

Taunton Deane Borough Council

Executive - 7 September 2017

Proposed Business Rates Revaluation Relief

This matter is the responsibility of Councillor Richard Parrish

Report Author: Dean Emery, Principal Revenues and Debt Recovery Officer

1 Executive Summary

- 1.1 The Executive is asked to consider amending the Discretionary Rate Relief policy to include a new relief for revaluation from 1 April 2017. The inclusion of this additional relief will require approval by Full Council.
- 1.2 In the Budget on 8 March 2017, the Chancellor announced that the Government would make available a discretionary fund of £300 million over four years from 2017-2018 to support those businesses that face the steepest increases in their business rates bills as a result of the revaluation. Local government is 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.
- 1.3 The total funding available to support local authority's discretionary relief schemes is:

2017/18	2018/19	2019/20	2020/21
175	85	35	5

2 Recommendations

- 2.1 The Executive is asked to support the use of Council's local discount powers from 1 April 2017 to award Revaluation Relief to those organisations that face significant increases in their business rates bills following revaluation.

3 Risk Assessment (if appropriate)

Risk Matrix

Description	Likelihood	Impact	Overall
There is a risk any reduction in Discretionary Rate Relief could result in a number of enterprises and organisations going out of business and ceasing to exist.	2	3	6
<i>Regular monitoring of use and effectiveness of discretionary rate relief and continued emphasis on supporting those that meet the policy objectives. Flexible policy that can be reviewed readily</i>	1	2	3

continued overleaf...

Risk Matrix

Description	Likelihood	Impact	Overall
Expenditure on Discretionary Rate Relief exceeds finance available through Medium Term Plan	2	4	8
<i>Close monitoring of expenditure and review policy where appropriate</i>	1	2	3
Changes to future Government funding	3	3	9
None	2	3	6

Risk Scoring Matrix

Likelihood	5	Almost Certain	Low (5)	Medium (10)	High (15)	Very High (20)	Very High (25)
	4	Likely	Low (4)	Medium (8)	Medium (12)	High (16)	Very High (20)
	3	Possible	Low (3)	Low (6)	Medium (9)	Medium (12)	High (15)
	2	Unlikely	Low (2)	Low (4)	Low (6)	Medium (8)	Medium (10)
	1	Rare	Low (1)	Low (2)	Low (3)	Low (4)	Low (5)
			1	2	3	4	5
			Negligible	Minor	Moderate	Major	Catastrophic
			Impact				

Likelihood of risk occurring	Indicator	Description (chance of occurrence)
1. Very Unlikely	May occur in exceptional circumstances	< 10%
2. Slight	Is unlikely to, but could occur at some time	10 – 25%
3. Feasible	Fairly likely to occur at same time	25 – 50%
4. Likely	Likely to occur within the next 1-2 years, or occurs occasionally	50 – 75%
5. Very Likely	Regular occurrence (daily / weekly / monthly)	> 75%

- 3.1 The scoring of the risks identified in the above table has been based on the scoring matrix. Each risk has been assessed and scored both before and after the mitigation measures have been actioned.

4 Background

- 4.1 A range of Mandatory and Discretionary Rate Reliefs reduce (in some cases to Nil) the amount of Non-Domestic Rates (commonly known as business rates) a business or organisation has to pay. The qualifying rules and levels of relief for Mandatory Reliefs are set by Government and are the same throughout the country. The rules and levels of award for Discretionary Rate reliefs are set by each Council and as such may vary from Council to Council. A full review and updating of the policy was undertaken in 2015 with the policy coming in to effect from 1 April 2016.

