

Cabinet

18 October 2017

Published 10 October 2017

Agenda for meeting of the Cabinet to be held at 6.00 pm on Wednesday, 18 October 2017 in the Town Hall, Eastbourne

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Members of the Cabinet:

Councillor David Tutt (Leader and Chairman of Cabinet): Responsibilities aligned with Chief Executive and including the community strategy, local strategic partnership, the corporate plan and economic development.

Councillor Gill Mattock (Deputy Leader and Deputy Chairman of Cabinet): Financial services including accountancy, audit, purchasing and payments.

Councillor Margaret Bannister: Tourism and leisure services.

Councillor Jonathan Dow: Place services including cleansing and recycling, parks and downland, engineering, building and development control, planning policy and strategy, environmental health and licensing.

Councillor Dean Sabri: Core support and strategic services.

Councillor Alan Shuttleworth: Direct assistance services including revenues and benefits, housing and community development and bereavement services.

Councillor John Ungar – Community safety and the crime reduction partnership.

[KD] against an item indicates that the matter involves a Key Decision and that the item has been listed in the Council's Forward Plan for at least 28 clear days.

[BPF] against an item indicates that the matter is part of the Council's Budget and Policy Framework and as such will require the approval of the Full Council.

Publication of this agenda also constitutes notice (or confirmation that such notice has previously been given) to the Chairman of the Scrutiny Committee and members of the public as appropriate:

(1) Under regulation 10(3) of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 in respect of any key decision not included in the Council's Forward Plan of Key Decisions within 28 days of this meeting. Such items (if any) are marked **[KDGE]** and the reasons why compliance with regulation 9 (publicity in connection with key decisions) was impracticable are given.

(2) Under regulation 5(4) of the above mentioned regulations that certain matters listed on this agenda (if any) may need to be considered in private. (This notice is given further to the earlier notice given under regulation 5(2). The reasons for private consideration are given at the relevant item, together with details of representations received (if any) about why the meeting should be open to the public.

1 Minutes of the meeting held on 13 September 2017. (Pages 1 - 8)

2 Apologies for absence.

3 Declarations of members' interests.

Declarations of disclosable pecuniary interests (DPIs) by members as required under Section 31 of the Localism Act and of other interests as required by the Code of Conduct and regulation 12(2)(d) of the 2012 Access to Information Regulations. (Please see note at end of agenda).

4 Questions by members of the public.

On matters not already included on the agenda and for which prior notice has been given (total time allowed 15 minutes).

5 Urgent items of business.

The Chairman to notify the Cabinet of any items of urgent business to be added to the agenda.

6 Right to address the meeting/order of business.

The Chairman to report any requests received to address the Cabinet from a member of the public or from a Councillor in respect of an item listed below and to invite the Cabinet to consider taking such items at the commencement of the meeting.

7 Local council tax reduction scheme 2018/19. (BPF) (Pages 9 - 12)

Report of Director of Service Delivery.
Lead Cabinet members: Councillor Alan Shuttleworth.

8 Business rate revaluation support policy. (KD) (Pages 13 - 38)

Report of Director of Service Delivery.
Lead Cabinet members: Councillor Alan Shuttleworth.

9 Appointment of members/officers to outside bodies - insurance and indemnities. (Pages 39 - 40)

Report of Assistant Director of Legal and Democratic Services.
Cabinet lead member: Councillor Dean Sabri.

10 Royal Hippodrome Theatre - future operational arrangements. (KD)
(Pages 41 - 44)

Report of Director of Regeneration and Planning.
Lead Cabinet members: Councillor Jonathan Dow.

Inspection of background papers – Please see contact details listed in each report.

Public right of address – Requests by members of the public to speak on a matter which is listed in this agenda must be **received** in writing by no later than 12 Noon, 2 working days before the meeting (e.g. if the meeting is on a Wednesday, received by 12 Noon on the Monday before). The request should be made to Local Democracy at the address listed below. The request may be made by, letter, fax, or electronic mail. For further details on the rules about speaking at meetings or for asking a question on a matter not listed on the agenda please contact Local Democracy.

Public questions – Members of the public may ask a question on a matter which is not on the agenda. Questions should be made in writing and by the same deadline as for the right of address above. There are rules on the matters on which questions can be asked. Please ask Local Democracy for further information

Councillor right of address - Councillors wishing to address the meeting who are not members of the Cabinet must notify the Chairman in advance (and no later than the immediately prior to the start of the meeting).

Disclosure of interests - Members should declare their interest in a matter at the beginning of the meeting, and again, at the point at which that agenda item is introduced.

Members must declare the existence and nature of any interest.

In the case of a disclosable pecuniary interest (DPI), if the interest is not registered (nor the subject of a pending notification) details of the nature of the interest must be reported to the meeting by the member and subsequently notified in writing to the Monitoring Officer within 28 days.

If a member has a DPI or other prejudicial interest he/she must leave the room when the matter is being considered (unless he/she has obtained a dispensation).

Implementation of decisions - Implementation of any key decision will take place after 5 working days from the date notice is given of the Cabinet's decision (normally on the day following the meeting) unless subject to "call-in". Exceptions to this requirement are allowed when the decision is urgent.

Further information – The Forward Plan of Key Decisions, Councillor contact details, committee membership lists and other related information are available from Local Democracy. To receive regular e-mails alerting you to the publication of Cabinet agendas (or other meeting agendas) please send an e-mail to: localdemocracy@eastbourne.gov.uk

You can view the Forward Plan of Key Decisions at <http://democracy.eastbourne.gov.uk/ieDocHome.aspx?bcr=1>

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Cabinet



Minutes of meeting held on Wednesday, 13 September 2017 at 6.00 pm

Present:-

Councillors **David Tutt** (Chairman and Leader of the Council), **Gill Mattock** (Deputy Chairman and Deputy Leader of the Council), **Margaret Bannister**, **Jonathan Dow**, **Alan Shuttleworth** and **John Ungar**.

