

Report to Cabinet

21 September 2017

By the Cabinet Member for Finance and Assets

DECISION REQUIRED



**Horsham
District
Council**

Not Exempt

Discretionary Business Rates Relief Scheme

Executive Summary

In the Spring 2017 Budget, the Government announced the establishment of a £300 million discretionary rate relief fund to support those businesses that face the steepest increases in their business rates bills as a result of the 2017 revaluation.

The Government expects each local authority to devise their own local scheme to assist businesses that are facing rising bills as a result of the 2017 revaluation which resulted in the business rate bills of many premises in the district increasing significantly.

The conditions of the Government grant are that authorities will provide support only to those ratepayers who face an increase in their bills following revaluation, and provide support to ratepayers who face the most significant increases in bills and those occupying lower value properties. The proposed scheme therefore targets smaller, local businesses with increases of 7% or more in their business rate bills.

Recommendations

Cabinet is recommended to:

- i) agree the principles within the scheme on which the Council will deliver the discretionary rate relief scheme
- ii) delegate the application of this scheme and resulting awards of discretionary relief to the Director of Corporate Resources in consultation with the Cabinet Member for Finance and Assets.

Reasons for recommendations

- i) the scheme will assist businesses occupying lower value properties that are facing rising rates bills as a result of the 2017 revaluation.

Background papers: DCLG background documentation – set out in Appendix C.

Wards affected: All

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Background Information

1 Introduction and background

- 1.1 In the Spring 2017 Budget the Chancellor announced the establishment of a £300m discretionary business rate relief fund to enable local authorities to devise local schemes to assist businesses that are facing rising bills as a result of the revaluation. This will be administered through the Council's discretionary relief powers under section 47 of the Local Government Finance Act 1988.
- 1.2 In line with the Government's recommendations and following consultation the Council will provide support only to those ratepayers who are facing an increase in their bills following revaluation. The scheme's principles will enable the Council to consider providing support to:
- ratepayers or localities that face the most significant increases in bills; and
 - ratepayers occupying lower value properties.

<https://www.gov.uk/government/consultations/discretionary-business-rates-relief-scheme>

- 1.3 Calculated under a national formula, the Council has been allocated a grant of £789,350 by the Government over 4 years, designed to taper off over the period.
- 1.4 The Grant is subject to the condition that billing authorities consult with their major precepting authorities. Local Authorities will be required to repay to Government any surplus grant following a reconciliation process at year-end.

2 Relevant Council policy

- 2.1 Economy: Improve and support the local economy is one of the four key priorities in the 2016-19 Corporate Plan.

3 Details

- 3.1 The Council has been allocated the following business rate relief grant money over the next four years:

Year	Grant allocated
2017/18	£460,460
2018/19	£223,650
2019/20	£92,090
2020/21	£13,150
Total	£789,350

- 3.2 Taking into account the Government's principles and assumptions in relation to the distribution of the funding to increases in bills and those ratepayers occupying lower value properties, the Council's qualifying criteria for consideration are:

- the rateable property has a rateable value for 2017/18 that is more than £15,000 and less than £150,000.

- the increase in the rateable property's 2017/18 rates bill is 7% or more, compared to its 2016/17 rates bill.

- 3.3 Under separate small business rate relief, businesses with a rateable value of £12,000 or less already receive full rate relief and between £12,000 and £15,000, businesses receive a sliding scale of relief. Businesses moving from under £15k to over £15k are awarded transitional relief for the period 1 April 2017 to 31 March 2018 which caps any increase in the bill to £50 per month.
- 3.4 To ensure transparency, fairness and consistency any consideration to award a business rate discount under this policy must meet Central Government's and the local criteria set out at Paragraphs 1.2 and 3.2 of this policy. A summary of the scheme's key points is set out at Appendix A.
- 3.5 The Council intends as far as possible to use all the grant funding allocated to it. Government has informed local authorities that any unspent amounts will not be rolled over into the following year and must be returned.
- 3.6 A simple banding scheme of relief across increases in rates bills is proposed. If the 2017/18 fund is applied to these criteria, the Council anticipates this may result in discretionary relief payments to the following number of businesses:

Increase in NDR bill from 2016*	Amount of discretionary rate relief awarded	Approximate number of businesses in the band
£500 to £999.99	£400	53
£1,000 to £1,999.99	£750	164
£2,000 to £2,999.99	£1,500	32
£3,000 to £3,999.99	£2,000	38
£4,000 to £4,999.99	£3,000	33
£5,000 or greater	£4,000	28
Total		348

* after all other reliefs and grants have been applied.

