increases in their business rates bills because of the 2017 National Revaluation.
- 3.3 Government determined that councils would be best placed to determine how this fund should be targeted and administered to support the businesses within their area that are in the greatest need.
- 3.4 Every authority in England is to be provided with a share of the £300 million fund to support their local businesses. This is to be administered through billing authorities' discretionary relief powers.
- 3.5 The £300 million fund is not provided equally over the four year period but in the following proportions:
- Year 1 (2017/18) = £175 Million
 - Year 2 (2018/19) = £85 Million
 - Year 3 (2019/20) = £35 Million
 - Year 4 (2020/21) = £5 Million
- 3.6 Rushmoor Borough Councils allocation of the fund is:-
- Year 1 (2017/18) = £311k
 - Year 2 (2018/19) = £151k
 - Year 3 (2019/20) = £62k
 - Year 4 (2020/21) = £9k
- 4. Qualifying criteria for Discretionary Relief (Rushmoor Borough Council Scheme)**
- 4.1 The scheme is designed solely to assist ratepayers who have suffered significant increases in business rate liability due to revaluation and the subsequent increase to their rateable value
- 4.2 Relief will not be awarded where mandatory relief is granted, discretionary relief for non-profit organisations and, in line with legislative requirements, no relief to any precepting authority.
- 4.3 Relief will only be granted to those premises whose Rateable Value at 1st April 2017 is less than £200,000.

- 4.4 Relief will only be granted where the increase in rates payable between 2016-17 and 2017-18 is greater than 12.5%
- 4.5 The ratepayer will be required to pay the first £600.00 of any increase before any relief is awarded.
- 4.6 Relief will only be awarded to premises that are occupied.
- 4.7 Relief will only be granted to ratepayers who were in occupation at 31 March 2017 and in occupation on 1 April 2017.
- 4.8 Ratepayers taking up occupation after 1 April 2017 will not be entitled to relief.
- 4.9 Relief may be awarded to ratepayers who occupy more than one property as long as all criteria are met.
- 4.10 Relief will not be granted in respect of the following
- Betting and gambling premises including Casinos, Bingo Halls and Amusement Arcades;
 - Pawnbrokers and payday lenders;
 - Headshops, or those selling legal highs and similar paraphernalia;
 - Private Members Clubs

5 Amount of Relief

- 5.1 The amount of relief to be awarded for the year 2017/18 will be 42%
- 5.2 The relief to be awarded in the year 2018-19 onwards will be reviewed when we have more understanding of the level of business rates payable in those years.
- 5.3 In exceptional cases, we will consider applications on a case-by-case basis where the Ratepayer falls outside of the criteria detailed in paragraphs 3.1 to 4.10 but where the ratepayer can demonstrate that they are experiencing severe financial difficulties due to the revaluation on 1 April 2017.

6 Consultation

- 6.1 An essential part of the Discretionary Business Rates Relief Scheme is that Billing Authorities must consult with the major preceptors before finalising their individual schemes.
- 6.2 Rushmoor has consulted with our major preceptors in relation to this scheme and has taken their comments into account (Appendix 2).
- 6.3 The major precepting authorities consulted in this scheme are:-
- Hampshire County Council;

- The Police and Crime Commissioner for Hampshire; and
- The Hampshire Fire and Rescue Service.

7. Implementation

- 7.1 Once the scheme has been approved, all businesses that are potentially eligible for either scheme, will be written to, enclosing a simple application form, which will need to be signed and returned to the Council. Under the requested delegation set out in the recommendations, the Head of Financial Services will then make the necessary award and amended bills will be issued (subject to State Aid regulations).
- 7.2 The scheme will also be available on the Council's website.

8. Legal Implications

- 8.1 Local Authorities are expected to deliver the scheme through the use of their discretionary relief powers under Section 47 of the Local Government Act 1988.

