

Agenda Item No: **Report No:**
Report Title: **Local Business Rate Discretionary Relief Scheme**
Report To: **Cabinet** **Date:** **24 April 2014**
Cabinet Member: **Councillors Andy Smith and Rob Blackman**
Ward(s) Affected: **All**
Report By: **Director of Finance and Director of Business Strategy and Development.**

Contact Officer(s)-

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Purpose of Report:

For Cabinet to propose a process for preparation of a Local Business Rate Discretionary Rate Relief Scheme, utilising new powers in the Localism Act 2011.

Officers Recommendation(s):

That Cabinet:

- 1** Consults through the Business Board of Lewes District Council on a proposal to introduce a Local Business Rate Discretionary Relief Scheme.
- 2** That the Director of Business Strategy and Development brings forward a proposal to the September Cabinet meeting
- 3** Utilises part of the uncommitted balance in the Strategic Priority Reserve to pump prime a local scheme and agrees how much that would be.

Reasons for Recommendations

- 1** Recent legislation provides this opportunity for the Council to strengthen its role in promoting and encouraging business to the district and to help deliver the adopted vision for each Town/Area.

Information

2 Background

- 2.1** In April 2013 an article from the Local Government Chronicle reported that only 18 of the 326 authorities that have been given the power to draw up their own 'discretionary rate relief' schemes have taken advantage of the new freedom. This leaves 95% rejecting the powers, which were introduced by the Localism Act.
- 2.2** The article went on to say that of the 18 local authorities that have budgeted for local relief payments, 10 are in London and the south, one is in the east of England, another in the Midlands and six are in the north.
- 2.3** More than a third of the £2.5m estimated local relief is attributed to Middlesbrough Council, which budgeted £888,000 for 2013-14.
- 2.4** Councils using the new powers tend to operate with the benefit of nationally designated Enterprise Zones, which means the Government will fully fund the cost of discounts granted for a five year period.
- 2.5** In his December 2013 budget statement the Chancellor announced the provision of additional business rates reliefs for the 2014/2015 financial year. These are outlined below. The cost is being fully met by Government and a commentary is provided on the provision made in the Council's 2014/2015 Non Domestic Rates Collection Fund estimates.
- empty new build properties will be exempt from empty property rates for 18 months (Autumn Statement 2012). *No provision made – minimal impact likely in the estimates.*
 - the RPI increase in 2014-15 will be capped at 2% instead of 3.2%; *The cost is estimated at £0.251m.*
 - the doubling of the Small Business Rate Relief will be extended for a further 12 months until 31 March 2015. *The cost is estimated at £1.074m.*
 - ratepayers receiving Small Business Rate Relief that take on an additional property which would currently disqualify them from receiving relief will continue to receive their current relief for 12 months. *No estimate provision made as likely to be extremely small value, if any.*
 - discount of £1,000 for shops, pubs and restaurants with a rateable value below £50,000 for two years, from 1 April 2014. *The cost is estimated at £0.821m.*
 - a 50 per cent business rates relief for 18 months for businesses that - between 1 April 2014 and 31 March 2016 - move into retail premises that have been empty for a year or more;
- 2.6** There is a considerable cost to granting these further reliefs, which given the constraints of the current business rates retention scheme, can only be contemplated at a national level.

2.7 Should a Council chose to continue these reliefs in the absence of a national scheme the cost would be wholly chargeable to the Council's General Fund, which cannot realistically be contemplated in the current financial climate.

2.8 One further point of note is that the reliefs in the Chancellor's statement step in to replace aspects of the small number of local schemes; particularly incentives aimed at maintaining a vibrant retail sector.

2.9 Legislative Background

2.9.1 From 1 April 2012, Section 69 of the [Localism Act 2011](#) amended Section 47 of the [Local Government Finance Act 1988](#) to allow billing authorities in England and Wales to grant a discount on local business rates to any local ratepayer within the limits of primary legislation and European rules on state aid. Although the government continues to part fund existing statutory discretionary reliefs in the same circumstances as in previous years, local authorities have to fully fund (from their General Fund) any other discounts granted under these new provisions.

