

Cabinet AGENDA

Monday, 9th October 2017 at 6:00 PM

**Council Chamber, Braintree District Council, Causeway House,
Bocking End, Braintree, CM7 9HB**

THIS MEETING IS OPEN TO THE PUBLIC
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Members of the Cabinet are requested to attend this meeting to transact the business set out in the Agenda.

Membership:-

Portfolio

Leader of the Council	Councillor G Butland (Chairman)
Environment and Place	Councillor Mrs W Schmitt (Deputy Leader of the Council) Councillor R van Dulken
Planning and Housing	Councillor Mrs L Bowers-Flint Councillor Mrs G Spray
Economic Development	Councillor T Cunningham Councillor K Bowers
Health and Communities	Councillor P Tattersley Councillor F Ricci
Finance and Performance	Councillor D Bebb
Corporate Services and Asset Management	Councillor J McKee

Invitees

Representatives of the Labour Group, Halstead Residents Association Group and Green Party and Chairman of the Overview and Scrutiny Committee.

Members unable to attend the meeting are requested to forward their apologies for absence to the Governance and Members Team on 01376 552525 or email governance@braintree.gov.uk by 3pm on the day of the meeting.

A WRIGHT
Acting Chief Executive

INFORMATION FOR MEMBERS - DECLARATIONS OF INTERESTS

Declarations of Disclosable Pecuniary Interest, Other Pecuniary Interest or Non-Pecuniary Interest

Any member with a Disclosable Pecuniary Interest, other Pecuniary Interest or Non-Pecuniary Interest must declare the nature of their interest in accordance with the Code of Conduct. Members must not participate in any discussion of the matter in which they have declared a Disclosable Pecuniary Interest or other Pecuniary Interest or participate in any vote, or further vote, taken on the matter at the meeting. In addition, the Member must withdraw from the chamber where the meeting considering the business is being held unless the Member has received a dispensation from the Monitoring Officer.

Question Time

The Agenda allows for a period of up to 30 minutes when members of the public can speak. Members of the public wishing to speak are requested to register by contacting the Governance and Members Team on 01376 552525 or email governance@braintree.gov.uk no later than 2 working days prior to the meeting. The Council reserves the right to decline any requests to register to speak if they are received after this time. Members of the public can remain to observe the public session of the meeting.

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AGENDA

No	Title and Purpose of Report	Pages
1	Apologies for Absence	
2	Declarations of Interest To declare the existence and nature of any Disclosable Pecuniary Interest, other Pecuniary Interest or Non-Pecuniary Interest relating to items on the agenda having regard to the Code of Conduct for Members and having taken appropriate advice where necessary before the meeting.	
3	Minutes of the Previous Meeting To approve as a correct record the minutes of the meeting of Cabinet held on 10th July 2017 (copy previously circulated).	
4	Public Question Time (See paragraph above)	
5	FINANCE AND PERFORMANCE	
5a	Discretionary Business Rates Schemes	4 - 33
6	URGENT BUSINESS AUTHORISED BY THE CHAIRMAN	

Discretionary Business Rates Schemes		Agenda No: 5a
Portfolio	Finance and Performance	
Corporate Outcome:	A prosperous district that attracts business growth and provides high quality employment opportunities Delivering better outcomes for residents and businesses and reducing costs to taxpayers	
Report presented by:	Councillor David Bebb	
Report prepared by:	Trevor Wilson	
Background Papers:	Public Report	
Business Rates Information Letter 4/2017 (Dated 20 th June 2017)	Key Decision: No	
Business Rates Reliefs - letter to Leader of the Council from Marcus Jones MP, Minister for Local Government (Dated 22 nd June 2017)		
Implementation of Business Rate Relief Schemes - letter to Leader of the Council from Marcus Jones MP, Minister for Local Government (Dated 14 th September 2017)		
Executive Summary:		
1. Background		
1.1 In the Spring 2017 Budget the Government announced three business rate reliefs to help businesses most affected by the 2017 Rating Revaluation. The three reliefs are:		
<ul style="list-style-type: none"> • Supporting Small Businesses • Discretionary Business Rates Scheme • Public House Relief 		
1.2 These three reliefs are in addition to the transitional relief scheme operated at each Revaluation to limit and phase in large increases in business rates over a five-year period. The Small Business Rate and Rural Relief schemes are also still applicable.		
1.3 The Government will reimburse the actual amounts awarded under the Supporting Small Businesses and the Public House reliefs by means of a Section 31 grant.		
1.4 The Government has set-aside a provision of £300million to fund the Discretionary Business Rate Relief scheme over the four-year period. The amounts allocated to Braintree are: £287,021 for 2017/18; £139,410 for 2018/19;		

£57,404 for 2019/20 and £8,200 for 2020/21.