9. Financial and Resource Implications

- 9.1 Central Government have made available a discretionary fund over four years to reimburse billing authorities awarding discretionary rate relief.
- 9.2 Rushmoor Borough Councils allocation is £311,000 in the year 2017/18.
- 9.3 If the Council were to exceed the budget of £311,000, the additional expenditure will not be reimbursed by central government and the Council would have to cover the overspend within the rates retention scheme.
- 9.3 The Revenues and Benefits team carried out extensive work to assess which ratepayers will qualify for this relief and have estimated the total expenditure for 2017/18 to be approximately £295,000.
- 9.4 This leaves £16,000 available to be awarded to ratepayers in exceptional cases who fall outside the criteria but can demonstrate financial hardship due to the revaluation on 1 April 2017.
- 9.5 The Department for Communities and Local Government (DCLG) recognises that implementing new schemes places additional burdens on billing authorities. DCLG have advised that Rushmoor Borough Council will receive £12,000 in 2017/18 (under the New Burdens regime) towards the cost of implementing the three schemes announced in the budget.
- 9.6 Therefore there will be no financial impact on the Council (subject to paragraph 9.3) but will have a direct benefit to certain ratepayers within the Borough.

10. CONCLUSIONS

- 10.1 In conclusion, Cabinet are asked to approve the new discretionary rate relief policy as attached in Appendix 1 of this report.
- 10.2 The relief will be delivered using existing Discretionary Relief Powers under Section 47 Local Government Finance Act 1988 and the Council will be reimbursed for the relief awarded under this scheme.
- 10.3 The Council will receive a grant towards the cost of implementation.
- 10.4 The scheme will benefit small and medium ratepayers in the Borough by limiting any increase in rates payable following the revaluation on 1 April 2017.

BACKGROUND DOCUMENTS:

Business Rates Information Letter (4/2017): Spring Update
Discretionary Funding for BRR Relief Grant Determination Letter 28 April 2017
DCLG – Business Rates Discretionary Rate Relief Consultation – March 2017
Local Government Finance Act 1988, Section 47
Non-Domestic Rating (Discretionary Relief) Regulations 1989 (SI 1989 1059)

CONTACT DETAILS:

Report Author – David May / david.may@rushmoor.gov.uk / 01252 398330
Head of Service – Amanda Fahey / amanda.fahey@rushmoor.gov.uk 01252 398440

This page is intentionally left blank

Policy for the granting of the Discretionary Business Rates Relief

Version Control

<i>Version</i>	<i>Version date</i>	<i>Revised by</i>	<i>Description</i>
1	May 2017	LM	Policy
2	June2017	LM	Revisions
3	July 2017	DA	Sign off
4	July 2017	LM	Amendments DM
5	August 2017	LM	Amendments EE

Contents

1.0	Purpose of the Policy	4
2.0	Discretionary Relief – Legislative Background	5
	Introduction	5
	The Council’s general approach to granting Discretionary Relief	6
3.0	Effect on the Council’s Finances	7
4.0	Discretionary Relief – EU State Aid requirements	9
5.0	Administration of Discretionary Relief – General approach	10
	Applications and Evidence	10
	Granting of relief	10
	Variation of a decision	11
6.0	Scheme of Delegation	12
	Granting, Varying, Reviewing and Revocation of Relief	12
	Reviews	12
	Appeals	12
7.0	Consultation	13
8.0	Decisions by the Council under this scheme	14
	Discretionary Business Rate Relief Scheme– the Council’s policy for granting discretionary relief.	14
	Applications for relief under this scheme	15
	Amount of Relief	15
	Variation and amendment of relief under the scheme	15
9.0	Reporting changes in circumstances	17
10.0	Fraud	17

1.0 Purpose of the Policy

- 1.1 The purpose of this policy is to determine the level of Discretionary Business Rates Relief to be granted to certain defined ratepayers within the Council's area.
- 1.2 The Local Government Finance Act 1988 and subsequent legislation requires the Council to grant discretionary relief for premises occupied by Charities and similar organisations that own or occupy them wholly or mainly for charitable purposes. Likewise, certain premises situated within a rural settlement area will be eligible for relief. Powers have also been granted under the Localism Act 2011, which allow for the granting of discretionary rate relief to any premises where the Council feels the granting of such relief would be of benefit to the local community.
- 1.3 In addition to the above, Central Government is keen that in certain cases, assistance should be provided to businesses who have had increases in their rate liability due to the revaluation of premises in April 2017. In these cases, and where the Council meets Central Government guidelines, grants are available under section 31 of the Local Government Act 2003.
- 1.4 Whilst the Council is obliged to grant relief to premises, which fall within the mandatory category, the Council also has powers to grant discretionary relief and reductions to ratepayers, subject to certain criteria being met.
- 1.5 This document outlines the following areas:
 - Details of the criteria for receiving an award under the Discretionary Business Rates Relief Scheme;
 - The Council's general policy for granting of all types of Discretionary Reliefs;
 - Guidance on granting and administering the reliefs;
 - European Union requirements including provisions for State Aid; and
 - The Council's Scheme of Delegation.
- 1.6 This document covers all aspects of the new Discretionary Business Rates Relief scheme which is available from 1st April 2017. Where businesses apply for relief they will be granted (or not granted) relief in line with the following policy.