2.9.2 From 1 April 2012, authorities started to use these powers to apply local discretionary discounts to grant relief to businesses that moved into enterprise zones (designated in legislation) before April 2015. Up to 100% relief from rates could be granted for up to five years subject to state aid limits. This local discount is fully funded by the government. Discretionary discounts could also be awarded from 1 April 2012 to existing businesses in the enterprise zones and to empty properties in the enterprise zones.

2.9.3 Other than qualifying discretionary relief to ratepayers in enterprise zones that is met in full by the government, the full cost of local discretionary relief is met by the local authority, except for those types of discretionary relief that the government or the Welsh Assembly Government would have part financed before April 2012. These continue to be met to the same extent as before.

2.10 Business Rates Retention

2.10.1 The Business Rates Retention scheme stated from April 2013. Prior to that all business rates were pooled nationally and redistributed locally through a formulaic solution.

2.10.2 The new distribution methodology provides councils with a reward mechanism whereby they benefit from a share of additional business rates income when the aggregate of collectible non-domestic rates in their area increases above the target set for each Council at the start of the new system. This provides an incentive to actively influence and grow the valuation list and to manage reliefs, discounts and exemptions.

2.10.3 Appendix A shows how the collectible business rates are distributed under the new system and how the business rates income for 2014/2015 is distributed.

2.10.4 The Council's medium term budget outlook includes an estimate of its share of retained business rates, through to 2019/2020. Any additional growth in the aggregate business rates collected above the projected levels will benefit the outlook by a net 20%share. Conversely it will lose

20% of any reduction in the aggregate business rates collected compared with the projected levels.

3 Business Rates Discounts: proposals

3.1.1 The cost of providing discretionary relief can be considerable and it is not surprising that Councils have been reticent to develop schemes using their new powers.

3.1.2 However, there are circumstances when advantages would flow from a Local Business Rate Discretionary Relief Scheme and the following areas are proposed for consideration:

- New developments on brownfield land.
- Progression and move on from starter units with easy in/out terms to more secure arrangements within the district.
- Delivering the Council's Regeneration Strategy priorities.
- Supporting the published Strategies for Towns and Rural areas within the District.

4 New developments on brownfield land

4.1 Where sites do not currently support non domestic uses, the business rates income stream will increase as a result of any development. This will provide the Council with additional ongoing business rates net income share of 20%.

4.2 When a new site has been provided the council could provide an incentive through a business rates discount, in order to achieve maximum occupancy in a short time frame.

4.3 The discount is a charge to the Council's General Fund but would be offset to the extent of the Council's share of additional business rates income. Where a new development generates £100,000 in business rates income the Council's share would be £20,000. This level is typical of a medium sized factory/warehouse premises. A small workshop might be around £10,000.

5 Progression from easy in/easy out starter units to permanent premises.

5.1 Within the district there are a number of starter units where tenants have the benefit of easy in/easy out arrangements. This provides fledgling businesses an opportunity to develop without having long term commitments. If the business is not successful the arrangements can be easily terminated.

5.2 A purpose of the starter units is to enable a business to grow and flourish during its formative years before it has the experience and knowledge to move onto more permanent premises.

5.3 Time limited business rate discounts could be a tool to encourage more "move-ons" from the starter units, such as those in the Newhaven Business Centre.

- 5.4** In this instance the cost of the discount would be a charge to the Council's General Fund and would not be offset by any additional business rates income, unless new starter units are provided e.g. an extension to an existing complex. This would however be a cost effective mechanism to free up space for other aspiring entrepreneurs to establish new businesses, as opposed to providing a further business centre.

6 Delivering the Council's Regeneration Strategy

- 6.1** The five priority areas in the Council's Strategy are:

- Attracting Investment
- Promoting Enterprise
- Inspiring Learning
- Welcoming Visitors
- Strengthening Partnerships

- 6.2** The section deals with the areas identified in within the five priorities that have not been covered in paragraphs 4 and 5.