27 Minutes of the meeting held on 12 July 2017.

The minutes of the meeting held on 12 July 2017 were submitted and approved and the chairman was authorised to sign them as a correct record.

28 Apologies for absence.

An apology for absence was reported from Councillor Sabri.

29 Declarations of interests by members.

Councillors Tutt and Ungar declared a personal and non prejudicial interest in agenda item 8 (Joint transformation programme) as both had relatives involved in the process.

Councillor Tutt declared a personal and prejudicial interest in matters relating to agenda item 9 (Eastbourne business improvement district) as Chair of Eastbourne and District Enterprise Agency Limited (EDEAL). He withdrew from the room and Councillor Mattock chaired the meeting for consideration of this item.

30 Corporate performance - Quarter 1, 2017-18 (KD).

The Cabinet considered the report of the Deputy Chief Executive and Director of Planning and Strategy on the Council's performance against the Corporate Plan's priority actions, performance indicators and targets over the quarter one period for 2017/18. Part B of the report detailed the Council's financial performance during quarter one.

Visiting member, Councillor Ballard asked questions regarding the Birling Gap haze, following receipt of an anonymous email about the incident that occurred at the end of August 2017. Councillor Ballard's questions centred on the long term reputational risks to Eastbourne, whether the protocol exercised by the authorities was adequate and the Chairman's future questioning of Southern Water. Councillor Tutt responded that updates were sought daily and the issue would continue to be pursued in terms of determining the source. He commended the emergency services for their immediate response to the incident, which had minimised public anxiety.

Visiting member, Councillor Freebody addressed the Cabinet and commended the Council's performance for answering 86.17% of calls within 30 seconds. Councillor Freebody asked questions on the Council's sickness absence and net additional homes provided. Officers responded that the rise in staff absence was due to a small number of staff with long term medical conditions. The Council's Joint Staff Committee, attended by staff and management, had discussed this issue and were committed to working together to ensure that staff were supported. Councillor Freebody was also advised that although only 5 net additional dwellings had been completed, 322 net additional units were under construction.

Resolved (key decision): i) That the achievements and progress against Corporate Plan priorities for 2017/18 are noted.

ii) That the General Fund, HRA and Collection Fund financial performance for the quarter ended June 2017, as set out in part B of the report be agreed.

iii) That the virements as set out in paragraph 1.4 of part B of the report be agreed.

iv) That the amended capital programme as set out in Appendix 4 be agreed.

vi) That the Treasury Management performance as set out in section 5 of part B of the report be agreed.

31 Joint transformation programme - update (KD).

The Cabinet considered the report of the Assistant Director for Business Transformation providing an update of the joint transformation programme and decisions taken by the Programme Board.

The programme was currently in phase two and the report outlined the priorities for the next four months. 300 full time equivalent (FTE) roles were in scope for phase two and 320 staff were affected. The proposals would see a reduction to around 237 FTE roles.

The Cabinet expressed their thanks to staff for engaging with the process and noted that around 400 responses had been received during the first consultation of phase two.

The programme was operating within the budget that was approved by Cabinet in May 2016 and phase one had delivered the savings anticipated. There were no significant variances to report.

The Assistant Director for Business Transformation would shortly be leaving the authority and the Cabinet expressed its sincere thanks for all of his work during the various transformation programmes over the years and wished him all the best for the future.

Resolved: That the Cabinet note the progress made in developing the Phase Two proposals as well as the wider programme and decisions made by the Programme Board.

(Note: Councillors Tutt and Ungar declared a personal and non prejudicial interest in this item as both had relatives involved in the process.)

32 Eastbourne business improvement district (BID) (KD).

The Cabinet considered the report of the Director of Service Delivery regarding an amended business improvement district (BID) plan. Cabinet had previously approved the BID based on the original plan at its meeting on 22 March 2017.

Since publication of the report, a revised set of recommendations had been produced to address concerns raised during an ongoing consultation with town centre traders and Legal & General. These recommendations were circulated to those present at the meeting. Attention was drawn to revised recommendation 2 that would grant delegated authority to the Chief Executive, in liaison with the Deputy Leader of the Council and the BID company to determine the most appropriate timeline for the ballot to take place.

Visiting member, Councillor Freebody addressed the Cabinet to query the original proposed timing of the ballot but welcomed the revised recommendations to the report which addressed the timing issues.

The amended BID, appended to the report, now included a 15% discount on the BID levy for serviced tenancies that pay a separate charge (unrelated to the BID levy) to the Arndale Centre for security and marketing. This would apply to 72 units. Section 5.2 of the report detailed examples of levy reductions at other shopping centres.

82% of businesses had expressed support for the BID.

Resolved: (1) That the amended Business Improvement District Business Plan set out in Appendix 1 of the report be approved.

(2) That the Chief Executive, in liaison with the Deputy Leader of the Council and the BID company, be given delegated authority to determine the most appropriate timeline for the ballot to take place.

(3) That, subject to (2) above;

(a) The council's Returning Officer (as 'ballot holder') be instructed to proceed with the ballot and require the lead officer for revenues, benefits and service support to supply up to date rating list information in suitable format to the ballot contractor.

(b) The Chief Finance Officer be given delegated authority –

(i) to determine the statement of baseline services and baseline agreement and to review the agreement annually; and

(ii) if the ballot is successful, to operate a BID revenue account and pass over relevant monies to the BID company.

(c) The expected cost of the ballot (c.£3,500) would be met by the council.

