

**Agenda Item No:** **Report No:**

**Report Title:** **Local Business Rate Discretionary Relief Scheme**

**Report To:** **Cabinet** **Date:** **29 September 2014**

**Cabinet Member:** **Councillors Rob Blackman and Andy Smith**

**Ward(s) Affected:** **All**

**Report By:** **John Magness, Director of Finance and Nazeya Hussain,  
Director of Business Strategy and Development.**

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### **Purpose of Report:**

To seek approval to a local Business Rate Discretionary Relief Scheme for Lewes District Council and adoption of the national Retail Relief scheme.

### **Officers Recommendation(s):**

That Cabinet:

- 1** Considers the consultation responses to the draft scheme.
- 2** Approves the draft local Business Rate Discretionary Relief Scheme for Lewes District Council at Appendix A.
- 3** Allocates a budget to fund the scheme through to 31 March 2016 from the Strategic Priority Reserve Fund.
- 4** Approves adoption of the Government Retail Relief Scheme for 2014/2015 and 2015/2016.
- 5** Notes the remainder of the report.

### **Reasons for Recommendations**

- 1** Cabinet requested the Scrutiny Committee's input towards the proposal to implement a Local Business Rate Discretionary Relief Scheme.

### **Information**

#### **2** Background

- 2.1** On 24 April 2014 Cabinet considered a report relating to the introduction of a Local Business Rate Relief Scheme. This is attached for information at Appendix A.

**2.2** The following recommendations were made.

Resolved:

- 140.1** That Cabinet consults through the Business Board of Lewes District Council and wider on a proposal to introduce a Local Business Rate Discretionary Relief Scheme, as detailed in Report No 59/14;
- 140.2** That the Scrutiny Committee be requested to consider the proposed introduction of a Local Scheme in accordance with the suggestions made by Councillor Gardiner as set out in “a” to “g” above and be further requested to prepare a Report thereon for consideration at a future meeting of Cabinet at a time prior to Cabinet’s consideration of a proposed Scheme at its meeting in September 2014;
- 140.3** That the Officers be requested to liaise with Councillors Blackman and Gardiner in respect of the preparation of the Terms of Reference for the Scrutiny Committee’s consideration of the proposed introduction of a Local Scheme;
- 140.4** That the Director of Business Strategy and Development brings forward a proposal in respect of the Scheme to the Cabinet at its meeting in September 2014; and
- 140.5** That consideration of budget provision for the proposed Scheme be deferred until such time as a firm proposal is considered by Cabinet at its meeting in September 2014.
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**2.3** The items a to g referred to in resolution 140.2 were as follows

Councillor Gardiner also suggested that the proposed introduction of a Local Scheme be referred to the Scrutiny Committee for consideration upon which the Committee could then report back to Cabinet. Such consideration should cover:

- a. The matter relating to the breadth of the consultation as referred to above;
- b. The scope of the scheme considering the examples set out in paragraph 6.5 of the Report, the possible exclusions in paragraph 6.5.1, the details in paragraph 7 and the risks and mitigations in paragraph 12;
- c. The scope of the businesses eligible;
- d. A review of other Councils operating that type of scheme;
- e. The interaction with Government schemes;
- f. The potential for the Scheme in Newhaven and any possible enterprise zones; and
- g. Whether the Scheme should be restricted to new or empty land as had been proposed elsewhere.

- 2.4 Items a to g formed the basis of the terms of reference which were agreed by Councillors Blackman and Gardiner and then adopted by the Scrutiny Committee. A copy of the terms of reference is attached at Appendix A.