- 4.2 The Local Government Finance Bill 2012 introduced the Business Rates Retention Scheme. The scheme is designed to help achieve two of Government's key priorities:- economic growth and localism. The scheme enables the retention of a proportion of the business rates revenue generated in a local area by the relevant local authorities. Business rates retention is intended to provide incentives for local authorities to drive economic growth, as the authorities will be able to retain a share of the growth that is generated in business rates revenue in their areas, as opposed to the previous system where all business rates revenues were held centrally. The share to be paid to central government from business rates collected is 50%, while the remaining 50% of business rates is retained locally (40% District, 9% County, 1% Fire authorities).
- 4.3 Under the former arrangements, the Government met the cost of Mandatory Relief in full on the basis that local authorities had no choice but to award it under set criteria. The costs of discretionary relief had to be met in full or in part, by the local authorities as awards were decided upon based on the Council's own criteria. Under the new rules Taunton Deane Council has to contribute 40% towards the cost of most relief - even those that it has no choice about awarding. Therefore it is important to recognise the financial risk of applying reliefs when considering any changes to our policy. The financing of reliefs need to be both affordable and balance the needs of the business and those of the local tax payer.
- 4.4 A Business Rates Revaluation normally takes place every five years. A revaluation was originally due to take effect from 1 April 2015 but Government delayed it by two years. Therefore the new rating List comes in to effect on 1 April 2017.
- 4.5 Each rating list has a Transitional Relief Scheme which is designed to phase in both the increases and decreases in the amount of business rates payable following revaluation. This phasing can last for between one and five years depending on the level of increase or decrease in rateable values.
- 4.6 However, Transitional Relief does not provide support for changes in Business Rate Reliefs. Despite the increase in the threshold for eligibility to Small Business Rate Relief, some ratepayers will no longer be eligible to receive it due to an increase in their rateable value. This situation may also apply to current recipients of Rural Rate Relief.
- 4.7 The Chancellor announced in the Spring Budget a number of measures to provide support to these ratepayers, along with support for pubs and businesses facing the largest increases

5 Proposed Policy Changes for 2017/2018 - Discretionary Revaluation Relief

- 5.1 The Government has announced the establishment of a £300m discretionary fund 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 2017 revaluation.

- 5.2 The intention is that every billing authority in England will be provided with a share of the £300m to support their local businesses. Billing authorities will be expected to use their share of the funding to develop their own discretionary relief schemes to deliver targeted support to the most hard-pressed ratepayers. The £300m will cover the four years from 2017/18:
- £175m in 2017/18
 - £85m in 2018/19
 - £35m in 2019/20
 - £5m in 2020/21
- 5.3 The DCLG published a consultation on the design of the discretionary relief on 9 March, seeking views on the allocation of the fund, arrangements for compensation for local authorities, and the operation of local schemes. This can be accessed at: <https://www.gov.uk/government/consultations/discretionary-business-rates-relief-scheme>. Taunton Deane Council's proposed share of the £300m is as follows:
- 2017/18 - £276k (see point 7.1 for 2017/18 estimates)
 - 2018/19 - £134k
 - 2019/20 - £55k
 - 2020/21 - £8k
- 5.4 As Members will see from Appendix A, we have designed a Discretionary Revaluation Relief Policy that is based on the following criteria:
- Relief will only be granted where the rateable value is less than £200,000 as at 01 April 2017 & the gross rates increase is greater than 5%
 - Reductions if awarded will be to further increase the Transitional Relief that is phasing in the increased charge. Each year will be less and less over 4 years.
 - The scheme is designed solely to assist ratepayers who have seen a significant increase in bills due to revaluation
 - Relief will only be granted for premises which are occupied
 - Relief will not be awarded where mandatory relief has been granted
 - Taxpayers will be invited to apply
 - All relief awarded is subject to state aid €200,000 (de-minimis)
 - Relief will be targeted to local businesses, not national or multi-national in nature. Local businesses are, for the purpose of the scheme, those which have premises wholly in the Council's area

The Council will consider every application for Discretionary Revaluation Relief on its merits

- 5.5 We will invite applications from taxpayers to confirm their "state aid" position as we will be unable to award relief to any business that has already received more than €200,000 in state aid (de-minimis level).
- 5.6 There is no statutory right of appeal against any award of Discretionary Revaluation Relief, although as with any decision by a public authority, this could be challenged by Judicial Review. The authority will however, upon request, review decisions made.

6 Links to Corporate Aims / Priorities

6.1 This report is most closely linked with Key Theme 2 – Business & Enterprise.

7 Finance / Resource Implications

7.1 The use of the Council's local discount powers to grant Revaluation Relief will be reimbursed in full by Government through s31 grant funding. In year one 2017/18 it is estimated that the relief granted from modelling will be £244,795. A reserve of £31,205.44 will be used to award relief from for other applications. Where funding remains there will be a supplementary payment to those that are receiving revaluation relief as at 15/03/2018. Current funding rules will not allow for a carried forward amount.