(d) The Director of Service Delivery be given delegated authority –

(i) to approve the BID operating agreement;

(ii) to vote in favour of the BID in respect of business hereditaments held by the council within the BID area; and

(iii) if the ballot is successful, to administer, bill, collect and enforce levies under the BID scheme .

(e) Note that the council's Returning Officer is permitted to delegate his responsibilities to others and that he has engaged the services of Electoral Reform Services Ltd to undertake the ballot on his behalf.

(f) Agree that the initial 'one-off' software costs required to collect the BID levy (c.£20,000) will be met by the council.

(g) Note that the council's reasonable costs of collecting the levy and the associated financial management costs will be recoverable from the BID levy monies as outlined in paragraph 8.4 of the report to Cabinet on 22 March 2017.

(Note: Councillor Tutt declared a prejudicial interest in this item. See minute 29 above. He withdrew from the room and Councillor Mattock chaired the meeting for consideration of this item.)

33 Affordable housing supplementary planning document (SPD) (BPF).

The Cabinet considered the report of the Director of Strategy, Planning and Regeneration regarding the affordable housing supplementary planning document.

The document sought Cabinet endorsement for formal adoption at Full Council on 15 November 2017.

Councillor Dow expressed his thanks to the Senior Planning Policy Officer for their work on the document.

Resolved: (1) That the Affordable Housing SPD as set out in Appendix 3 be endorsed and recommend to Full Council for adoption.

(2) That the revocation of the Affordable Housing Implementation Technical Note (adopted 2013) as set out in Appendix 4 be endorsed and recommended to Full Council,.

(3) That delegated authority be given to the Director of Regeneration and Planning in consultation with the Cabinet portfolio holder to make any minor or technical adjustments found necessary in the Affordable Housing SPD before it is presented to Full Council.

34 Housing allocations policy (KD).

The Cabinet considered the report of the Director of Service Delivery relating to the revised housing allocation policy. Consultation resulted in 215 representations being received overall and 85 specific for Eastbourne Borough. The representation indicated a high level of general agreement with the modifications.

Visiting member, Councillor Freebody addressed the Cabinet and queried the section of the policy that detailed how people were prioritised for properties and the different bandings. The Director of Service Delivery responded that the section would be reviewed and the delegation set out in recommendation 3 allowed for technical adjustments to be made in consultation with the portfolio holder. This was supported by the Cabinet.

Resolved: (1) That the Housing Allocations Policy as set out in Appendix A be adopted.

(2) That the revocation of the previous Housing allocations Policy (adopted 2014) as set out in Appendix B be approved.

(3) That delegated authority be given to the Director of Service Delivery in consultation with the Cabinet portfolio holder to make any minor or technical adjustments found necessary in the Housing Allocations Policy.

35 Community housing fund (KDGE).

The Cabinet considered the report of the Development Project Manager regarding a £365,894 allocation of community housing funds from central government. Cabinet's approval was sought for the specified expenditure.

The allocation specifically related to identifying new sites for affordable housing development and effective utilisation of the funds would provide another channel for the delivery of housing, regeneration and community benefits.

Resolved: (1) That the Community Housing Funds allocated by Government be used to

(a) approve a grant of £50,000 to Action in Rural Sussex (AiRS) to set up a Sussex Wide Community Housing Hub.

(b) approve funding of £25,000 for Eastbourne Borough Council's share of a post jointly funded with Lewes District Council to facilitate the Community Housing Fund (CHF).

(c) note that, following expenditure of items 1 and 2 above, Eastbourne Borough Council have £290,894 available to deliver further community led housing initiatives.

(2) That delegated authority be granted to the Director of Service Delivery in consultation with the portfolio holder to take all steps necessary for and incidental to the implementation of recommendations 1(a) and (b) above; and to allocate the uncommitted sum of £290,894 on such community led housing initiatives as they consider appropriate.

36 Exclusion of the public.

Resolved: That the public be excluded from the remainder of the meeting as otherwise there was a likelihood of disclosure to them of exempt information as defined in schedule 12A of the Local Government Act 1972. The relevant paragraph of schedule 12A and a description of the exempt information is shown below. (The requisite notice having been given under regulation 5 of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012.)

37 Confidential minutes of the meeting held on 12 July 2017.

The confidential minutes of the meeting held on 12 July 2017 were submitted. Subject to an amendment agreed between Councillor Smart and the Cabinet, the chairman was authorised to sign them as a correct record.

38 Redundancy and redeployment policy -update.

The Cabinet considered the report of the Assistant Director for Human Resources and Organisational Development. The report set out the current activity within the Redundancy and Redeployment procedure and actions taken to support affected individuals.

Resolved: (1) That the actions taken to manage implications of change for displaced individuals through support, redeployment and assistance with self marketing under the Redundancy and Redeployment Procedure be noted.

(2) That the financial implications of severance for those identified in the event that redeployment is not secured by the relevant date be agreed.

Notes: (1) The report remains confidential. (2) Exempt information reasons 1 and 2 – Information relating to an individual or likely to reveal the identity of an individual.