- 1.5 Whilst the Government has specified the criteria for the Supporting Small Businesses and the Public House Reliefs it is for each local authority to develop its own discretionary scheme to deliver targeted support to the most hard-pressed ratepayers.

2. Discretionary Business Rates Scheme

- 2.1 It is proposed that the key element in developing the scheme is to target assistance to local trading businesses. The proposed criteria includes the following:

- Focus support on local trading businesses therefore exclude those businesses being part of national chains;
- Definition of business to exclude public sector organisations such as local authorities, police and fire authorities, Environment Agency, NHS, schools, colleges and other educational establishments;
- Create a cap on the level of award at £4,000 per property for 2017/18;
- Ratepayers must have been in occupation at 31st March 2017 and in occupation on 1st April 2017;
- Properties must be occupied;
- Exclude those already receiving mandatory relief or relief from other relief schemes – such as Small Business Rate Relief i.e. businesses with a rateable value less than £15,000;
- Doctor's surgeries to be excluded; and
- Relief is awarded where the increase in rates payable between 2016/17 and 2017/18 exceeds 4%.

- 2.2 The scheme is designed to minimise the potential for breaching State Aid limits. State Aid rules limit the amount of support that may be provided to an undertaking to €200,000 (approximately £178,000) over a three-year period.

- 2.3 Using this criteria 272 ratepayers would receive relief, of which:

- 251 will have their increase limited to 4% and receive between £9.50 and £3,883.94 in relief in 2017/18; and
- 21 will receive the maximum award of £4,000 (increases after relief applied would range between 4.1% and 37%).

- 2.4 The amount of Discretionary Business Rate Relief for the three subsequent years will be tapered as follows:

- 2018/19 – relief awarded will be 50% of the 2017/18 award;
- 2019/20 – relief awarded will be 40% of the 2018/19 award; and
- 2020/21 – relief awarded will be 10% of the 2019/20 award.

- 2.5 It is proposed that in general no application will be required. The reliefs will be applied where the eligibility criteria are met. This approach to awarding the Discretionary Business Rate Relief has benefits for businesses because they do not need to pay Rating Agents to make applications on their behalf. The Council

will calculate the relief for any eligible business and send out an amended bill automatically.

- 2.6 In order to mitigate the risk that State Aid rules might inadvertently be breached, recipients will be asked to contact the Council if the support causes or might cause issues under State Aid rules. In these circumstances, the Council reserves the right to review or remove the Discretionary Business Rate Relief.

3. Summary

- 3.1 A review of the Business Rates database identifies that:

- 17 businesses will be eligible for Supporting Small Business Rate Relief;
- 71 businesses will be eligible for Public House Relief;
- 272 businesses will be eligible for Discretionary Rate Relief; and
- 1 Local Newspaper is in receipt of the Local Newspaper Relief (a specific relief scheme which provides £1,500 relief for office space occupied by a local newspaper for two years from 1st April 2017 – introduced in the Spring 2016 Budget).

- 3.2 An update to the Council's policy for the granting of Discretionary Business Rate Relief is provided as an Appendix to this report.

Recommended Decision:

To agree the update to the Council's policy for the granting of Discretionary Business Rate Relief, as provided in the Appendix to this report.

Purpose of Decision:

To agree and implement the Business Rate Relief schemes proposed by the Government utilising the Council's discretionary powers under Section 47 of the Local Government Finance Act 1988, as amended.

Any Corporate implications in relation to the following should be explained in detail.