- 3.7 Under the proposed criteria, approximately 348 small and medium sized businesses with a new rateable value of between £15k and £150k would be eligible.
- 3.8 In accordance with the Local Government Finance Act 1988 certain properties are excluded from discretionary business rates relief. These are properties that are occupied in full or part (otherwise than as a trustee) by the billing authority (Horsham District Council), or a precepting authority (in this case West Sussex County Council).
- 3.9 Rate relief will not be awarded where a ratepayer first becomes liable after 1 April 2017 on the basis that new ratepayers will not have suffered increases due to the revaluation.
- 3.10 Regulations for Notice Periods and State Aid, as set out in more detail at Appendix B must be adhered to. The grant support drops dramatically across the 4 years that Government is funding. Therefore, any rate relief award to a rate payer will be for a maximum of one year and it will be made clear to the rate payer that their award will end after a maximum of 12 months. State Aid is triggered for grants over 200,000 Euros over a rolling three year period. The Council expects that the levels of

discretionary relief payments proposed will not trigger state-aid issues and therefore, the grant will be automatically awarded, rather than having to be applied for. Businesses will be required to declare to the Council if they exceed this threshold.

- 3.11 Where the ratepayer is known to be a large national organisation we will require a completed state aid declaration in order to process the relief. In all other cases, the Council may grant relief on a provisional basis and require the ratepayer to advise the Council if they are not entitled to receive this relief under State Aid rules.
- 3.12 All decisions related to the application of this scheme and resulting awards of rate relief will be made by the Director of Corporate Resources in consultation with the Cabinet Member for Finance and Assets.
- 3.13 This is a discretionary scheme. There is no right of appeal on any decision made.
- 3.14 The Council proposes that rate relief awards will be considered on an individual basis for each year of the scheme, and that the process for the discretionary business rates relief scheme will be carried out annually. This will help to ensure that changes to the rating list for the properties concerned (retrospective or otherwise) can be incorporated. It will also allow a level of flexibility that may be required to further redistribute grant funding, albeit the amounts quickly decrease in later years, ending in 2020/21.
- 3.15 The scheme criteria in 2018/19 is also likely to change as other factors affect the scheme, such as the ending of the £50 per month cap on businesses moving from under £15k to over £15k. The discretionary business rates relief scheme for 2018/19 will therefore be reviewed and re-modelled towards the end of the 2017/18 financial year.
- 3.16 As with all reliefs, the amount of relief awarded under the discretionary business rate relief scheme will be recalculated in the event of a change in circumstances by the ratepayer. This will include, for example, a backdated change in rateable value or the hereditament.

4 Next steps

- 4.1 Once approved, the scheme will be promoted to businesses that are within the criteria and the discretionary rate relief applied.

5 Views of the Policy Development Advisory Group and outcome of consultations

- 5.1 The draft scheme was considered by the Finance and Assets Policy Development Advisory Group on 10 July 2017 and also updated on 11 September 2017. The Group was supportive of the proposed scheme and agreed on supporting smaller businesses. Opinions ranged from supporting all smaller businesses, including those that had had a small increase in rateable value, to those smaller businesses with higher increases of over 10% or 15%. Applying relief to all smaller businesses does not meet the government's assumption that the scheme should be directed towards those businesses with significant increases. The Groups comments are incorporated in the scheme.

- 5.2 As the precepting authority, West Sussex County Council (WSSCC) was also consulted in July 2017, in line with the Government's requirements. WSSCC welcomed the proposed scheme to support businesses detrimentally impacted by the revaluation of business rates, and the opportunity to comment on it. WSSCC stated that whatever scheme is implemented, they would want to see full application of the available grant money to help local businesses and the communities they support.
- 5.3 WSSCC noted the proposal to focus on smaller and medium businesses with a scheme that seemed fair and sensible.

6 Other courses of action considered but rejected

- 6.1 Alternative parameters for the scheme were considered, which included sharing the relief with all businesses that had had an increase in rateable value as a set level of relief which would be easy to administer. However, increasing the criteria in this way would result in the grant allocation being spread very thinly across the district with more businesses receiving much lower relief payments. This also would not meet the Government's assumption that the relief should be applied to those ratepayers with a more significant increase in business rates.
- 6.2 The Council could use its own funds to "top-up" the Government's allocated grant funding for implementing this extra discretionary relief. This option has been discounted because it would result in a financial cost for the Council at a time when the organisation needs to find financial savings as part of its medium term financial strategy.
- 6.3 To target all of the Government's funding for discretionary relief at one particular high street, regeneration zone or economic sector. This option has been discounted because the 2017 revaluation will have significant impacts on all high streets and localities across the district, and impact upon retail, workspace and industrial sectors. To concentrate all of the Government's grant funding on just one locality or sector within the district would be unfair.
- 6.4 To target all of the Government's funding for discretionary relief through a large scale "hardship fund" which businesses would apply for. This option has been discounted because of the significant administrative challenges for assessing thousands of applications on a case by case basis. It would not be practical, could lead to lengthy delays in awarding relief and treat businesses inconsistently.

7 Resource consequences

- 7.1 There are limited financial consequences as funding is in the form of a Government grant.
- 7.2 The cost of administering the scheme is however borne by the Council. This has been considered during the design of the scheme, in as much as the proposed scheme seeks to keep bureaucracy and therefore costs to a minimum.