2.0 Discretionary Relief – Legislative Background

Introduction

- 2.1 The original purpose of discretionary relief was to provide assistance where the property does not qualify for mandatory relief, or to ‘top’ up cases where ratepayers already receive mandatory relief.
- 2.2 Over recent years, and particularly since 2011, the discretionary relief provisions have been amended to allow authorities the flexibility to provide more assistance to businesses and organisations.
- 2.3 The range of bodies, which are eligible for discretionary rate relief, is wide and has been developed by both the Council and Central Government to address certain issues with business rates.
- 2.4 Unlike mandatory relief, ratepayers are obliged to make a written application to the Council. The Council will expect all businesses to make applications in such a format as is required (which may vary from time to time) and for the business to provide such information, evidence, certificates etc. as required in order to determine whether relief should be awarded.
- 2.5 The Council is obliged to consider carefully every application on its merits, taking into account the contribution that the organisation makes to the amenities within the authority’s area. There is no statutory appeal process or Tribunal against any decision made by the Council, although as with any decision of a public authority, decisions can be reviewed by Judicial Review. The authority will however, upon request, review decisions made. Details of the internal review process are given within this policy.
- 2.6 The granting of discretionary relief falls broadly into the following categories:
 - a. Discretionary Relief – Charities who already receive mandatory relief;
 - b. Discretionary Relief – Premises occupied by organisations not established or conducted for profit whose main objects are charitable or are otherwise philanthropic or religious or concerned with education, social welfare, science, literature or the fine arts **or** premises occupied by organisations not established or conducted for profit and wholly or mainly used for purposes recreation;
 - c. Discretionary Relief – Granted under the Localism Act 2011 provisions;
 - d. Local Newspaper Relief (from 1st April 2017 for a period of two years);
 - e. Local Public House Relief (from April 2017 for a one year period);
 - f. Supporting Small Businesses Relief (from 1st April 2017 for a period of five years or until business pay their full rate charge or their transitional rate charge (calculated in accordance with the Non-Domestic Rating (Chargeable Amounts) (England) Regulations 2016); and
 - g. Discretionary Business Rates Relief Scheme (from 1st April 2017 for a period of up to four years).
- 2.7 This policy document purely covers the granting of awards under the Discretionary Business Rates Relief Scheme (g. above) which covers a period from 1st April 2017 for up to four years. The decision to grant or not to grant discretionary relief is a matter purely for the Council. The Council’s policy for granting other reliefs can be found on the Councils website www.rushmoor.gov.uk.

The Council's general approach to granting Discretionary Relief

- 2.8 In deciding which organisations should receive discretionary rate relief, the Council has considered the following factors and priorities:
- a. That any award should support business, organisations and groups that help to retain services in the Council's area and not compete directly with existing businesses in an unfair manner;
 - b. It should help and encourage business, organisations, groups and communities to become self-reliant;
 - c. Awarding discretionary relief should not distort competition or significantly change the provision of services within the Council's area;
 - d. To enable appropriate organisations to start, develop or continue their activities, which deliver outcomes to the community and that also relate to the priorities of the Council, which, without granting discretionary relief they would be unable to do;
 - e. To assist the Council in delivering services which could not be provided otherwise;
 - f. To assist the Council to meet its priorities including:
 - Sustaining a thriving economy and boosting local business;
 - Supporting and empowering our communities and meeting local needs; and
 - A cleaner, greener and more cultural Rushmoor;
 - g. To ensure that the financial impact of awarding discretionary business rate relief is justified in terms of the local outcomes achieved by the organisation receiving it.
- 2.9 Where any reduction or remission is granted to a ratepayer under S49 Local Government Finance Act 1988 where hardship is proven to the Council, then there will be no requirement to grant Discretionary Rate Relief for that amount.
- 2.10 In certain cases, the order in which relief is granted is specified. Mandatory relief shall be granted in all cases where the criteria is met irrespective of whether discretionary relief can be granted or not.