<p>Financial:</p>	<p>Awards of Supporting Small Businesses and Public House Reliefs are to be reimbursed in full by Section 31 grant from the Government.</p> <p>Funding for awards under the Council’s Discretionary Rate Relief scheme will be subject to cash-limited grant from the Government. The sums allocated to Braintree are: £287,021 for 2017/18; £139,410 for 2018/19; £57,404 for 2019/20 and £8,200 for 2020/21.</p> <p>If the total value of Discretionary Rate Relief awards exceeds the grant allocation the excess will be funded locally and if the awards are below the grant allocation the grant will have to be returned to the Government (there is no agreement for carry forward).</p> <p>A New Burdens Grant of £12,000 has been received from the Government as a contribution towards the costs of system upgrades and rebilling.</p>
<p>Legal:</p>	<p>Local Authorities have discretionary relief powers under Section 47 of the Local Government Finance Act 1988, as amended.</p> <p>State Aid law is the means by which the European Union regulates state funded support to businesses. The De Minimis Regulations allow an undertaking to receive up to €200,000 (approximately £178,000) of aid in a rolling three year period (consisting of the current financial year and the two previous financial years).</p> <p>The Discretionary Relief Scheme has been designed to minimise the potential for breaching the State Aid limit. The Council reserves the right to request a business to apply for a relief if it believes the limit may be exceeded – for example, this may be the case where a public house is part of a chain.</p>
<p>Safeguarding:</p>	<p>No impact from this proposal.</p>
<p>Equalities/Diversity:</p>	<p>An initial assessment suggests no equalities impact is anticipated as a result of this proposal.</p>
<p>Customer Impact:</p>	<p>Financial assistance provided to those businesses facing large increase in their business rates due to the 2017 Revaluation.</p>

Environment and Climate Change:	No impact from this proposal.
Consultation/Community Engagement:	The major precepting authorities: Essex County Council; Essex Fire Authority and the Essex Police and Crime Commissioner have been consulted on the proposed Discretionary Relief Scheme.
Risks:	Delay in developing a scheme could lead to the relief not being awarded within the financial year and this would not reduce the financial burden on businesses caused by the 2017 Revaluation.
Officer Contact:	Trevor Wilson
Designation:	Head of Finance
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E-mail:	Trevor.wilson@braintree.gov.uk

1. Background

1.1 In the Spring 2017 Budget the Government announced three business rate reliefs to help businesses most affected by the 2017 Rating Revaluation.

1.2 The three reliefs are:

Supporting Small Businesses – the aim to help those ratepayers who as a result of the 2017 Revaluation are losing some or all of their small business or rural rate reliefs. Relief will be available for up to a maximum of 5 years. The criteria for the relief has been specified by the Government (issued in Business Rates Information Letter 4/2017 issued on 20th June 2017).

Discretionary Business Rates Scheme – this scheme is to be determined locally to support the ‘hardest hit businesses’. The scheme will operate for a four-year period: 2017/18 to 2020/21.

Public House Relief - £1,000 discount for 2017/18 only for pubs with a rateable value of less than £100,000. A definition of a public house and a list of the types of facilities included and excluded have been suggested by the Government: issued in Business Rates Information Letter 4/2017 issued on 20th June 2017.

1.3 These three reliefs are in addition to the transitional relief scheme operated at each Revaluation to limit and phase in large increases in business rates over a five-year period. The Small Business Rate and Rural Relief schemes are also still applicable.

1.4 The Council will grant the Supporting Small Businesses and the Public House reliefs strictly in accordance with the criteria specified by the Government. The Government will reimburse the actual amounts awarded under these two reliefs by means of a Section 31 grant.

1.5 The Government has set-aside a provision of £300million to fund the Discretionary Business Rate Relief scheme over the four-year period.

1.6 The amounts allocated to Braintree are:

£287,021 for 2017/18
£139,410 for 2018/19
£57,404 for 2019/20
£8,200 for 2020/21

1.7 Each billing authority has received a New Burdens Grant of £12,000 from the Government to fund the necessary software changes to enable the implementation of the three new reliefs and for the costs of rebilling.

2. Discretionary Business Rates Scheme

2.1 The Government’s objective for the Discretionary Business Rate Relief scheme is to provide targeted support to the most hard-pressed ratepayers i.e. those that face the steepest increases as a result of the 2017 Revaluation.