8 Legal Implications

8.1 There are no direct legal implications associated with this report

9 Environmental Impact Implications

9.1 There are no environmental implications associated with this report.

10 Safeguarding and/or Community Safety Implications

10.1 Safeguarding and community safety implications have been considered, and there are not expected to be any implications relating to this report.

11 Equality and Diversity Implications

11.1 Members need to demonstrate they have consciously thought about the three aims of the Public Sector Equality Duty as part of the decision making process. The three aims the authority must have due regard for:

- Eliminate discrimination, harassment, victimisation
- Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it
- Foster good relations between persons who share a relevant protected characteristic and persons who do not share it

11.2 The public sector equality duty, as set out in section 149 of the 2010 Equality Act, requires the Council, when exercising its functions, to have "due regard" to the need to eliminate discrimination, harassment and victimisation and other conduct prohibited under the Act, and to advance equality of opportunity and foster good relations between those who have a "protected characteristic" and those who do not share that protected characteristic.

11.3 The "protected characteristics" are: age, disability, race (including ethnic or national origins, colour or nationality), religion or belief, sex, sexual orientation, pregnancy and maternity, and gender reassignment. Marriage and civil partnership are also a protected characteristic for the purposes of the duty to eliminate discrimination.

11.4 A full Equalities Impact Assessment was carried out as part of the original policy review approved by Full Council on 21 October 2015. There are no further implications associated with the proposed policy revisions.

12 Social Value Implications

12.1 There are no social value implications associated with this report.

13 Partnership Implications

13.1 There are no Partnership implications associated with this report.

14 Health and Wellbeing Implications

14.1 There are no Health and Wellbeing implications associated with this report.

15 Asset Management Implications

15.1 There are no asset management implications associated with this report.

16 Consultation Implications

16.1 The grant determination states that a condition of the fun is that consultation is undertaken with 'relevant authorities'. The relevant authorities for the purpose of this scheme are any major precepting authority and any combined authority. We have consulted the major precepting authorities of Somerset County Council and Devon and Fire and Rescue Service. Both have replied with formal consent no changes required.

17 Scrutiny Comments / Recommendation(s)

17.1 Not applicable

Democratic Path:

- **Corporate Scrutiny Committee – Yes**
- **Executive Yes**
- **Full Council - Yes**

Reporting Frequency: **Ad hoc**

List of Appendices (delete if not applicable)

Appendix 1 Draft Discretionary Revelation Relief Policy

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Policy for the granting of the Revaluation Relief

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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
4	July 2017	LM	Amendments
5	July 2017	DA	Sign off
6	July 2017	LM	Amendments DE

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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 purely covers the granting of awards under the Discretionary Business Rates Relief Scheme (g. above) which covers a period from 1st April 2017 for up to four years. The decision to grant or not to grant discretionary relief is a matter purely for the Council. The Council's policy for granting other reliefs can be found on the Council's website www.tauntondeane.gov.uk.

The Council's general approach to granting Discretionary Relief

- 2.8 In deciding which organisations should receive discretionary rate relief, the Council has considered the following factors and priorities:
- a. That any award should support business, organisations and groups that help to retain services in the Council's area and not compete directly with existing businesses in an unfair manner;
 - b. It should help and encourage business, organisations, groups and communities to become self-reliant;
 - c. Awarding discretionary relief should not distort competition or significantly change the provision of services within the Council's area;
 - d. Local 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 assist the Council to meet its priorities; 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(Hardship Relief) 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.

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3.0 Effect on the Council's Finances