The Council's approach to granting Government led Discretionary Relief schemes

- 2.11 Over the past few years, a number of schemes have been led by Central Government but without specific legislative changes. These are administered under S47 of the Local Government Finance Act 1988 and guidance is often provided. The Council is keen to support such initiatives especially where they are designed to help local businesses and will look to maximise both the reliefs given as well as maximising any grants receivable. However, the Council reserves the right to vary its approach where thought appropriate.
- 2.12 In the case of the Discretionary Business Rate Relief scheme, Central Government is keen that individual Councils develop their own scheme to meet local needs. Government has allocated funds to the Council using a particular methodology, but it has been keen to point out that this should have **no** bearing on the actual scheme adopted by the Council.

3.0 Effect on the Council's Finances

- 3.1 The granting of discretionary relief will, in the main, potentially involve a cost to the Council. Since the change to the funding for Non-Domestic Rating in April 2013, the effect of the relief is complex.
- 3.2 Any amounts granted prior to 1st April 2013 and continuing since that date will be included in the Council's baseline within the Business Rates Retention Scheme. Any amounts granted for similar cases after 1st April 2013, the costs of the relief will be borne in accordance with the Business Rates Retention Scheme share namely 50% borne by Central Government, 40% by the Council, 9% by Hampshire County Council and 1% by Hampshire Fire and Rescue Service. This also applies where mandatory relief is granted.
- 3.3 In March 2017, Central Government announced that it 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. Government determined that Councils would be 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.
- 3.4 Where Central Government leads an initiative such as the Discretionary Business Rates Relief Scheme, grants are often made available. This is not automatic and Central Government will look to the Council to adopt any recommended criteria when granting in these areas to ensure that any grant is paid
- 3.5 Every authority within England is to be provided with a share of the fund to support their local businesses. This is to be administered through billing authorities' discretionary relief powers under section 47 of the Local Government Act 1988. The full effects of the financial allocation are shown below.
- 3.6 The allocation of monies to authorities and the methodology of the funding award is completely separate to the scheme itself and 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.
- 3.7 The funding is not provided equally over the four-year period but in the following approximate proportions:
- Year 1 (2017/18) 58%
- Year 2 (2018/19) 28%
- Year 3 (2019/20) 12%
- Year 4 (2020/21) 2%

- 3.8 Councils will be compensated for any relief granted under section 31 of the Local Government Act 2003. The Government is unclear at this stage as to whether any underspend can be 'vired' from one year to the next although their initial guidance is that any underspend will be returned to Treasury¹.
- 3.9 A key criteria of reimbursement will be that all Billing Authorities will consult with major precepting authorities when formulating their schemes.
- 3.10 The financial effects to the Council of the Discretionary Business Rates Relief Scheme are shown in the following table

Amount of discretionary fund awarded (£000s) - Rushmoor Borough Council			
2017-18	2018-19	2019-20	2020-21
311	151	62	9

- 3.11 The above is to be awarded up to the maximum level set by Central Government. It is possible for the Council to grant more relief than that allocated by grant. However, once the maximum grant level has been reached, any additional amount granted is borne 40% by the Council, 9% by the County Council, 1% by the Fire and Rescue Service and 50% by Central Government.