- 2.2 Local authorities have discretion to design the scheme to fit local priorities.
- 2.3 It is proposed that this can be achieved by designing a scheme that includes the following:
- Focus support on local trading businesses therefore exclude those businesses being part of a national chain;
 - Definition of business to exclude public sector organisations such as local authorities, police and fire authorities, Environment Agency, NHS, schools, colleges and other educational establishments;
 - Create a cap of award in £ per property;
 - Ratepayers must have been in occupation at 31st March 2017 and in occupation on 1st April 2017;
 - Properties must be occupied;
 - Exclude those already receiving mandatory relief or relief from other relief schemes – such as Small Business Rate Relief i.e. businesses with a rateable value less than £15,000;
 - Doctor's surgeries to be excluded: significant reduction to rateable values have been received over the last few years following a successful test case at the Valuation Tribunal; and
 - Relief is awarded where the increase in rates payable between 2016/17 and 2017/18 exceeds a specified percentage.
- 2.4 The scheme is designed to minimise the potential for breaching State Aid limits. State Aid rules limit the amount of support that may be provided to an undertaking to €200,000 (approximately £178,000) over a three-year period.
- 2.5 An analysis of the revaluation shows that the number of ratepayers, with premises having a rateable value higher than £15,000, faced with an increase in excess of 1% is 591.
- 2.6 Using the proposed criteria identified above, of the 591:
- 160 are in respect of national chains/organisations;
 - 58 are public organisations; and
 - 34 are in receipt of mandatory relief
- 2.7 This leaves 339 ratepayers with increases ranging from 1.03% to 46.34% (although one ratepayer receiving Supporting Small Businesses Relief which caps the increase to £600 for 2017/18 has an increase of 95.23%).
- Calculating the relief based on ratepayers faced with increases exceeding 4% and subject to a maximum award limit of £4,000 identifies that 272 ratepayers would receive relief, of which:
- 251 would have their increase limited to 4% and receive between £9.50 and £3,883.94 in relief in 2017/18; and
 - 21 would receive the maximum award of £4,000 (increases after relief applied would range between 4.1% and 37%).

3. Timeline

- 3.1 The Government has been concerned with the speed with which local authorities have introduced their policies and issued revised bills to businesses, as appropriate.
- 3.2 The Minister for Local Government wrote to the Leader of the Council on 14th September requesting an update on the progress with rebilling for the business rate relief schemes and to announce that as from 3rd October the Government will be publishing a list of authorities that have confirmed that they have rebilled for each of the three reliefs.
- 3.3 Local authorities have had to wait for the suppliers of business rate systems to upgrade their systems such that they would be able to identify the businesses meeting the criteria of the new reliefs.
- 3.4 The Council received the upgrade to its system from the supplier, Civica, on 18th August although this required a number of fixes and was actually available for use on 23rd August.
- 3.5 From this date the system was used to identify the businesses which would be entitled to the Supporting Small Businesses and Public House reliefs and to model the various criteria which could be applied to the Discretionary Business Rate Relief scheme.
- 3.6 The number of businesses which have been identified for entitlement to Supporting Small Businesses Relief is 17 and to Public House Relief is 71.

4. Conclusion and Recommendation

- 4.1 It proposed that the criteria for the Council's Discretionary Business Rate Relief scheme is as outlined at section 2.2 above, with the level of increase being set at 4% and the maximum award limit be set at £4,000.
- 4.2 On this basis an update to the Council's policy for the granting of Discretionary Business Rate Relief is provided as an Appendix to this report. The Appendix includes detail of the criteria for each of the three reliefs and also includes a fourth minor relief scheme, which the Government announced to help Local Newspapers. This latter scheme provides £1,500 relief for office space occupied by a local newspaper for two years from 1st April 2017.
- 4.3 It is proposed that in general no application will be required for these reliefs. The reliefs will be applied where the eligibility criteria are met. This approach to awarding the Discretionary Business Rate Relief has benefits for businesses because they do not need to pay Rating Agents to make applications on their behalf. The Council will calculate the relief for any eligible business and send out an amended bill automatically. Any business that is unhappy with how the scheme has been applied in its case can make representations, which would be considered and might lead to a revised decision on eligibility for support.

- 4.4 In order to mitigate the risk that State Aid rules might inadvertently be breached, recipients will be asked to contact the Council if the support causes or might cause issues under State Aid rules. In these circumstances, the Council reserves the right to review or remove the Discretionary Business Rate Relief.
- 4.5 The amount of Discretionary Business Rate Relief for the three subsequent years will be tapered as follows:
- 2018/19 – relief awarded will be 50% of the 2017/18 award;
 - 2019/20 – relief awarded will be 40% of the 2018/19 award; and
 - 2020/21 – relief awarded will be 10% of the 2019/20 award.