- 6.3** This section is intended to cover individual requests that make a particular contribution to delivering the strategy.

- 6.4** The general approach acknowledges:

- that businesses are autonomous bodies.
- they make their decisions based on business cases.
- there will always be success and decline and it is not the Council's function to subsidise either through a relief system.

- 6.5** The following are examples of requests that could come forward under this section of a scheme.

- Complement the Council's key aims and its Property and Regeneration Strategy.
- Seek to increase the provision of jobs and drive local and national sustainable economic growth.
- Encourage new business startups.
- Encourage full occupancy of premises in designated areas.
- Provide time limited financial assistance.
- Support businesses who participate in the Council's Apprenticeship scheme.
- Target specific types of business.
- Assist a new business start up occupying vacant premises in a high street.

6.5.1 The following are examples where exclusions might apply from a discount policy.

- Bail out companies who are in financial difficulty.
- Granting reliefs to existing businesses carrying on business as usual.
- Multinationals, national companies and their subsidiaries.
- Assist any category of excluded group referred to in the Council's discretionary rate relief policy
- Increase the profits of successful companies unless they are expanding and providing more local job opportunities and could not achieve this without some short term discount assistance.
- Bankroll developers who accumulate land and property and fail to bring forward and submit planning applications for viable schemes.
- Encourage migration of business to access reliefs.
- No reliefs awarded in respect of empty rate charges that become payable if the business vacates the property or ceases trading.
- Where providing discount is likely to have an adverse impact on similar business within the district.

7 Other scheme factors.

7.1 There will be a number of detailed matters to be considered and covered by a local scheme. These would include:

- The duration of an award
- Circumstances which might trigger a cessation of the award
- A maximum level on an individual award
- Compliance with European State Aid Rules

8 Examples of businesses rates liabilities

8.1.1 Examples of a range of business ratable values are shown in Appendix B. This enables a typical rates bill to be determined by applying the relevant multiplier and then deducting any entitlement to reliefs.

9 Financial considerations

9.1.1 As there are no designated enterprise zones within Lewes District the cost of local discounts will fall directly upon the General Fund.

9.1.2 The Localism Act enables councils to form business rates pools. There is a national application process. Councils in East Sussex will undertake a feasibility study of forming a business rates pool for the 2015/2016

financial year, which has an expected application date of October 2014. An advantage of a pool is that more business rates can be retained locally provided they are used to support economic regeneration. Funding a Local Business Rate Discretionary Rate Relief Scheme would be a good use of this additional resource.

9.1.3 In the absence of additional funds from a business rates pool the Council could use its revenue sources, reserves or balances to fund a local scheme, including:

- The Strategic Priority Fund (uncommitted balance £323,251)
- The Spending Power Element (New Homes Bonus) of the Change Management and Spending Power Reserve (uncommitted balance £166,699)
- The budget for Service Priorities (uncommitted balance £390,000)

9.1.4 The Council can set limits on the value of discounts it grants up to the maximum permitted by European State Aid Rules.

- (a) The maximum de minimis funding any single recipient can receive is €200,000 (cash grant equivalent) over a 3-year fiscal period. The sterling equivalent is calculated using the Commission exchange rate applicable on the written date of offer of the de minimis funding.
- (b) This ceiling takes into account all public assistance given as de minimis funding over the previous 3 fiscal years and which can take various forms (grants, loans, subsidised contracts, etc). Aid given under an approved scheme does not have to be cumulated with de minimis aid.
- (c) There are exceptions to the de minimus rule and legal advice would be taken on each application received.

9.1.5 In the case of new developments on brown field sites, where no previous entries existed in the Rateable Value Register, each new business will generate additional retained business rates income for the Council.

9.2 Enterprise Zones

9.2.1 There is an impact on retained business rates of a designated Enterprise Zone. The precise impacts can vary according to individual city deal proposals.