- 3.1 The granting of discretionary relief will, in the main, potentially involve a cost to the Council. Since the change to the funding for Non-Domestic Rating in April 2013, the effect of the relief is complex.
- 3.2 Any amounts granted prior to 1st April 2013 and continuing since that date will be included in the Council's baseline within the Business Rates Retention Scheme. Any amounts granted for similar cases after 1st April 2013, the costs of the relief will be borne in accordance with the Business Rates Retention Scheme share namely 50% borne by Central Government, 40% by the Council, 9% by Somerset County Council and 1% by Devon and Somerset Fire and Rescue Service. This also applies where mandatory relief is granted.
- 3.3 In March 2017, Central Government announced that it would make available a discretionary fund of £300 million over four years from 2017-18 to support those businesses that face the steepest increases in their business rates bills as a result of the revaluation. Government determined that Councils would be best placed to determine how this fund should be targeted and administered to support those businesses and locations within their area that are in the greatest need.
- 3.4 Where Central Government leads an initiative such as the Discretionary Business Rates Relief Scheme, grants are often made available. This is not automatic and Central Government will look to the Council to adopt any recommended criteria when granting in these areas to ensure that any grant is paid
- 3.5 Every authority within England is to be provided with a share of the fund to support their local businesses. This is to be administered through billing authorities' discretionary relief powers under section 47 of the Local Government Act 1988. The full effects of the financial allocation are shown below.
- 3.6 The allocation of monies to authorities and the methodology of the funding award is completely separate to the scheme itself and Government believes that local authorities are best placed to judge the particular circumstances of local ratepayers and direct the funding where it is most needed to support local economies.
- 3.7 The funding of £300m is not provided equally over the four-year period but in the following approximate proportions:
- Year 1 (2017/18) 58%
- Year 2 (2018/19) 28%
- Year 3 (2019/20) 12%
- Year 4 (2020/21) 2%

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

Amount of discretionary fund awarded (£000s) - Taunton Deane Borough Council			
2017-18	2018-19	2019-20	2020-21
276	134	55	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 50% borne by Central Government, 40% by the Council, 9% by Somerset County Council and 1% by Devon and Somerset Fire and Rescue Service.

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

4.0 Discretionary Relief – EU State Aid requirements

- 4.1 European Union competition rules generally prohibit Government subsidies to businesses. Relief from taxes, including non-domestic rates, can constitute state aid. The Council must bear this in mind when granting discretionary rate relief.
- 4.2 Rate relief for charities and non-profit making bodies is not generally considered to be state aid, because the recipients are not in market competition with other businesses. However, where other bodies receive relief and are engaged in commercial activities or if they are displacing an economic operator or if they have a commercial partner, rate relief could constitute state aid.
- 4.3 Relief will be State Aid compliant where it is provided in accordance with the De Minimis Regulations (1407/2013)². The De Minimis Regulations allow an undertaking to receive up to €200,000 of De Minimis aid in a three-year period (consisting of the current financial year and the two previous financial years).
- 4.4 Where the relief to any one business is greater than the De Minimis level, then permission will need to be obtained from the European Commission. In such cases the matter will be referred to the Department for Communities and Local Government (DCLG) for advice and then referred back to the Council for consideration. It will be for the ratepayer to provide confirmation as to whether the State Aid provisions apply to them.
- 4.5 In all cases, where discretionary relief is to be granted or where liability is to be reduced, when making an application, ratepayers will be required to provide the Council with sufficient information to determine whether these provisions are applicable in their case.

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

5.0 Administration of Discretionary Relief – General approach

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

Applications and Evidence

- 5.2 In the case of this relief, the Council will invite businesses to apply. 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 Revenues and Benefits Section 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.
- 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).

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

- 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 a 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 When the application has been returned complete with state aid declaration and officer will process the form and apply an award of relief as appropriate. The relief will be first approved by the Senior Revenues Officer or the Principal Revenues and Debt Recovery Officer. When first approvals are complete, the application will be sent to s151 for final approval. The above follows current policy.
- 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 or executive member as appropriate.
- 6.5 The monitoring of the amount granted will be monitored monthly by the Principal Revenues Officer or the Senior Revenues Officer.

Appeals

- 6.6 Where the Council receives an appeal from the ratepayer regarding the granting, non-granting or the amount of any discretionary relief, the case will be reviewed by the Principal Revenues and Debt Recovery Officer or the Senior Revenues Officer. Where a decision is revised then the ratepayer shall be informed, likewise if the original decision is upheld.
- 6.7 Where the ratepayer continues to be aggrieved by the decision, the case will be referred to the Revenues and Benefits Manager for review. Where appropriate, cases of this nature may also be referred to the Executive member as appropriate. All appeals will test whether the policy has been applied correctly.
- 6.8 Ultimately the formal appeal process for the ratepayer is Judicial Review although the Council will endeavour to explain any decision fully and openly with the ratepayer.