Braintree District Council

Policy for the granting of Discretionary Non-Domestic Rate Relief

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1.0 Purpose of the Policy

- 1.1 The purpose of this policy is to determine the level of discretionary relief and related areas to be granted to certain defined ratepayers within the Braintree District Council area in respect of the Central Government proposed reliefs which are effective from 1st April 2017.
- 1.2 The Local Government Finance Act 1988 and subsequent legislation requires the Council to grant mandatory relief for premises occupied by Charities and similar organisations that own or occupy them wholly or mainly for charitable purposes. 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 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. In the case of new reliefs, guidance has been issued by Central Government outlining actions expected to be taken by local authorities.
- 1.4 This document outlines the following areas:
 - Details of the criteria for receiving Discretionary Reliefs for all relevant areas;
 - The Council's policy for granting of all types of Discretionary Reliefs;
 - Guidance on granting and administering the reliefs and reductions;
 - European Union requirements including provisions for State Aid; and
 - The Council's Scheme of Delegation.
- 1.5 This document covers the following discretionary rate relief schemes:
 - a. Local Newspaper Relief (from April 2017 for a two year period);
 - b. Local Public House Relief (from April 2017 for a one year period);
 - c. 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));
 - d. Discretionary Business Rates Relief Scheme (from 1st April 2017 for a period of up to four years);

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 assistance to businesses and organisations.
- 2.3 The range of bodies, which are eligible for discretionary rate relief, is wide and not all of the criteria laid down by the legislation will be applicable in each case.
- 2.4 Unlike mandatory relief, ratepayers are obliged to make a written application to the Council.
- 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 of the Council’s area. There is no statutory appeal process against any decision made by the Council although as with any decision of a public authority, decisions can be reviewed by Judicial Review.
- 2.6 Granting of the 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));
 - g. Discretionary Business Rates Relief Scheme (from 1st April 2017 for a period of up to four years);
 - h. S44a Part Occupied Premises Relief; and
 - i. S49 Hardship Relief.
- 2.7 The decision to grant or not to grant relief is a matter purely for the Council. This policy covers the approach to be taken by the Council in respect of d, e, f and g. above.

The Council's approach to granting Discretionary Relief

- 2.8 In deciding which organisations should receive discretionary Rate relief, the Council has taken into account the following factors and priorities:
- a. The policy 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. 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 Braintree;
 - d. Every business/ organisation should contribute something towards the provision of local services;
 - e. Local organisations will be given priority over national organisations.
 - f. To support appropriate organisations that deliver outcomes to the community which relate to the priorities of the Council. In particular, how the work of the organisation furthers the work of the Council to provide tangible benefits to the community;
 - g. The Council will not normally provide relief where it already provides core funding or receives services under a contract arrangement; 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 and in respect of the cost to local taxpayers.
- 2.9 Discretionary relief shall not be granted to any organisation that has a political affiliation.
- 2.10 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.

3.0 Effect on the Council’s Finances

- 3.1 The granting of discretionary relief will, in the main, 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. For 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 Essex County Council. This also applies where mandatory relief is granted.
- 3.3 Where Central Government leads an initiative, grants are often available through section 31 of the Local Government Act 2003. This is not automatic and Central Government will look to the Council to adopt the recommended approach when granting in these areas
- 3.4 The financial effects of the new (from 1st April 2017) discretionary reliefs covered by this policy are as follows:

Appendix	Relief Type	Granted after 1 st April 2013
	Local Newspaper Relief	
A	Discretionary Relief granted to local newspapers meeting the criteria (From 1 st April 2017 for a period of two years)	Section 31 Grant
	Public House Relief	
B	Discretionary Relief granted to public houses meeting the criteria (From 1 st April 2017 for a period of one year)	Section 31 Grant
	Supporting Small Business Relief	
C	Supporting Small Businesses Relief (from 1 st April 2017 for a period of up to five years if conditions are met)	Section 31 Grant
	Discretionary Business Rates Relief Scheme	
D	Discretionary Business Rates Relief Scheme (from 1 st April 2017 for a period of up to four years)	Section 31 Grant up to a maximum level set by Central Government. Once the maximum has been reached any additional amount is borne 40% by the Council

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 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 Where discretionary relief is to be granted or where liability is to be reduced, and the ratepayer considers this either causes or might cause a breach of the De Minimis level then they 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

- 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 Generally no application will be required for these reliefs. The reliefs will be applied where the eligibility criteria are met.
- 5.3 However, an application in writing will be requested in cases where the Council considers there may be a breach in the State Aid De Minimis Level. Application forms are produced within the Council. The relevant application forms for all reliefs and reductions are available from the Council. Organisations will be 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.
- 5.4 Applications should initially be made to the Revenues Service and will be determined in accordance with Section 6 of this policy.