The meeting closed at 6.53 pm

Councillor David Tutt
Chairman

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| | |
|-------------------------|---|
| Body: | Cabinet |
| Date: | 18 October 2017 |
| Subject: | Local Council Tax Reduction Scheme 2018/19 |
| Report Of: | Ian Fitzpatrick, Director of Service Delivery |
| Ward(s) | All |
| Purpose | To consider the 2018/19 Local Council Tax Reduction scheme. |
| Recommendations: | <ol style="list-style-type: none">1. That Cabinet recommend to full Council that Eastbourne Borough Council's Council Tax Reduction Scheme for 2017/18 be adopted as the equivalent scheme for 2018/192. That the Exceptional Hardship fund continues for 2018/19 subject to continued support by the major preceptors |
| Contact: | Bill McCafferty, Functional Lead for Thriving Communities, Telephone 01323 415171 or internally on extension 5171. E-mail address: bill.mccafferty@lewes-eastbourne.gov.uk |

1.0 Introduction

- 1.1 The Government abolished the national Council Tax Benefit scheme from April 2013 and required local authorities to develop and adopt their own scheme of support for working age claimants. This change came with a 10% cut in funding; for the Council, this was c£1m.
- 1.2 To protect pensioners from any reduction in support, the government put in place a national scheme that local authorities had to adopt. Therefore, any reduction in support has to come from those of working age.
- 1.3 The Council, on 16 January 2013, adopted a local scheme of support for 2013/14 which, in the main, followed the rules of the Council Tax Benefit scheme, as well as agreeing changes to certain council tax discounts and exemptions.
- 1.4 On 20 November 2015 the Council adopted a revised scheme for 2016/17 that:
 - Limited a Council Tax Reduction to 80% of the council tax liability
 - Assumed a minimum income for claimants who have been self-employed for more than 12 months

2.0 The current local scheme 2017/18

- 2.1 The current scheme, which is the same as the 2016/17 scheme, is similar to the schemes adopted by Lewes, Rother and Wealden councils and follows the

principles of protecting the most vulnerable, incentivising individuals into work and takes into account and meeting the financial pressures on the Council and the major preceptors.

2.2 The cost of the scheme for 2017/18 is likely to be in the region of £7.9m, which is £1.5m less than the original scheme for 2013/14.

3.0 Exceptional Hardship Fund

3.1 An Exceptional Hardship fund of £47,499 was established for 2016/17 to provide additional support to those most affected by the 20% reduction in liability and the change to the way self-employed claims are assessed. The Council contributed £6,426 to the fund with the remainder coming from the major preceptors in proportion to their share of the Council Tax. Of this amount there was £42,143 available to spend in 2017/18.

3.2 The Exceptional Hardship scheme mitigates the impact of any changes to the current local scheme that severely affects someone's ability to pay the tax due.

3.3 Discussions will take place with the Council's major preceptors to gain their agreement to continue supporting the fund in 2018/19.

4.0 Council Tax Collection Rate

4.1 The collection rate for 2016/17 was 97.06% compared to 97.05% for 2015/16.

5.0 Consultation

5.1 As no changes to the current scheme are proposed, there is no requirement to consult.

6.0 Resource implications

6.1 Staffing

6.2 The current scheme means that all working age recipients of CTR have to pay a minimum amount. This has two major impacts:

- An increase in activity around billing and collection
- An increase in customer contact

6.3 There is recognition by the major precepting authorities of the increased workload that billing authorities will see. For 2016/17 and 2017/18 they contributed 86% of the staff costs for 2.5 additional FTEs to manage the increase workload and have agreed to continue this level of funding for 2018/19.

6.4 Legal implications

6.5 The recommendations in this report reflect the duty on the Council under Part 1 of the Local Government Finance Act 1992 to review the scheme

annually and make any determination no later than 31 January in respect of the Scheme to apply in the following financial year.

Under section 67 of the 1992 Act, adoption of a Council Tax Reduction Scheme is reserved to full Council. The role of Cabinet is to consider the proposed Scheme and make a recommendation to Council, with any amendment to the Scheme it considers appropriate.

6.6 **Financial Implications**

6.7 None directly as all resources to develop and implement the scheme are within base budget. The likely effects on the tax base are outlined referenced in section 2.

7.0 **Equalities**

7.1 An Equality and Fairness Analysis was carried out on the 2016/17 as this was the last occasion on which changes were made to the scheme. As the proposed scheme is unchanged from the current scheme there is no requirement to carry out an Equality and Fairness Analysis.

8.0 **Recommendations**

- 8.1
- 1) That Cabinet recommend to Council that the 2017/18 scheme is adopted for 2018/19.
 - 2) That the Exceptional Hardship fund continues for 2018/19.

lead officer name: Bill McCafferty

job title: Functional Lead for Thriving Communities

Background Papers:

The Background Papers used in compiling this report were as follows:

Local Council Tax Reduction Scheme 2017/18

Lawyer consulted 22.9.17. Legal ref: 006714-EBC-OD.

To inspect or obtain copies of background papers please refer to the contact officer listed above.

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Body: CABINET

Date: 18 October 2017

Subject: Business Rate Revaluation Support Policy

Report Of: Director of Service Delivery

Ward(s) All

Purpose To consider the proposed Discretionary Business Rate Revaluation Support Policy for those ratepayers adversely affected by the 2017 Business Rates Relief revaluation.

Decision Type: Key decision

Recommendations:

1. Approve the Discretionary Business Rate Revaluation Support Policy as set out in Appendix 1.
2. Grant the Director of Service Delivery and Lead Cabinet Member for Community delegated authority, to review and, if necessary, amend the Business Rate Revaluation Support Policy at the end of March 2018 and each subsequent year during the operation of the scheme.

Contacts: Nick Ducatel, Functional Lead for Growth and Prosperity, Tel: (01323) 415914 or internally on extension 5914.
E-mail: nick.ducatel@eastbourne.gov.uk

David Robinson, senior local democracy officer, Tel: (01323) 415022 E-mail: david.robinson@eastbourne.gov.uk

1.0 Introduction

- 1.1 In the March 2017 budget, the Chancellor of the Exchequer announced that £300 million was being made available to councils to support those businesses most affected by the increases in their business rates bills as a result of the 2017 revaluation.
- 1.2 Whilst generally ratepayers are paying less overall in business rates because of the revaluation, there are still a number of businesses that individually have seen an increase in their rates bills.