### 3 Information

- 3.1 The Scrutiny Committee met on 25 July 2014 and considered the outline scheme that Cabinet received at its meeting on 24 April 2014. The Scrutiny Committee minutes are included with the Agenda for this meeting.
- 3.2 The recommendations of the Scrutiny Committee have been incorporated within the scheme documentation which is attached at Appendix B.
- 3.3 Scrutiny Committee members reviewed and contributed towards the draft scheme outline and application form prior to the start of the consultation.
- 3.4 Scrutiny supported the approach of an initial targeted consultation to ensure that Cabinet could consider a proposal at this meeting. Research had identified a similar approach by other Councils who then followed up with further reviews and consultations over time. Scrutiny supported this approach.
- 3.5 The initial Consultation period ran from 22 August through to 19 September. Part-way through this consultation period, it became apparent that the level of response was likely to be low. It was decided, therefore, to invite all those businesses registered on the Council's business database to give their comments via an on-line questionnaire, with a closing date of 25 September.
- 3.6 The Scrutiny Committee reviewed how national reliefs and discounts interact with local schemes. This involved looking at the National Retail Relief Discount scheme introduced for the current year and for 2015/2016. The scheme is fully funded by government. Councils awarded discounts as part of the main billing run at the start of this year. Cabinet is requested to formally adoption of the scheme as recommended in the scheme guidance notes.

### 4 Financial Appraisal

#### **National Scheme Reliefs fully funded by the Government.**

- 4.1 544 qualifying businesses have been awarded retail relief of up to £1,000 in the current financial year. The total value of reliefs awarded amounts to £504,000.
- 4.2 The doubled small business rates relief (i.e. the extra 50%) amounts to a financial benefit of £1.074m to businesses in Lewes District.
- 4.3 With the Government's help in these two areas of the Council's 3,118 business rates accounts 1,095 received a zero bill and 359 received a bill of up to £1,000.
- 4.4 The Council's budget alone could not stretch to discounts and reliefs of the level currently being funded by the Government.

## **Funding arrangements for a local scheme**

- 4.5** The potential to provide ongoing funding for a local scheme could be generated from establishment of an East Sussex Business Rates Pool. A proposal to establish a Pool is being considered by Cabinet today. If successful, this ongoing funding stream would be available from 2016/2017 based upon the prudent assumption that resources from the first year of operation would be retained as a resilience reserve in the county wide pool.
- 4.6** 70% of the cost of local scheme discounts will fall directly upon the Council's General Fund. The legislative arrangements for the Business Rates Retention scheme mean that 9% would be funded by East Sussex County Council, 1% East Sussex Fire and Rescue Service and 20% by the Government.
- 4.7** Until a regular income stream is available from a business rates pool the Council could use its revenue sources, reserves or balances to fund a local scheme, including:
- The Strategic Priority Reserve Fund (uncommitted balance £173,250)
  - The Spending Power Element (New Homes Bonus) of the Change Management and Spending Power Reserve (uncommitted balance £167,000)
- 4.8** 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.

## **5 Legal Implications**

- 5.1** Section 69 of the Localism Act 2011 amended Section 47 of the Local Government Finance Act 1988 with effect from 1 April 2012 to allow billing authorities to grant discretionary rate relief in any circumstances provided it is in the interests of the local council tax payers to do so. The purpose of this new power is to give billing authorities the ability and scope to encourage, sustain and improve economic performance by having the power to lower the business rate burden.
- 5.2** 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 minimus 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 minimus funding.
  - (b)** This ceiling takes into account all public assistance given as de minimus 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 minimus aid.

- (c) There are exceptions to the de minimus rule and legal advice would be taken on each application received.

**5.3** The Levy and Safety Net Regulations (SI 2013/737) set out formulae in Schedule 1 from which the funding shares of Lewes District Council, East Sussex County Council, East Sussex Fire and Rescue Service and the Government can be derived.

## **6 Equality Screening**

A full Equality Impact Assessment reference AF36231 has been completed. Equality screening will be undertaken upon receipt of each application for assistance if this policy is adopted by Cabinet.

## **7 Sustainability Implications**

The sustainability implications of the proposed policy have been assessed using the Sustainability Implications Questionnaire. As no specific impacts were identified either positive or negative, a full sustainability impact assessment is not required.