¹ DCLG Letter 27th April 2017 – Discretionary Rates Relief Scheme – Payment of Section 31 grant to reimburse cost of relief

4.0 Discretionary Relief – EU State Aid requirements

- 4.1 European Union competition rules generally prohibit Government subsidies to businesses. Relief from taxes, including non-domestic rates, can constitute state aid. The Council must bear this in mind when granting discretionary rate relief.
- 4.2 Rate relief for charities and non-profit making bodies is not generally considered to be state aid, because the recipients are not in market competition with other businesses. However, where other bodies receive relief and are engaged in commercial activities or if they are displacing an economic operator or if they have a commercial partner, rate relief could constitute state aid.
- 4.3 Relief will be State Aid compliant where it is provided in accordance with the De Minimis Regulations (1407/2013)². 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).
- 4.4 Where the relief to any one business is greater than the De Minimis level, then permission will need to be obtained from the European Commission. In such cases the matter will be referred to the Department for Communities and Local Government (DCLG) for advice and then referred back to the Council for consideration. It will be for the ratepayer to provide confirmation as to whether the State Aid provisions apply to them.
- 4.5 In all cases, where discretionary relief is to be granted or where liability is to be reduced, when making an application, ratepayers will be required to provide the Council with sufficient information to determine whether these provisions are applicable in their case.

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

5.0 Administration of Discretionary Relief – General approach

- 5.1 The following section outlines the procedures followed by officers in granting, amending or cancelling discretionary relief and reduction. This is essentially laid down by legislation³

Applications and Evidence

- 5.2 All reliefs must be applied for. Application forms are produced by the Council both in hard copy and electronic format.
- 5.3 Applications should initially be made to the Revenues Section and will be determined in accordance with this policy.
- 5.4 **The Council will provide this service and guidance free of charge. Ratepayers are encouraged to approach the Council direct and NOT pay for such services through third parties.**

Granting of relief

- 5.5 In all cases, the Council will notify the ratepayer of decisions made.
- 5.6 Where an application is successful, then the following will be notified to them in writing:
- The amount of relief granted and the date from which it has been granted;
 - If relief has been granted for a specified period, the date on which it will end;
 - The new chargeable amount;
 - The details of any planned review dates and the notice that will be given in advance of a change to the level of relief granted; and
 - A requirement that the applicant should notify the Council of any change in circumstances that may affect entitlement to relief.
- 5.7 Where relief is not granted then the following information is provided, again in writing:
- An explanation of the decision within the context of the Council's statutory duty; and
 - An explanation of the appeal rights (see below).
- 5.8 Discretionary relief is to be granted from the beginning of the financial year in which the decision is made. Since 1997 decisions can be made up to 6 months after the end of the financial year for which the application was made. In such cases, the Council *may* backdate its decision.
- 5.9 A decision to award discretionary relief and how much relief is given is normally only applicable to the financial year for which the application is made. However, the Council reserves the right to grant relief

³The Non-Domestic Rating (Discretionary Relief) Regulations 1989

for any other period as appropriate. In relation to the Discretionary Business Rate Relief scheme, awards will, in the main be granted from 1st April 2017.

- 5.10 A fresh application for discretionary relief will be necessary for each financial year **or** at such time-period as the Council determines.

Variation of a decision

- 5.11 Variations in any decision will be notified to ratepayers as soon as practicable and will take effect as follows:

- Where the amount is to be increased due to a change in rate charge or a change in the Council's decision which increases the award – this will apply from the date of the increase in rate charge or the date determined by the Council as appropriate;
- Where the amount is to increase for any other reason it will take effect at the expiry of a financial year, and so that at least one year's notice is given;
- Where the amount is to be reduced due to a reduction in the rate charge or liability including any reduction in rateable value, awarding of another relief or exemption this will apply from the date of the decrease in rate charge; and
- Where the amount is to be reduced for any other reason, it will take effect at the expiry of a financial year, and so that at least one year's notice is given.

- 5.12 A decision may be revoked at any time, however, a one year period of notice will be given and the change will take effect at the expiry of a financial year.

6.0 Scheme of Delegation

Granting, Varying, Reviewing and Revocation of Relief

- 6.1 All powers in relation to reliefs are given under the Local Government Finance Act 1988, the Local Government and Rating Act 1997, the Local Government Act 2003 and the Localism Act 2011. However section 223 of the Local Government Act 1992 allows for delegation of decisions by the Council to Cabinet, Committees, Sub-Committees or Officers.
- 6.2 The Council's scheme of delegation allows for the Head of Financial Services, Section 151 Officer, to award, revise or revoke any discretionary relief applications. Any application which is considered to be of a significant nature will be subject to consultation with the S151 Officer of the Council and the Concessions and Community Support Portfolio Holder prior to final determination.
- 6.3 Applications that are refused will, on request, be reconsidered if additional supporting information is provided or the refusal is subsequently considered to be based on a misinterpretation of the application.