Granting of relief

- 5.5 Generally the reliefs will be applied where the eligibility criteria are met. In cases where an application is required the Council will notify the ratepayer of decisions made within 28 days (or as soon as practicable) of the application being received provided all information requested has been supplied.
- 5.6 Where relief is granted automatically or 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. (It should be noted that reliefs are granted for the period specified in the appropriate Appendix and may vary from a day to a full financial year);
 - 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.
- 5.7 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).

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

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- 5.8 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.
- 5.9 A decision to award discretionary relief and how much relief is given, is only applicable to the financial year for which the application is made.
- 5.10 A fresh application for discretionary relief will, if required by the Council, be necessary for each financial year.

Variation of a decision

- 5.11 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 by the Council, from the date to be decided by the Council;
 - Where the amount is to be reduced due to a reduction in the rate charge from the date of the decrease in rate charge; and
 - Where the amount is to be reduced for any other reason takes effect at the expiry of a financial year, and so that at least one year's notice is given
- 5.12 A decision may be revoked at any time 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 Corporate Director with responsibility for Finance to exercise all discretions relating to the determination, administration and collection of non-domestic rates which are not reserved to Members. The Revenues and Benefits Manager has delegated authority to award, revise or revoke any discretionary relief applications.
- 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 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 Revenues and Benefits Manager. Where a decision is revised then the ratepayer shall be informed.

7.0 Reporting changes in circumstances

- 7.1 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.
- 7.2 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.

8.0 Fraud

- 8.1 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

Local Newspaper Relief

- A.1 This is a temporary relief for 2017-18 and 2018-19 and the Government is not changing the legislation around the reliefs available to these properties. Central Government will reimburse local authorities that use their discretionary relief powers (under section 47(3)) of the Local Government Finance Act 1988 to grant relief in line with the eligibility criteria set out in this guidance.
- A.2 The Council will be compensated by Central Government through a grant under section 31 of the Local Government Act 2003.

Eligibility criteria

- A.3 The scheme will provide a £1,500 relief for office space occupied by local newspapers up to a maximum of one discount per local newspaper title and per hereditament, for two years from 1 April 2017.

Local Newspapers

- A.4 The relief is to be specifically for local newspapers and by that, the Council means what would be considered a “traditional local newspaper.” The relief will not be available to magazines.

Office Space

- A.5 The hereditament **must** be occupied by a local newspaper and wholly or mainly used as office premises for journalists and reporters.

Amount of Relief

- A.6 The amount of relief is limited to a maximum of one discount per newspaper title (e.g. per newspaper name) **AND** per hereditament. As with all discretionary rate relief, any grant will be subject to State Aid limits as defined within section 4 of this policy.

Local Newspaper Relief – the Council’s policy for granting discretionary relief.

- A.7 The Council has decided to grant relief strictly in accordance with Central Government guidelines.

Appendix B

Supporting Small Businesses Relief

General Explanation

- B.1 Central Government has increased the thresholds for Small Business Rate Relief from 1 April 2017 to £12,000 for the 100% relief and £15,000 for the tapered relief. Unfortunately, despite these changes, some small businesses may lose their entitlement to the relief due to increases in Rateable Value through the revaluation on 1st April 2017.
- B.2 The transitional relief scheme (provided under the Non-Domestic Rating (Chargeable Amounts) (England) Regulations 2016 No. 1265) does not provide support in respect of changes in reliefs. Therefore, those ratepayers who have lost some or all of their small business rate relief may face large percentage increases in bills from 1 April 2017.
- B.3 In view of this, Central Government announced that a new scheme of relief would be made available to those ratepayers facing large increases as a result of the loss of small business rate relief due to the revaluation. All authorities are encouraged to grant the relief in accordance with the guidelines laid down by Central Government and if granted strictly in accordance with guidance, the Council will be compensated by Central Government through a grant under section 31 of the Local Government Act 2003.
- B.4 The relief is to be known as the 'Supporting Small Businesses Scheme'.