## **8 Background Papers**

**8.1** Localism Act 2011 <http://www.legislation.gov.uk/ukpga/2011/20/contents>

**8.2** Levy and Safety Net Regulations (SI 2013/737)  
<http://www.legislation.gov.uk/ukdsi/2013/9780111532973/contents>

## **9 Appendices:**

Appendix A: Terms of Reference adopted by Scrutiny Committee.

Appendix B: The proposed Local Business Rate Discretionary Relief Scheme

**The Scrutiny Review of the proposal for a Local Business Rate Discretionary Relief Scheme**

**Terms of Reference**

That the Scrutiny Committee be requested to consider the proposed introduction of a Local Scheme and to make a report to the September 2014 meeting of Cabinet.

That specific consideration is given to:

- a. The breadth of the consultation.
- b. The scope of the scheme considering the examples set out in paragraph 6.5 of the Report.
- c. The possible exclusions in paragraph 6.5.1 of the Report.
- d. The details in paragraph 7 of the Report.
- e. The risks and mitigations in paragraph 12; of the Report
- f. The scope of the businesses eligible;
- g. A review of other Councils operating local schemes.
- h. The interaction of local schemes with Government schemes;
- i. The potential for the Scheme in Newhaven and any possible enterprise zones.
- j. Whether the scheme should be restricted to new or empty land i.e. promoting growth and new investment.
- k. Prioritising support where localities have developed visions for their areas.

## **Lewes District Council Local Business Rates Relief Scheme**

### **1. Background**

- 1.1. Section 69 of the Localism Act 2011 amended Section 47 of the Local Government Finance Act 1988 with effect from 1 April 2012 to allow Lewes District Council to grant discretionary rate relief in any circumstances provided it is in the interests of local council tax payers to do so.
- 1.2. The Local Business Rate Relief Scheme is Lewes District Council's innovative initiative to encourage business start-ups and business growth within our area. The scheme will commence across the District from October 2014.
- 1.3. Lewes District Council is considering this scheme as part of a wider package of initiatives to engage with and support the local business community. We have already conducted a business survey within the District to understand how businesses want to interact with the Council, and what work they want to see the Council undertaking on their behalf. We have also arranged an annual Business Awards scheme to highlight the fantastic businesses in our area.

### **2. Benefits**

- 2.1. The local Business Rate Relief Scheme aims to encourage new businesses growth and creation of employment opportunities within Lewes District in line with local area priorities.
- 2.2. It does not seek to replicate the National Schemes for small business rate relief, retail relief and the relief for reoccupying empty premises in high streets.

### **3. Annual budget and duration of scheme**

- 3.1. The scheme will run for one year initially and businesses can apply at any time but can only benefit from the relief up until the end of the programme.
- 3.2. Businesses will be entitled to relief up to 100% of their rate bill (once statutory relief schemes have been deducted). Relief will not normally be awarded in respect of any day prior to the day that an application is received, i.e the scheme is not designed to apply retrospectively.
- 3.3. Although the scheme will be limited by a total budget for the year, businesses are encouraged to apply as the scheme will be reviewed on an annual basis and applications indicative of need within the District will be useful in determining long-term viability and funding allocation to the scheme.

### **4. Favourable Eligibility Criteria**

The scheme is open to all businesses within Lewes District who pay business rates to Lewes District Council and whose business rates bill is currently not covered by any statutory reliefs.

- The following criteria will be viewed positively as part of the application process, but it must be stressed that each application will be considered upon its own merits and no business will be discouraged from applying.

- Favourable consideration will be given to:

4.1. New and expanding businesses within the District, particularly where:

- A proposal complements the vision document for one of the following areas within the district:
  - Lewes District Rural hinterland
  - Lewes Town
  - Newhaven Town
  - Peacehaven, Telscombe and East Saltdean, Towns
  - Seaford Town
- there is a clear indication of the creation of new employment;
- Businesses moving to or expanding on new sites (green or brownfield) or empty premises, particularly where this move or expansion would promote growth and new investment within the wider District.
- Businesses moving from start-up incubator premises to more permanent business premises.