Reviews

- 6.4 The policy for granting relief will be reviewed annually or sooner where there is a substantial change to the legislation or funding rules. At such time, a revised policy will be brought before the relevant committee of the Council.
- 6.5 The Principle Revenues and Benefits Officer will submit a report on a six-monthly basis to the section 151 Officer summarising the position on applications received, granted and not granted.

Appeals

- 6.6 Where the Council receives an appeal from the ratepayer regarding the granting, non-granting or the amount of any discretionary relief, the case will be reviewed by the Head of Financial Services, Section 151 Officer. Where a decision is revised then the ratepayer shall be informed, likewise if the original decision is upheld.
- 6.7 Ultimately the formal appeal process for the ratepayer is Judicial Review although the Council will endeavour to explain any decision fully and openly with the ratepayer.

7.0 Consultation

- 7.1 The Council has consulted with the major preceptors in relation to this scheme and has taken their comments into account when determining the eligibility criteria. This is an essential part of the Discretionary Business Rates Relief Scheme and is in line with the grant determination issued by the Department of Communities and Local Government (DCLG) No.31/3071.
- 7.2 The grant determination states that a condition of the fund is that consultation is undertaken with 'relevant authorities'. Relevant authorities for the purposes of this scheme means:
- a. Any major precepting authority; and
 - b. Any combined authority.
- 7.3 In the case of the Council only the major precepting authorities have been consulted namely:
- a. Hampshire County Council;
 - b. The Police and Crime Commissioner for Hampshire; and
 - c. The Hampshire Fire and Rescue Service.

8.0 Decisions by the Council under this scheme

- 8.1 Decisions by the Council are made directly in line with the Scheme of Delegation as outlined within section 6 of this policy. Any decision to award relief under this scheme will follow the core principles of the Council's discretionary relief policy as defined by section 2.8.
- 8.2 It should be noted that, whilst the funding from Central Government for Discretionary Business Rate Relief Scheme is limited, the decision of the Council whether to award any relief under this scheme **cannot not take account** of the level of any funding.

Discretionary Business Rate Relief Scheme- the Council's policy for granting discretionary relief.

Applications for relief under this scheme

- 8.3 The Council is keen to identify ratepayers who may qualify for the relief and as such will look to encourage certain ratepayers to apply. The Council will look to simplify the application process wherever possible, but it will expect any ratepayers to provide such information as is required by the Council to support their application.
- 8.4 The Council has decided that relief under the scheme will be awarded using the following criteria:
- a. The scheme is designed **solely** to assist ratepayers who have suffered significant increases in rate liability due to the revaluation and the subsequent increase to their Rateable Value;
 - b. Relief will not be awarded where mandatory relief is granted, discretionary relief for non-profit organisations and, in line with legislative requirements, no relief can be granted to any precepting authority;
 - c. Relief will only be granted to those hereditaments whose rateable value at 1st April 2017 of the hereditament is less than £200,000.
 - d. In assessing any potential entitlement to an award under this scheme, the Council will compare the following:
 - i. The rate liability of the ratepayer at 31st March 2017 for the 2016/17 financial year after any reliefs and reductions; and
 - ii. The rate liability of the ratepayer at 1st April 2017 for the 2017/18 financial year taking into account any transitional relief or discretionary relief granted under any other provision;
 - e. Relief will **only** be granted where the calculation in d. above would result in an increase of at least 12.5% or more and each ratepayer will be required to pay at least £600 per annum (for the sake of clarity, all ratepayers would be required to pay the first £600 of the increase);
 - f. Relief will only be given to premises which are liable for occupied rates. **No relief within this scheme will be granted for unoccupied premises** or where the premises becomes re-occupied;