2.0 Proposed Scheme

- 2.1 From analysis undertaken during the design of the scheme there are currently 3,100 commercial properties of which 2,278 small businesses (Rateable value of £15,000 or below) did not have an increase above 12.5%. The majority of businesses within this category have a zero rates liability as they are in receipt of

100% Small Business Rate Relief, or are receiving tapered relief.

- 2.2 There are a total of 822 medium to large businesses with rateable values between £15,000 and £200,000.
- 2.3 752 ratepayers increases were below the threshold of 12.5%; or were either national or multi-national companies; or identified as sectors the Council does not propose to provide support.
- 2.4 From the evaluation and analysis undertaken the scheme is estimated to provide support to approximately 70 Eastbourne businesses overall facing the most significant increases.
- 2.5 Via a consultation paper in March 2017, the government outlined how local schemes to distribute the relief should be designed.
- 2.6 Government was clear that councils should use their discretionary powers to deliver the reliefs and design their own schemes as they are best placed to judge the particular circumstances of their local ratepayers and direct the funding to where it's most needed.
- 2.7 The relief should be aimed at ratepayers occupying properties with a rateable value of up to £200,000 whose net rates payable have increased by more than 12.5% over the amount due in 2016/17.
- 2.8 The scheme can only support those businesses that have had an increase in their bills as a result of the revaluation, and not because of other reasons, for example, where the premises have been extended.
- 2.9 The recommended level of relief awarded in year 1 will be 70% of the difference between the 2016/17 and 2017/18 net rates bill of the eligible business.
- 2.10 The proposed policy for the award of discretionary rate relief for those ratepayers adversely affected by the 2017 revaluation is set out in Appendix 1.

The key features of the policy are as follows:

- Relief will be granted on application only
 - Relief will be aimed to support ratepayers with a rateable value up to £200,000
 - Support will only be given to those ratepayers facing an increase of more than 12.5%
 - Relief will only be given to ratepayers who were in occupation on 31 March 2017 and after 01 April 2017
 - All statutory reliefs and exemptions will be applied before any calculation for discretionary rate relief can be considered
 - The relief is targeted to local businesses, not national or multi-national by nature
- 2.11 The council proposes to exclude the following categories of businesses / organisations:

- Medical services e.g. GP's surgeries and hospitals
- Financial services e.g banks
- Public sector e.g. council buildings and schools
- Leisure sector e.g. gyms and health centres
- Professional services e.g. accountants and solicitors
- Other services e.g. car parks, car washes and kiosks

3.0 Financial Implications

3.1 The £300 million will be allocated over 4 years and the allocations have been calculated based on the increases in net rateable values locally as a proportion of the increases in bills nationally.

The funding provided to Eastbourne Borough Council for the scheme through to 2020/21 is as follows:

| Amount of Discretionary pot awarded (£000s) | | | | | |
|--|----------------|----------------|----------------|----------------|--------------|
| | 2017/18 | 2018/19 | 2019/20 | 2020/21 | TOTAL |
| 3.2 | £294 | £143 | £59 | £8 | £504 |

3.3 These amounts represent the maximum amount that the council can award in relief for which it will be reimbursed by the government through a section 31 grant of the Local Government Act 2003.

3.4 The overall estimated cost of the scheme in year 1 for Eastbourne is £242,000 and will provide support to approximately 70 local businesses that have faced large increases in the amount they have to pay (more than 12.5%).

3.5 It is considered prudent to retain £52,000 of the funding to cover eligible rate increases which may arise during the year to allow for changes in rateable value due to appeals.

3.6 The level of discount will be reviewed in years 2 to 4 as the funding reduces.

4.0 Consultation

4.1 Central Government expects billing authorities to consult with their major precepting authorities before adopting any discretionary relief support scheme.

4.2 Additionally we are consulting with local ratepayers, Chamber of Commerce, Federation of Small Businesses and the Eastbourne Hospitality Association. The consultation runs for a period of 8 weeks and closes on 08 October 2017.

4.3 The outcome from both consultations will be considered and updated in this report prior to Cabinet on 18 October 2017.

4.4 At the point the scheme goes live in October we will be contacting the businesses and asking them to apply before the end of the calendar year.

5.0 Equalities and Fairness

- 5.1 An Equalities and Fairness impact assessment has been completed and submitted to the Equality and Fairness Planning Group for their comments. We will consider these along with comments received from consultation.

It is our view that the policy is robust and evidence shows no potential for discrimination. If, however, any issues are identified in the consultation, or during the first year of implementation, these will be reviewed and, if appropriate, changes will be made to the policy for subsequent years.

6.0 Other Implications

- 6.1 Legal

As a billing authority, the Council has power to make and implement a Discretionary Business Rate Relief Scheme across Eastbourne under section 47 of the Local Government Finance Act 1988.

Approval of the Scheme is an executive function and proper to be made by Cabinet.

The provision of tax relief (including discretionary non-domestic rate relief) to businesses could constitute 'State Aid'. However, no business in receipt of this relief would infringe EU rules on State Aid where the total value of this relief, taken together with any other source of state funding, was less than 200,000 euros (approximately £177,000) in a rolling 3 year period. Ratepayers will be required to make a signed declaration.

7.0 Conclusion

The Government expects local authorities to have in place arrangements to administer and award reliefs to ratepayers as quickly as possible. This report therefore recommends the Discretionary Business Rate Revaluation Support Policy is adopted for 2017/18 and subsequent years.