8 Legal consequences

- 8.1 The Government's grant funding is to be provided by way of grant under section 31 of the Local Government Act 2003. To access the funding, the Council is required to establish a discretionary scheme for administering the rate relief under section 47 of the Local Government Finance Act 1988. Such a scheme will have to also meet the Government's grant conditions. Section 47 gives discretionary power to billing authorities to grant partial or full relief to certain categories of non-domestic ratepayer. The Non Domestic Rating (Discretionary Relief) Regulations 1989 allow for this relief to be restricted for a fixed period. Subject to complying with those Conditions the Council is free to design its own scheme under section 47, which gives local authorities a wide power to grant discretionary business rate relief, subject to the condition that the local authority may only grant the relief if it is satisfied that it would be reasonable to do so having regard to the interests of council tax payers in its area. Section 69 of the Localism Act 2011 provides a discretionary power to reduce business rates for any local ratepayer.

9 Risk assessment

- 9.1 There is a risk that the Council could overspend the discretionary relief fund. This risk has been mitigated by restricting the businesses eligible to apply for the discretionary relief in line with the core principles of the scheme; namely to assist businesses occupying lower value premises where they have received the most significant increases in bills.
- 9.2 There is a risk that unspent funding has to be returned to central government. This risk will be mitigated by applying the discretionary relief to businesses occupying lower value premises that have received significant increases in their bills, in line with the criteria set out in paragraphs 1.2 and 3.2 above.
- 9.3 Both these risks are considered to be low.

10 Other considerations

- 10.1 The Council has a public sector equality duty under the Equality Act (2010). There are no consequences of the actions proposed in respect of Equality & Diversity, Human Rights; Sustainability and Crime & Disorder.

Discretionary rate relief scheme – summary policy key points

Appendix A

Horsham District Council's qualifying criteria for businesses applying for the discretionary rate relief scheme:

- Rate relief will not be awarded where a ratepayer first becomes liable after 1 April 2017 on the basis that new ratepayers will not have suffered increases due to the revaluation.
- the rateable property has a rateable value for 2017/18 that is more than £15,000 and less than £150,000.
- the increase in the rateable property's 2017/18 rates bill is 7% or more, compared to its 2016/17 rates bill.

Subject to the above qualifying criteria, payments will be made via a banding scheme of relief across increases in rates bills in 2017/18, if

Increase in NDR bill from 2016*	Amount of discretionary rate relief awarded
£500 to £999.99	£400
£1,000 to £1,999.99	£750
£2,000 to £2,999.99	£1,500
£3,000 to £3,999.99	£2,000
£4,000 to £4,999.99	£3,000
£5,000 or greater	£4,000

* after all other reliefs and grants have been applied.

- Where the ratepayer is known to be a large national organisation the Council will require a completed state aid declaration in order to process the relief. In all other cases, the Council may grant relief on a provisional basis. The Council requires the ratepayer to advise the Council if they are not entitled to receive this relief under State Aid rules.

Notice Periods

1. The Non-Domestic Rating (Discretionary Relief) Regulations 1989 (S.I. 1989/1059) require the Council to provide ratepayers with at least one year's notice in writing before any decision takes effect to revoke or vary a decision to increase the amount of business rates the ratepayer has to pay. Such a revocation or variation of a decision can only take effect at the end of a financial year. Within the Government regulations, local authorities 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.
2. Whilst the Council could therefore consider changes within the year this is likely to be heavily bureaucratic however it reserves the right to do so. As the funding decreases substantially across the four years any award will be for the maximum of one year and it will be made clear to the rate payer that their support will be revoked after a maximum of 12 months.

State Aid

3. 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 Regulation.
4. The De Minimis Regulation allows an undertaking to receive up to €200,000 of State aid in a three year rolling period (consisting of the current financial year and the two previous financial years).
5. 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). The Council will not provide discretionary relief under their schemes for "revaluation support" to properties which would otherwise qualify for Enterprise Zone government funded relief.
6. 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.

Appendix C

DCLG background documentation and timeline:

8 March 2017 budget – the Chancellor announced that the Government would provide £300m to support those businesses most affected by the revaluation and consult on the proposals for how local government would design and implement this scheme

9 March 2017 to 7 April 2017 business rate consultation:

<https://www.gov.uk/government/consultations/discretionary-business-rates-relief-scheme>

9 March 2017 - Business rates information letter – support for business: providing information on the new discretionary relief scheme, highlighting the consultation

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/598272/BRIL_2-2017_Budget_Measures.pdf

20 June 2017 – Business Rates information letter spring budget update on the new discretionary rate relief scheme.

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/620750/BRIL_4-2017_Spring_Budget_update.pdf

22 June 2017 – letter from Marcus Jones MP (Minister for Local Government) urging councils to make rapid progress in implementing the three business rate relief schemes announced at the Budget earlier this year.

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/626334/Letter_to_LAs_-_BR_Reliefs.pdf

21 July 2017 – letter from Marcus Jones MP (Minister for Local Government) recognising that many authorities are awaiting a full software update to help automate the process of identifying eligible businesses. The main software providers advised the MP that the software would be available by 21 August 2017.

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/635223/17-07-21_Marcus_Jones_MP_to_all_Local_authorities.pdf

21 September 2017 – Horsham District Council Cabinet meeting to consider proposed scheme

October and November 2017 – anticipated implementation of scheme