- g. Relief will only be granted to ratepayers who were in occupation at 31st March 2017 and in occupation on 1st April 2017. Relief will cease at any point the hereditament becomes unoccupied and will not be re-granted;
- h. Ratepayers (including previous ratepayers) taking up occupation after the 1st April 2017 will **not** be eligible for relief on the basis that new ratepayers would not have suffered from increases due to a revaluation;
- i. Relief may be awarded for more than one premises as long as **all** other criteria are met;
- j. Relief will not be granted in respect of any of the following:
 - i. Betting and gambling premises including Casino's, Bingo Halls and Amusement Arcades;
 - ii. Pawnbrokers and pay day lenders;
 - iii. Headshops, or those selling legal highs and similar paraphernalia;
 - iv. Private Members Clubs.
- k. Relief (or further relief) will **not** be awarded where the hereditament has an increase in Rateable Value after the 1st April 2017 which increases the rate charge above the 1st April 2017 value.

Applications for relief under this scheme

- 8.5 The Council is keen to identify ratepayers who may qualify for the relief and as such will look to encourage certain ratepayers to apply. The Council will look to simplify the application process wherever possible, but it will expect any ratepayers to provide such information as is required by the Council to support their application

Amount of Relief

- 8.6 The amount of relief will be calculated as follows:
2017/18
 Provided all criteria within paragraph 8.4 are met, the award of relief shall be calculated as 42% of the increase defined in paragraph 8.4d
- 8.7 In exceptional circumstances, the authority shall consider applications on a case by case basis where the ratepayer falls outside of the criteria detailed in paragraph 8.4 but where the ratepayer can demonstrate that they are experiencing severe financial difficulties due to the revaluation on 1st April 2017.

Variation and amendment of relief under the scheme

- 8.8 As with all reliefs, the amount of relief awarded under the Discretionary Businesses Rates relief scheme will be recalculated in the event of a change of circumstances. In effect, relief is calculated on a daily basis in line with the ratepayer's liability on that day. This will include, for example, a backdated change to the rateable value of the hereditament. This change of circumstances could arise during the year in question or during a later year.
- 8.9 The Non-Domestic Rating (Discretionary Relief) Regulations 1989 (S.I. 1989/1059) requires the Council 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, the Council may still make decisions which are conditional upon eligibility criteria or rules for calculating relief which allow the amount of relief to be amended within the year to reflect changing circumstances.

9.0 Reporting changes in circumstances

- 9.1 Where any award is granted to a ratepayer, the Council will require **any** changes in circumstances which may affect the relief to be reported as soon as possible and in any event not more than 21 days from the happening of the event. This will be important where the change would result in the amount of the award being reduced or cancelled e.g. where the premises comes unoccupied or is used for a purpose other than that determined by the Council as eligible for relief.
- 9.2 Where a change of circumstances is reported, the relief will, if appropriate be revised or cancelled. Where any award is to be reduced, the Council will look to recover the amount from the date the change of circumstances occurred.
- 9.3 Where a change in circumstances is not reported and it is subsequently identified that it would have reduced the relief awarded, the Council reserve the right to remove any award completely.

10.0 Fraud

- 10.1 Where a ratepayer falsely applies for any relief, or where the ratepayer provides false information, makes false representation, or deliberately withholds information in order to gain relief, prosecutions will be considered under the Fraud Act 2006.

This page is intentionally left blank

Hampshire County Council Hampshire Fire and Rescue Authority Police and Crime Commissioner

Joint response to consultation on the design of the discretionary business rates relief scheme

Thank you for inviting comments on the design of your discretionary business rates relief scheme. This is a joint consultation response from all of the major preceptors in the billing authority's area.

Comments from Hampshire County Council and Hampshire Fire and Rescue Authority

The impact of the 2017 business rates revaluation has varied for different ratepayers in Hampshire. Bills for some ratepayers have fallen but they have risen for others. We welcome having a discretionary support scheme for ratepayers affected by revaluation increases, as they may benefit from additional help to manage the transition. The amount of support provided each year needs to be kept within the available funding from the Government. It would be appropriate to focus support on small and medium sized ratepayers with large revaluation increases, as these are the groups most likely to benefit from assistance.

Comments from the Police and Crime Commissioner

The police will be not be financially affected by this scheme as the police do not receive funding from business rates. However, measures to help communities in the area served by the Police and Crime Commissioner are welcome, such as supporting local ratepayers who have seen an increase in bills as a result of the 2017 revaluation.

This page is intentionally left blank