9.2.2 The general purpose of designating an enterprise zone enables provision of incentives that attract regeneration and growth into selected areas. These may be barren sites with non domestic planning use classifications, brownfield sites awaiting development or areas with existing non domestic uses that could be enhanced. In these circumstances:

- the additional rates generated would be retained and reinvested in the local area

- discounts granted in the enterprise zone area would be reimbursed by the Government

9.2.3 A study will be made of lessons learned from Councils with existing enterprise zones to help understand the precise impact of their zones on their aggregate collectible business rates income as well as an understanding of the impact upon their local retained share.

9.2.4 The Coast to Capital Strategic Economic Plan Appendix 9, dated March 2014 http://www.coast2capital.org.uk/images/Coast_to_Capital_SEp_Appendices_and_Transport_Annex.pdf identifies a Newhaven Enterprise Zone. This would provide a fully funded discount scheme within the designated zone, once approved.

9.2.5 When considering the impact of an enterprise zone on business rates it is useful to model the financial impact against the Council fully funding all discounts through its localism act powers.

9.2.6 This comparison however would only focus upon the business rates income stream and not the wider benefits that flow from employment and supply chain expansion and the availability of other enterprise zone related incentives to businesses such as capital allowances.

10 Legal Appraisal

10.1.1 Section 69 of the [Localism Act 2011](#) amended Section 47 of the [Local Government Finance Act 1988](#) to allow billing authorities in England and Wales to grant a discount on local business rates to any local ratepayer within the limits of primary legislation and European rules on state aid.

11 Sustainability Implications - there are no sustainability implications associated with this report.

12 Risk Management Implications -

12.1 Risk: A challenge to an award of Local Business Rate Discretionary Relief by another business or taxpayer in the district.

Mitigation: Ensure that an approved policy is in place before considering any applications or making any awards. Ensure that awards are only made in accordance with an approved policy. Ensure that the individual circumstances of each application are considered and avoid making blanket decisions that overlook individual circumstances.

12.2 Risk: Non compliance with European State Aid Rules.

Mitigation: Ensure that the application process captures all relevant information needed to assess compliance with the State Aid Rules. Require applicants to sign a declaration that all requested information has been supplied. Require all information provided in support of an application to be made available in the public domain.

13 Equality Screening - the Equality Screening process for this Report took place in March 2014. No potential negative impacts were identified. The application

process for discretionary relief will require provision of the applicants own equality policy as part of the assessment.

Sustainability Implications

14 There are no sustainability implications associated with this report.

Background Papers

Localism Act 2011 section 69 <http://www.legislation.gov.uk/ukpga/2011/20/section/69>

Local Government Finance Act 1988 section 47
<http://www.legislation.gov.uk/ukpga/1988/41/section/47>

Information on the Chancellors Autumn 2013 business rates reliefs (see page 15)
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/274932/NNDR1_Guidance_Notes_2014-15_v11.pdf

Guidance on European State Aid Rules <https://www.gov.uk/state-aid>

Guidance for local authorities in applying the business rate discount in enterprise zones. <https://www.gov.uk/search?q=business+rate+enterprise+zone+>

Appendices –

Appendix A Business Rates Retention shares and position for 2014/2015

Appendix B Examples of typical Non Domestic Ratable Values from the public rating list

Appendix C Business Rates Discounts Assessment Criteria

Business Rates Retention shares and position for 2014/2015

	£m	%
The nationally set business rates income target for Lewes District Council was	22.995	
...and this is how it was allocated from April 2014		
The Government 50% share	11.497	
The tariff payment that LDC is required to pay to the Government each year (increases by rpi each year)	7.201	
Sub-total of the amount that went to the Government	18.698	81
East Sussex County Council retained Share	2.070	9
East Sussex Fire Authority retained Share	0.230	1
Lewes District Council retained share	1.997	9
Total	22.995	100.0

Note: the table above reflects the funding baseline target of £1.997m set for Lewes District Council. We have estimated £2.337m as the retained share for the year.