Ian Fitzpatrick, Director of Service Delivery

Appendices

Appendix 1: Draft Discretionary Business Rate Revaluation Support Policy

Background Papers:

Business Rates Information Letter (4/2017): Spring Budget Update, issued by Department of Communities and Local Government

Equalities and Fairness Analysis Findings Report

To inspect or obtain copies of background papers please refer to the contact officer

listed above or use the links provided.

Lawyer consulted: 19 September 2017, Legal ref: 006682-JOINT-OD

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Eastbourne Borough Council 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 | May 2017 | DA | Revisions |
| 3 | July 2017 | LM | Revisions per ND |
| 4 | August 2017 | LM | Revisions per ND |
| 5 | August 2017 | LM | Revisions ND |
| 6 | August 2017 | LM | Revisions ND |
| 7 | August 2017 | LM | Revisions ND |

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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 solely covers the granting of awards under the Discretionary Business Rates Relief Scheme 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 Council's website www.Eastbourne.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, charities, 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, charities, 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. Local businesses and organisations will be given priority over national organisations. Where requested, the organisation will need to supply the Council with clear evidence of **all** financial affairs including, and most importantly, the amounts of monies raised, used and invested locally. This will be essential where the organisation is national in nature;
- e. 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;
- f. To assist the Council in delivering services which could not be provided otherwise;
- g. To enable the Council to determine the level of rate charge in comparison with the organisation's financial situation; and
- h. 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 and 10% by East Sussex County Council. 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 up to the level of funding provided. This will be given under section 31 of the Local Government Act 2003. The Government has decided that any underspend cannot be 'vired' from one year to the next.
- 3.9 A key criteria of reimbursement will be that all Billing Authorities 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) – Eastbourne Borough Council | | | |
|--|---------|---------|---------|
| 2017-18 | 2018-19 | 2019-20 | 2020-21 |
| 294 | 143 | 59 | 8 |

- 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, 10% by the County Council and 50% by Central Government.

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)¹. 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.

¹ <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 legislation²

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. The relevant application form is included within Appendix A of this policy. The Council will specify how applications are to be received and this may vary from time to time.

5.3 Organisations are required to provide a completed application form plus any such evidence, documents, accounts, financial statements etc. necessary to allow the Council to make a decision. Where insufficient information is provided, then no relief will be granted. In some cases, it may be necessary for officers to visit premises and we would expect organisations claiming relief to facilitate this where necessary.

5.4 Applications should initially be made to the Specialist Services Team and will be determined in accordance with this policy.

5.5 **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

5.6 In all cases, the Council will notify the ratepayer of decisions made.

5.7 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.

²The Non-Domestic Rating (Discretionary Relief) Regulations 1989

- 5.8 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).
- 5.9 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.
- 5.10 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 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.
- 5.11 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

- 5.12 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.
- 5.13 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 Senior Specialist Advisor to award, revise or revoke any discretionary relief applications. However, any application which is considered to be of a significant nature will be subject to consultation with the S151 Officer of the Council, and / or the relevant Executive member 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.

Appeals

- 6.5 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 Functional Lead. Where a decision is revised then the ratepayer shall be informed, likewise if the original decision is upheld.
- 6.6 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 Eastbourne Borough Council only the major precepting authorities have been consulted namely:
- a. East Sussex County Council;
 - b. The Police and Crime Commissioner for Sussex; and
 - c. The East Sussex 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 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;
 - c. Relief will only be granted to hereditaments whose Rateable Value at 1st April 2017 is up to £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 after any reliefs and reductions; and
 - ii. The rate liability of the ratepayer at 1st April 2017 taking into account any transitional relief or discretionary relief within this policy;
 - e. Relief will be awarded where the calculation in d. above would result in an increase of more than **12.5%**;
 - 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;
 - g. Relief will only be granted to ratepayers who were in occupation at 31st March 2017 and in occupation on 1st April 2017 and for each day subsequently.
 - h. 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 will be targeted to local businesses and not those business that are national or multi-national in nature. Local businesses are, for the purposes of this scheme, those which have premises wholly in the Councils area;
- j. The Council reserves the right to refuse where the ratepayer is in arrears with their rate liability;
- k. Relief may be awarded for more than one premises as long as **all** other criteria are met;
- l. Relief will **not** be awarded where:
 - i. Mandatory relief is awarded; or
 - ii. Discretionary Rate Relief i.e. Top Up; or
 - iii. Where the ratepayer has applied for a reduction under S44a of the Local Government Finance Act 1988; or
 - iv. Small Business Rate Relief.
- m. Relief will **not** be awarded in respect of any hereditament which is used for:
 - **Medical Services** such as Ambulance Stations, GP's Surgeries, Hospitals, Pharmacies etc.; or
 - **Financial Services** such as Banks, Building Societies, ATM's, Pawnbrokers, Payday lenders, Bureau de change; or
 - **Public Sector Buildings** such as Cemeteries, Theatres, Leisure Centre, Civic sites, Council Offices, Fire & Police Stations, Libraries, Ministry of Defence Buildings, Schools and Universities (including Public, Academies and Private); or
 - **Leisure Sector** such as Gyms, Golf Courses, Health Centres, Leisure Centres, Bingo Halls, Amusement Arcades, Betting Shops, Bingo Halls, Sports Grounds; or
 - **Professional Services** such as Solicitors, Accountants, Financial Advisors, Insurance Agents; or
 - **Post Offices and Sorting Offices**; or
 - **Other Services** such as Estate Agents, letting agents, employment agents, Beauty and Hair Saloons, Car Parks and Car Washes, Petrol Stations, Kiosks, Depots, Communication Stations, Social Clubs, Community Centres and Museums.