4.2. Evidence of the investment and/or additional jobs within the District.

4.3. Businesses having a lease or owning the freehold for the existing or new premises that covers at least the period for which the business would be eligible for relief under this scheme.

4.4. Whether the businesses participates in the Council's Apprenticeship scheme

4.5. That it is in the interests of council tax payers as a whole to give relief

## **5. Criteria outside the scope of the scheme**

5.1. Bailing out companies who are in financial difficulty.

5.2. Granting reliefs to existing businesses carrying on business as usual.

5.3. Assisting multinationals, national companies and their subsidiaries.

5.4. Assisting any category of excluded group referred to in the Council's discretionary rate relief policy

5.5. Increasing 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.



- 5.6. Supporting developers who accumulate land and property and fail to bring forward and submit planning applications for viable schemes.
- 5.7. Encouraging migration of business to access reliefs.
- 5.8. Applications seeking relief in respect of empty rate charges that become payable if the business vacates the property or ceases trading.
- 5.9. Applications from: Betting shops, Amusement Arcades, Pawnbrokers, “Payday” Lenders;

## **6. State Aid**

- 6.1. There are European Union regulations that restrict the award of state aid under certain circumstances. Relief from taxes, including non-domestic rates, can constitute state aid. State aid rules aim to ensure fair competition and a single common market. Discretionary rate relief must at all times fall within the criteria specified by the relevant Articles of “Functioning of the EU” for it to be treated as “de minimus aid”.
- 6.2. The total de minimus aid which can be given to a single recipient is currently €200,000 over three fiscal years. This ceiling takes into account all public assistance given to the applicant or any linked organisation (such as another group company) and includes the monetary amount of any aid given in respect of operational locations outside Lewes District.

## **7. Application Process**

- 7.1. Applicants should complete the attached form. Applications will only be considered where a written application is received from the ratepayer, and where the ratepayer is an organisation or a person properly authorised to make an application on behalf of the organisation.
- 7.2. All applicants will be required to agree that applications and supporting information will be made available in the public domain.
- 7.3. Applicants will be required to make a declaration as to all amounts that they have received from any sources that may fall under the European State Aid rules such that Lewes District Council can calculate any discretionary relief ceiling that may apply. The Council will reclaim any relief granted where it transpires that inaccurate or misleading information was provided in relation to European State Aid declarations by applicants.
- 7.4. Applicants will be notified in writing on the outcome of their application.
- 7.5. There is no statutory right of appeal against a decision made by the Council regarding discretionary rate relief. However appeals on the outcome of decisions will be considered by a Council Director who has not been involved in any earlier stage of the application process.
- 7.6. Ratepayers are required to notify the Council of any change in circumstances that may affect entitlement to discretionary rate relief

## **8. Circumstances when awards may be cancelled**

- 8.1. The Council retains the right to withdraw/cancel relief if:

- The conditions or circumstances on the basis of on which the relief was granted change or fail to materialise, or the information submitted as part of the application proves to be misleading;
- The applicant ceases to be a ratepayer;
- The businesses/organisation ceases to trade (in case of occupied rates) or downscales operations and workforce in contravention of any agreement;
- The use of the property changes.

8.2. Where relief is cancelled this will normally take effect from the actual date of change. However, in certain circumstances this may be withdrawn in full. A revised rates bill will be issued for payment. Ratepayers are required to notify the Council of any change in circumstances that might affect entitlement to discretionary rate relief.

## **9. Duration of Relief**

9.1. A decision to award discretionary rate relief must be made during or within six months after the start of the financial year to which it relates. Awards will be made for a one-year period and there will be an annual review of current awards at which time a decision will be made on whether to extend the relief and to what level. The Council reserves the right to extend, taper or withdraw relief to businesses in respect of information provided by applicants as part of an annual review.