Amounts of additional business rates income above the starting position of £22.995m are shared out as follows under the new system:

	%
The Government basic share	50.0
The levy share that LDC is required to pay to the Government	20.0
Sub-total of the amount that went to the Government	70.0
East Sussex County Council retained Share	9.0
East Sussex Fire Authority retained Share	1.0
Lewes District Council retained share after paying its levy to the Government	20.0
Total	100.0

Footnote: Lewes District Council's notional share of additional business rates is 40%, but this reduces to 20% after accounting for the 50% levy that is payable back to the Government.

If the total of business rates income over time fails to go up by more than the cumulative rpi increase since April 2013 each year there will not be any "additional" increase in spending power from this revenue stream. In fact if the income stream declines the Council will still have to pay the rpi linked tariff payment to the Government each year.

Should the total of business rates income fall below £22.620m the Government will guarantee a baseline funding level of £1.848m to Lewes District Council. i.e. a safety net of 92.5% of the year's baseline funding total. Nationally, levy payments are designed to cover safety net payments to councils in this position.

Examples of Non Domestic Rateable Values from the public rating list

Type of Business Unit	Location	Rateable Value£
Workshop & Premises	12, Cradle Hill, Seaford	23,250
Shop & Premises	16, High Street, Lewes	20,500
Shop & Premises	378A, South Coast Road, Telscombe	25,000
Factory & Premises	7, Phoenix Place, Lewes	29,500
Leisure Centre & Premises	Lewes Leisure Centre	272,500
Retail Warehouse & Premises	Units 2-5 Brooks Road, Lewes	257,500
Superstore & Premises	Brooks Road, Lewes	1,350,000
NX: Non-Formula Assessed Public & Other Utilities (Unclassified)	Transmanche Berth nos 1, Newhaven	500,000
Warehouse and Premises	Beach Close, Newhaven	118,000
IMX: Mineral (Unclassified)	Day Aggregates, North Quay, Newhaven	95,500
IF3: Workshop & Premises	Units A1 and A2, Meridian Industrial Centre, Peacehaven	86,000
Factory & Premises	Newhaven Workshops, Beach Close, Newhaven	162,000
Factory & Premises	Unit 17, Cliffe Industrial Estate, Lewes	95,000

Note: this table only shows ratable values and not the collectible business rates.

The rates due = the rateable value for a business x a 'multiplier' set by the government, then any entitlement to reliefs are deducted.

The multipliers for 2014/15 are 48.2p for standard businesses and 47.1p for small businesses.

Details on all non-domestic ratable values for all listings in the district and the rest of the country can be found at www.voa.gov.uk

Business Rates Discounts : Assessment Criteria

14.1 The following are examples of requests that could come forward under this section of a policy.

- Complement the Council's key aims and its Property and Regeneration Strategy.
- Seek to increase the provision of jobs and drive local and national sustainable economic growth.
- Encourage new business startups
- Encourage full occupancy of premises in designated areas
- Provide time limited financial assistance.
- Support businesses who participate in the Council's Apprenticeship scheme.
- Target specific types of business
- Assist a new business start up occupying vacant premises in a high street.

14.1.1 The following are examples where exclusions might apply from a discount policy.

- Bail out companies who are in financial difficulty.
- Granting discounts to existing businesses carrying on business as usual.
- Multinationals, national companies and their subsidiaries
- Assist any category of excluded group referred to in the Council's discretionary rate relief policy
- Increase the profits of successful companies unless they are expanding and providing more local job opportunities and could not achieve this without some short term discount assistance.
- Bankroll developers who accumulate land and property and fail to bring forward and submit planning applications for viable schemes.
- Encourage migration of business to access discounts.
- No discount will be awarded in respect of empty rate charges that become payable if the business vacates the property or ceases trading.
- A business cannot benefit from Business Rates Discount for more than x years in respect of the same building
- Where providing discount is likely to impact on similar business within the district.