Amount of Relief

8.5 The amount of relief is tapered and will be calculated as follows for **2017/18**:

- Where the increase calculated in paragraph 8.4D is 12.5% or less, no relief shall be given. Where the increase calculated in Paragraph 8.4D is more than 12.5%, the award granted shall be calculated as 70% of the increase. (For the sake of clarity, the increase Between 2016/17 liability and 2017/18 liability shall be granted as in 8.4D. Where the increase is more than 12.5%, 70% of that increase shall be given as discretionary rate relief).

2018/19 to 2020/21

- Relief from 2018/19 to 2020/21 will be decided by the Council in due course

- 8.6 The level of award may be varied at any time at the discretion of the Council.

Variation and amendment of relief under the scheme

- 8.7 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. 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.
- 8.8 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. 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.

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.

Appendix A

Application Form for the Discretionary Business Rate Relief Scheme.

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| | |
|------------------------|---|
| Body: | Cabinet |
| Date: | 18 October 2017 |
| Subject: | Appointment of Members and Officers to Outside Bodies - Insurances and Indemnities |
| Report of: | Assistant Director of Legal & Democratic Services |
| Ward(s) | All |
| Purpose | To ensure that members and officers are fully protected against personal liabilities when properly carrying out roles to which they have been appointed for the Council's benefit. |
| Decision type: | Non-key decision |
| Recommendation: | <ol style="list-style-type: none">1. That the Council reviews the scope of its insurance provision and, if necessary, extends it to provide cover for those members and officers who are nominated or appointed by the Council to outside bodies, both currently and in the future, and;2. That the Council should provide a comprehensive indemnity in the terms permitted by the Local Authorities (Indemnities for Members and Officers) Order 2004 for members and officers who are nominated or appointed by the Council to outside bodies, both currently and in the future. |
| Contact: | Catherine Knight, Assistant Director of Legal and Democratic Services, 1 Grove Road, Eastbourne, East Sussex, BN21 4TW tel: 01323 415864; mob: 07795 266 046; Catherine.knight@lewes-eastbourne.gov.uk |

1.0 Introduction

- 1.1 There is statutory protection against personal liability for members and officers whilst they are performing their council roles, providing they act within their powers and in good faith.
- 1.2 This statutory protection does not exist when members and officers act on outside bodies, so the issue of personal liability on outside bodies is one which needs to be considered.
- 1.3 Where the Council has been invited to nominate a member or officer for appointment, the formality of the appointment itself remains with the outside body and so in these circumstances a first step should be to find out what provision by way of insurances and protection the outside body is providing for those persons nominated to it.
- 1.4 Where the Council itself is making the appointment to the outside body then it

has the power itself to provide the relevant members and officers with insurance and/or an indemnity to cover any personal liabilities. This is helpful because, for example, although the circumstances in which it might happen are rare, it is at least possible for members or officers who are appointed as directors of companies to be held responsible for a company's liabilities. Appointments of members and officers to non-corporate organisations (unincorporated associations), which have unlimited liability, carry greater risk of personal costs/liability.

- 1.5 The Council's insurances have in the past been sufficient to provide cover for both officers and members when they have been acting on outside bodies by way of appointment by the Council.
- 1.6 With the advent of more innovative ways of working the Council is setting up and appointing members and officers to a range of new external bodies, in particular local authority companies. In order to make certain that members and officers who are appointed to these roles are fully covered it is suggested that two things should happen:
 - i) The Council reviews the scope of its insurance provision and, if necessary, extends it to provide cover for those members and officers who are nominated or appointed by the Council to outside bodies, both currently and in the future.
- 1.7 There may be occasions where insurance cover does not provide adequate protection. For this reason government has seen fit to pass legislation which explicitly enables a local authority to provide an indemnity to any of their members or officers for any action of, or failure to act by, that member/officer whilst acting in the outside role to which they have either been nominated or appointed by, at the request of, with the approval of or for the purposes of the Council:
 - ii) The Council should therefore provide a comprehensive indemnity in the terms permitted by the Local Authorities (Indemnities for Members and Officers) Order 2004 for members and officers who are nominated or appointed by the Council to outside bodies, both currently and in the future.

It is emphasised that such protection, whether by way of insurance or other indemnity, will only protect members and officers whilst they are acting in good faith.

No indemnity may be provided in relation to any act or failure to act which:

- Constitutes a criminal offence. (Also in the event of a finding of guilt of part or all the charges the indemnity shall provide for a claw-back of sums paid out by the authority or insurer).
- Is the result of fraud or other deliberate wrongdoing or recklessness of the part of that member or officer.

Legal Implications: These are set out in the body of the report.

Background papers - None.

COMMITTEE: CABINET
DATE: 18 October 2017
SUBJECT: Royal Hippodrome Theatre
REPORT OF: Director of Regeneration and Planning

Ward(s): Devonshire
Purpose: For Members to consider granting of a long lease of the Royal Hippodrome Theatre.
Contact: Mark Langridge-Kemp
Senior Manager, Asset Development
Property and Facilities Shared Service
Tel no: 01323 415876

Recommendations:

1. To agree the future lease of Royal Hippodrome Theatre on the broad lease terms outlined in para 5.2 of this report.
2. To delegate authority to the Director of Regeneration and Planning to take all steps necessary to complete the lease.

1. Background

- 1.1 The Royal Hippodrome Theatre (RHT) opened in 1883 as the New Theatre Royal and Opera House and was bought by the Council in the late 1950s/early 1960s. It has been managed by Eastbourne Theatres since November 2007, following the end of a lease with Matpro Productions which had run for the previous 12 years. The building is Grade II and Locally Listed.
- 1.2 The building is in poor condition and there have been a number of attempts over the last 10 years or so to put arrangements in place to secure the future of the building. The Council has recently been approached by a local family who wish to take over the management of the property. In addition, the Royal Hippodrome CIC have successfully bid for £100,000 of grant funding to fund works to the façade of the building.
- 1.3 This paper provides some history regarding previous management options for RHT and makes recommendations that will enable the Council to secure the future of the building.