## **Further Information**

For further information, or assistance in completing an application, please contact (name, position and phone number/email address to be inserted).

## LEWES DISTRICT COUNCIL LOCAL BUSINESS RATES DISCOUNT SCHEME

To apply for the local discount scheme please complete this application form in BLOCK CAPITAL LETTERS and return it to the Lewes District Council together with copies of the following documents:-

- Accounts for the past two years for small businesses with a turnover of less than £6.5m. Any business with turnover greater than £6.5m will be required to submit audited accounts. In the case of a new business, estimates of annual income and expenditure. A comprehensive business plan incorporating a brief history of the business.
- A cash flow forecast for a minimum of the next twelve months.

If you require any assistance in completing this form, please contact the Business Rates Team either by telephone 01273 471600 or email [phoebe.morris-jones@lewes.gov.uk](mailto:phoebe.morris-jones@lewes.gov.uk)

### Basic Information

Business / Organisation Name	
Registered Trading Name (If Different)	
Company Registration Number	
VAT Number if Appropriate	

Contact Name	
Position	
Alternative Contact(s)	
Company Address	
Telephone	
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Mobile	
Email	
Website	

## Background Information

1. Please detail briefly when your business was formed and its history to date (including major developments).
2. What are your current business activities and what markets do you operate in?
3. What services does the business provide to Lewes District residents and what area does it serve?
4. What are the growth plans for the business over the next two years? Please include: <ul style="list-style-type: none"> <li>• Details of growth strategies and plans;</li> <li>• Details of market research undertaken and opportunities identified;</li> <li>• Amount of capital investment to be made;</li> <li>• Details of new products/services being developed;</li> <li>• Details of new markets to be targeted;</li> <li>• The consequences of not proceeding with the expansion project to your businesses;</li> </ul>
5. Are you relocating or expanding within the Lewes District? If so, will any additional jobs be generated?

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6. Do you own or lease the property? If you lease, how long is the lease on your property?

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7. How did you hear about this Discount Scheme?

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8. How many employees does your business have?

	Current Employees
Full Time	
Part Time	

9. If you are planning to create new jobs within your business by moving to Lewes District please forecast these over a proposed timescale.

	[Please enter year]	[Please enter year]	[Please enter year]
Full Time			
Part Time			

10. Please state what type of jobs, apprenticeships or training opportunities you are planning to create.

Job Title	Qualification / NVQ Skills Level	Full Time or Part Time	Basic Annual Salary

11. Please state why your application would be in the interest of all taxpayers in the District?

12. Please state any other information which you consider relevant to support your application.

The Agreement

I hereby declare that to the best of my knowledge and belief the information provided in this form is accurate and true and fairly and reasonably represents the circumstances of my business. I also confirm that I have taken all reasonable steps to ensure that I am in possession of all relevant information before making this declaration.

I understand that the provision of Business Rate Discount may constitute a State Aid within the meaning of Article 107 of the Treaty on the Functioning of the European Union (The TFEU). I further understand that there are legal limits in respect of the amount of State Aid that can be received. I understand that I have a duty to declare any State Aid that my business has received in the last three years. I understand that if I knowingly or deliberately make a false statement regarding State Aid or the State Aid measure is declared unlawful that action may be taken against the business, including but not limited to action to recover the aid from the business with interest running from the date the aid was given.

DECLARATION: I understand that approval to receive a Business Rate Discount is subject to conditions and that I understand that any business seeking relief must meet the eligibility criteria before they are granted the appropriate discount.

I consent to the sharing of information relating to my business rates account and application for Business Rates Discount between those Council services that need to know the information and to make this application and supporting documents available as a public record.

I confirm that I am authorised to agree to the terms and conditions detailed above on behalf of the business. I further confirm that I am an authorised signatory within the business with full power and authority to make this declaration.

Signed .....  
Print Name .....  
Position .....  
Date .....

Please note that your business may be included in any publicity regarding the scheme. Please note all business debts with Lewes District Council must be paid in full before any application can be considered.