7.0 Consultation

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

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8.0 Decisions by the Council under this scheme

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

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

Applications for relief under this scheme

- 8.3 The Council is keen to identify ratepayers who may qualify for the relief and as such will look to encourage certain ratepayers to apply. The Council will look to simplify the application process wherever possible, but it will expect any ratepayers to provide such information as is required by the Council to support their application.
- 8.4 The Council has decided that relief under the scheme will be awarded using the following criteria:
- a. The scheme is designed **solely** to assist ratepayers who have suffered significant increases in rate liability due to the revaluation and the subsequent increase to their Rateable Value;
 - b. Relief will not be awarded where mandatory relief is granted and in line with legislative requirements, no relief can be granted to any precepting authority;
 - c. Relief will only be granted to those hereditaments whose rateable value at 1st April 2017 of the hereditament less than £200,000 and where the increase calculated in 8.4(d) is greater than 5%;
 - d. In assessing any potential entitlement to an award under this scheme, the Council will compare the following:
 - i. The rate liability of the ratepayer at 31st March 2017 for the 2016/17 financial year after any reliefs and reductions; and
 - ii. The rate liability of the ratepayer at 1st April 2017 for the 2017/18 financial year taking into account any transitional relief or discretionary relief granted under any other provision;
 - e. Relief will only be given to premises which are liable for occupied rates. **No relief within this scheme will be granted for unoccupied premises** or where the premises becomes re-occupied;
 - f. Relief will only be granted to ratepayers who were in occupation at 31st March 2017 and in occupation on 1st April 2017. Relief will cease at any point the hereditament becomes unoccupied and will not be re-granted;
 - g. Ratepayers (including previous ratepayers) taking up occupation after the 1st April 2017 will **not** be eligible for relief on the basis that new ratepayers would not have suffered from increases due to a revaluation;

- h. 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;
- i. Relief may be awarded for more than one premises as long as **all** other criteria are met;
- j. Relief (or further relief) will **not** be awarded where the hereditament has an increase in Rateable Value after the 1st April 2017 which increases the rate charge above the 1st April 2017 value.
- k. Where a ratepayer is in receipt of any award under this policy, the authority will **not** consider any application for relief under Section 44A of the Local Government Finance Act 1988 for the same hereditament.

Applications for relief under this scheme

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

Amount of Relief

- 8.6 The amount of relief is tapered and will be calculated as follows:
- 2017/18**
Where the increase in rates payable as calculated in 8.4d is greater than 5%, the award shall reduce the increase to 5%
- 2018/19**
Award = 2017/18 award x 50% (for clarity this will be half of the relief awarded in 2017/18)
- 2019/20**
Award = 2018/19 award x 50% (for clarity this will be half of the relief awarded in 2018/19)
- 2020/21**
Award = 2019/20 award x 10% (for clarity this will be 10% of the relief awarded in 2019/20)
- 8.7 In exceptional circumstances, the authority shall consider applications on a case by case basis where the ratepayer falls outside of the criteria detailed in paragraph 8.4 but where the ratepayer can demonstrate that they are experiencing severe financial difficulties due to the revaluation on 1st April 2017.

Variation and amendment of relief under the scheme

- 8.8 As with all reliefs, the amount of relief awarded under the Discretionary Businesses Rates relief scheme will be recalculated in the event of a change of circumstances. In effect, relief is calculated on a daily basis in line with the ratepayer's liability on that day. This will include, for example, a backdated change to the rateable value of the hereditament. This change of circumstances could arise during the year in question or during a later year.
- 8.9 The Non-Domestic Rating (Discretionary Relief) Regulations 1989 (S.I. 1989/1059) requires the Council to provide ratepayers with at least one year's notice in writing before any decision to revoke or vary a decision so as to increase the amount the ratepayer has to pay takes effect. Such a revocation or

variation of a decision can only take effect at the end of a financial year. But within these regulations, the Council may still make decisions which are conditional upon eligibility criteria or rules for calculating relief which allow the amount of relief to be amended within the year to reflect changing circumstances.

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9.0 Reporting changes in circumstances

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

10.0 Fraud

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

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Appendix A

Application Form for the Discretionary Business Rate Relief Scheme.

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