2.0 Management of the RHT

- 2.1 There have been a number of attempts over the last 10 years or more to put in place a firm management structure for RHT.

- In 2006 'The Royal Project', a community based project, began working towards the formation of an Independent Trust. An agreement was reached between the Council and members of the Project to facilitate the transfer of RHT to the Project/Trust by January 2011, after which it was anticipated that they would run it as a community based, independent, charitable concern to draw down funding to secure the fabric of the building. However, for various reasons, this never came to fruition.
- In 2013 a new arrangement was agreed by Cabinet for the Eastbourne Hospitality Association to occupy parts of the Theatre, via a lease for its main office, and a licence to be granted to the then newly formed Royal Hippodrome Theatre Management Committee to programme the Theatre and take forward its management. The aim being that the committee would establish a Community Interest Company which would then take on a lease for the building and run the venue.
- In April 2015 a Community Interest Company was established, Royal Hippodrome Eastbourne CIC (RHECIC), which now runs the venue on a licence from Eastbourne Borough Council. The long term aim has been to run the venue for the community under a lease.

2.2 The building was let under license to the CIC and the license was underpinned by an agreed Memorandum of Undertaking (MOU) setting out the responsibilities of the Council and RHECIC. Broadly, the Council retained structural repair and maintenance responsibility and RHECIC took on responsibility for some internal repair and maintenance, Health and Safety, programme contracts, financial management and day to day management of the Theatre. Eastbourne Theatres provides box office services and administration support as necessary, subject to royalties. The MOU included the Council's agreement to meet the fixed non-performance, management and overheads costs of the Theatre.

2.3 Ideally RHT should be run as an independent entity with no on-going obligations from the Council. This would mean that any future lease would need to remove the current obligation on the Council arising from the licence, including financial and repair and maintenance responsibilities, and in line with the principles within the Asset Management Plan, be let on a fully repairing basis.

2.4 A local family has recently expressed a desire to take over management of RHT. They would be prepared to take a lease on the property on a fully repairing basis. The proposal is that the Council would lease the property at a peppercorn rent. Although the Council would not receive a rental income, this is no different to the existing situation. The over-riding benefit would be that the Council would reduce its future risks and liabilities for the building. By retaining the freehold of the building the Council would protect its use as a Theatre for future generations.

3.0 Financial implications

3.1 Licence to RHCIC

In February 2013, Cabinet agreed to support the management of the RHT for a two year period, including associated funding. However, new management arrangements have not been put in place and funding continues to be earmarked by the Council to cover some utilities and other costs with Eastbourne Theatres frequently needing to plug a funding gap.

3.2 Repairs and Maintenance

When the Council took back the Theatre in 2008 it invested around £150,000 into the property to renew electrics, the boiler and alarm system and ensure that the Theatre met all licensing requirements. Although works have been undertaken to make sure the fabric of the building is water tight, the building is in poor condition. A condition survey carried out in August 2016, highlighted works costing at least £1.4million to restore the building and this cannot be funded from existing resources.

One of the key reasons for the management of the Theatre becoming a CIC was so that they could then draw down much needed funding that would then be used to support improvements in the building and RHECIC has been successful with securing £100,000 of funding from the Heritage Lottery Fund (HLF) to support improvements to the façade of the building. Officers are supporting RHECIC in order to ensure that the works are carried out to the correct standards.

4.0 **Asset Challenge**

2.1 In July, Cabinet adopted the Corporate Asset Management Plan (AMP) which sets out the Council's property strategy 2017-2020. A key part of the AMP is the Asset Challenge process whereby officers will stress-test existing assets considering income generation, and costs of the assets to the Council. Importantly, whilst disposal and realising capital receipts is part of efficient property management, Asset Challenge is not solely a disposals programme. All elements that will help achieve a sustainable asset base are considered as part of the process, and reducing maintenance liability for the Council is one of the four principles outlined in the plan.

5.0 **Options**

5.1 Do Nothing:

This is not an option for the Council moving forward. The Council has substantial existing liability on the building in terms of structure and repairs and maintenance. Current costs are £1.4million but, with no means of addressing these within existing resources, this is only set to increase in the future. In addition, the Council would continue to need to fund its financial subsidy to the CIC.

5.2 Grant a long lease (recommended option)

Granting a lease presents the best opportunity for the Council to remove its existing and future liabilities for RHT, whilst being able to secure the building for future generations. RHECIC are aware of the proposals and it is intended that the CIC would continue to manage RHT. It also means that the lessee will be able to bid for additional grant funding against the security of a long lease.

It is recommended that the Director of Regeneration and Planning is given authority to:

- Negotiate terms for a lease of the RHT and
- Enter into a lease agreement together with all ancillary documentation required to give effect to the negotiated terms.

5.3 Close the Theatre

The Theatre was considered for closure in 2013 and only saved due to the fact that the management committee agreed to come forward and enter into a licence with the Council. If this was chosen as the recommended course of action it would remove the ongoing liabilities for the Council, but the town would also lose an important community building.

6.0 Legal Implications

6.1 The Director will take legal advice in respect of the negotiations and legal documentation.

7.0 Finance Implications

7.1 Financial implications have been included in the body of this report.

8.0 Conclusion

8.1 It is recommended that the Council take all necessary steps to enable works to the façade of RHT to commence and grant lease of the property as outlined in 5.2.

Background papers:

To inspect or obtain copies of the background paper, please refer to the contact officer listed above.

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