Who is eligible for the relief and how much relief will be available?

- B.5 The Supporting Small Businesses relief will help those ratepayers who, as a result of the change in their rateable value at the revaluation, are losing some or all of their small business rate relief and, as a result, are facing large increases in their bills.
- B.6 To support these ratepayers, the Supporting Small Businesses relief will ensure that the increase per year in the bills of these ratepayers is limited **to the greater of:**
- a. a percentage increase per annum. of 5%, 7.5%, 10%, 15% and 15% 2017/18 to 2021/22 all plus inflation. (Unlike the transitional relief scheme under the Chargeable Amount regulations), for the first year of the scheme the percentage increase is taken against the bill for 31 March 2017 after small business rate relief; **or**
 - b. a cash value of £600 per year (£50 per month).

- B.7 This cash minimum increase ensures that those ratepayers paying nothing or very small amounts in 2016/17 after small business rate relief are brought into paying something.
- B.8 In the first year of the scheme, this means all ratepayers losing some or all of their small business rate relief will see the increase in their bill capped at £600. The cash minimum increase is £600 per year thereafter. This means that ratepayers who in 2016/17 paid nothing under small business rate relief and are losing all of their entitlement to relief (i.e. moving from £6,000 rateable value or less to more than £15,000) would under this scheme be paying £3,000 in year 5.
- B.9 The Government has also decided that those on the Supporting Small Businesses relief scheme whose 2017 rateable values are £51,000 or more will not be liable to pay the supplement (1.3p) to fund small business rate relief while they are eligible for the Supporting Small Businesses relief scheme.
- B.10 Ratepayers will remain in the Supporting Small Businesses relief scheme for either 5 years or until they reach the bill they would have paid without the scheme (this would be the charge payable as their true rates payable or the charge calculated under the Non-Domestic Rating (Chargeable Amounts) (England) Regulations 2016).
- B.11 A change of ratepayer will not affect eligibility for the Supporting Small Businesses relief scheme **but** eligibility will be lost if the property falls vacant or becomes occupied by a charity or Community Amateur Sports Club.
- B.12 The rules for state aid (as detailed in section 6 of this policy) shall apply when considering Supporting Small Businesses Relief.

Recalculation of relief

- B.13 The amount of relief awarded under the Supporting Small Businesses relief scheme will be recalculated in the event of a change of circumstances including the following:
- This could include, for example, a backdated change to the rateable value or the hereditament; or
 - The awarding of another relief.
- B.14 The Council will, in effect, calculate the award on a daily basis taking into account the above, and the relief will be re-calculated if the rateable value changes.

Other Reliefs

- B.15 Hereditaments eligible for charity or Community Amateur Sports Club relief or hereditaments which are unoccupied are not eligible for Supporting Small Businesses Relief. Likewise, the same principle applies to properties for which a Section 44A certificate has been granted (apportionment of rateable values for partly occupied properties). The presence of a section 44A certificate will not further reduce the bill further under the Supporting Small Business scheme.

- B.16 In accordance with Central Government guidelines, all other discretionary reliefs, will be considered **after** the application of Supporting Small Businesses relief.

Supporting Small Businesses Relief – the Council’s policy for granting discretionary relief.

- B.17 The Council has decided to grant relief strictly in accordance with Central Government guidelines.

Appendix C

Public House Relief

General Explanation

- C.1 This is a temporary relief for 2017-18 and the Government is not changing the legislation around the reliefs available to premises. Central Government will reimburse local authorities that use their discretionary relief powers (under section 47(3)) of the Local Government Finance Act 1988) to grant £1,000 relief in line with the eligibility criteria set out in guidance to be produced by Central Government
- C.2 Central Government guidelines have been received and it has been established that any amount granted will be reimbursed by a section 31 grant.

Eligibility criteria

- C.3 The Council's policy will provide a relief of £1,000 relief for one year only (1st April 2017 to 31st March 2018) for all eligible public houses who have a rateable value of less than £100,000 on 1st April 2017.
- C.4 The definition of a 'Public House' means any premises as defined in the Licensing Act 2003, which has a premises license authorising sale by retail of alcohol for consumption on the premises. In addition, the premises **must** be used principally for retail sales of alcohol to members of the public for consumption on the premises, and sales must not be subject to the condition that buyers reside at or consume food on the premises.
- C.5 The Government's policy intention is that eligible pubs should:
- I. Be open to the general public
 - II. Allow free entry other than when occasional entertainment is provided
 - III. Allow drinking without requiring food to be consumed
 - IV. Permit drinks to be purchased at a bar.

For these purposes, it should exclude:

- I. Restaurants
- II. Cafes
- III. Nightclubs
- IV. Hotels
- V. Snack bars
- VI. Guesthouses
- VII. Boarding houses
- VIII. Sporting venues
- IX. Music venues
- X. Festival sites
- XI. Theatres
- XII. Museums

- XIII. Exhibition halls
- XIV. Cinemas
- XV. Concert halls
- XVI. Casinos

- C.6 The proposed exclusions in the list at C.5 are not intended to be exhaustive and it will be for the Council to determine those cases where eligibility is unclear. Where eligibility is unclear the Council will consider broader factors i.e. in meeting the stated intent of policy that it demonstrates the characteristics that would lead it to be classified as a pub, for example being owned and operated by a brewery. Additionally, the Council may also consider other methods of classification, such as the planning system and the use classes in order to help decide whether a property is a pub or not. However, permission for a particular use class will not necessarily mean that the property meets the definition of a pub.
- C.7 It will be for the Council to decide whether any premises falls within the definition give in the above paragraph. No relief shall be given where the premises are unoccupied.

Other Reliefs

- C.8 Pubic House relief will be granted after applying any other mandatory reliefs and reductions

Public House Relief – the Council’s policy for granting discretionary relief.

- C.9 The Council has decided to grant relief strictly in accordance with Central Government guidelines.
- C.10 The Council intends to proactively award this Relief to eligible properties without the need for an application form the ratepayer. Upon the application of the Relief a revised demand will be issued to the ratepayer, furthermore a state aid form will be issued.

Appendix D

Discretionary Business Rate Relief Scheme

General Explanation

- D.1 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. The decision to grant (or not to grant) Discretionary Relief is a matter purely for the Council.
- D.2 Every authority within England is to be provided with a share of a £300 million 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.
- D.3 Government also 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.
- D.4 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%
- D.5 Councils will be compensated for any relief granted under section 31 of the Local Government Act 2003.
- D.6 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) – Braintree District Council			
2017-18	2018-19	2019-20	2020-21
287	139	57	8

Consultation

- D.7 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.

State Aid

- D.8 The rules relating to State Aid (as defined within section 4 of this policy) apply. The Council will ensure full compliance in this area to ensure that relief can be given to the most deserving ratepayers.

Decisions by the Council

- D.9 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.
- D.10 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 **will 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

- D.11 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.
- D.12 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. 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;
 - d. Relief will be awarded where the calculation in c. above would result in an increase of more than 4% (determined by the Council as an acceptable increase) but subject to a maximum award of £4,000;

- 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;
- f. 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.
- g. 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. Generally, hereditaments occupied by a national/multinational chain or organisation will not be considered, however this will be decided on a case by case basis;
- i. Relief may be awarded for more than one premises as long as **all** other criteria are met;
- j. Relief will **not** be awarded where:
 - i. mandatory relief is awarded; or
 - ii. where the ratepayer has applied for a reduction under S44a of the Local Government Finance Act 1988; and
 - iii. 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. Relief will **not** be awarded for hereditaments which are wholly or mainly used for or by:
 - i. Doctors' surgeries and any NHS establishment;
 - ii. Publicly funded organisations including local authorities, Fire Authority, Police and Crime Commissioner, Environment Agency, schools, colleges and other educational establishments; and
 - iii. Housing associations.

D.13 In exceptional circumstances, the authority shall consider applications on a case by case basis where the ratepayer falls outside of the criteria detailed in section D.12 but where the ratepayer can demonstrate that they are experiencing severe financial difficulties due to the revaluation on 1st April 2017.

D.14 The Amount of Relief is tapered and will be calculated as follows:

- 2017/18 Award = calculated in accordance with D12 (d);
- 2018/19 Award = 2017/18 award x 50%
- 2019/20 Award = 2018/19 award x 40%
- 2020/21 Award = 2019/20 award x 10%

Variation and amendment of relief under the scheme

D.15 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.

D.16 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.

- D.17 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.