

LOCAL DISCRETIONARY RELIEF SCHEME FOR NATIONAL NON-DOMESTIC RATES (BUSINESS RATES)

<u>Report of the:</u>	Head of Revenues & Benefits
<u>Contact:</u>	Siobhan Gavigan
Urgent Decision?(yes/no)	No
If yes, reason urgent decision required:	N/A
<u>Annexes/Appendices</u> (attached):	Annexe 1- EEBC worked examples of relief award
<u>Other available papers</u> (not attached):	None Stated

REPORT SUMMARY

This report outlines a proposed scheme of how to distribute the government funding which was allocated to Epsom & Ewell Borough Council by the government in the March 2017 Spring budget. The fund is intended to support local businesses following the 2017 revaluation, to be known as the 'local discretionary relief scheme'.

RECOMMENDATION (S)

- (1) That the scheme set out in sections 3 to 7 inclusive of this report be adopted as part of Epsom & Ewell Borough Council's Discretionary Rate Relief Policy, with effect from 1 April 2017.
- (2) That the scheme referred to in recommendation 1 shall have effect until the 31 March 2021, when the government funding of the scheme ceases, at which point no further relief will be given under the scheme.

1 Implications for the Council's Key Priorities, Service Plans and Sustainable Community Strategy

- 1.1 The implementation of this policy will enhance the Council's key priority of supporting local businesses and our local economy by providing rate relief for qualifying properties.
- 1.2 The relief will also assist with the Council's sustainability plans within the Borough, through schemes such as the Business Improvement District.

2 Background

- 2.1 Within Epsom & Ewell there are approximately 1700 non-domestic properties. It is generally recognised that Business Rates is already one of the largest financial burdens for small local businesses.
- 2.2 In April 2017, in line with the governing legislation all non-domestic properties had their Business Rates valuations reviewed. As there had not been a re-valuation since 2009, many businesses across the country faced large increases in their Business Rates bills from the 01 April 2017.
- 2.3 In the Spring Budget 2017, in light of the recent re-valuation, the Chancellor announced that the government would establish a £300 million discretionary Business Rate Relief fund so that local authorities could devise local schemes to assist businesses that are facing rising bills as a result of a national revaluation of all business properties.
- 2.4 The Government published a consultation covering proposed methodology for distributing the available funding between local authorities and subsequently stated that the allocations would be as set out in the consultation.
- 2.5 The funding for the scheme is spread over four years. In Epsom & Ewell the total funding available under our allocation has been confirmed as:

2017/18	£265,000
2018/19	£124,000
2019/20	£51,000
2020/21	£7000

- 2.6 It is for each local authority to design a discretionary relief scheme and determine eligibility. The formation of the scheme was discussed at both the Surrey Revenues Manager Group and the Surrey Treasurers Association.
- 2.7 At Surrey Revenues Managers Group the guidance provided by the Department of Communities and Local Government (DCLG) was discussed at great length. It was decided, in line with the guidance, that the Council should not award any relief to any properties with a rateable value over £200k or those properties where the increase in charge due to re-valuation was below 12.5%. In addition it was also decided that the relief should not be awarded to 'national' companies, empty properties, and accounts already in receipt other Mandatory Reliefs or those where the account holder first became liable in respect of the property on or after 1 April 2017.
- 2.8 For the purposes of this relief 'national' companies are considered to be those companies who have more than 2 premises in the UK, outside of the south east. The rationale being they may benefit from lower rates charges in other parts of the country.

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- 2.9 It was also decided that there should not be an application process, rather a determination would be done as to who qualifies for the relief and an appeal process for those who feel they should have been awarded, within the confines of the policy. This reduces the administrative burden on affected businesses, as well as the Council.
- 2.10 There is a need to ensure that, when determining a scheme, operationally it can be managed within existing systems and the resources available.

3 Proposals

- 3.1 This section describes in principle how it is proposed the Local Discretionary Relief Scheme will operate in Epsom & Ewell and the following paragraphs set out how it is proposed that eligibility for the relief will be determined.
- 3.2 The council will calculate the change in annual charge by comparing the 2016/17 charge with the 2017/18 charge. We will do this by using the 2017 transitional base liability, which is a property's 2016/17 full annual charge, based on the rateable value (or certified rateable value) on 31 March 2017, excluding any small business rate relief supplement. We will then compare this figure with the property's 2017/18 full annual charge, based on the property's new rateable value from the 01 April 2017 and excluding any small business rate relief supplement. This in effect compares how much a ratepayer was paying for business rates in 2016/17 and how much their basic charge is in 2017/18, before the application of any other reliefs they may qualify for.
- 3.3 This is the same comparison used to determine the Government's transitional relief scheme and ensures any change is purely as a result of the 2017 revaluation.
- 3.4 In determining the amount of funding to each council, the government used formulae that only considered cases where the property's 2017/2018 bill (before reliefs) had increased by more than 12.5% and excluded properties with rateable values of £200,000 and over.
- 3.5 Epsom & Ewell Borough Council's scheme applies both these elements and hence will only consider awards where the 2017/18 bill has increased (as above) by more than 12.5% and the 1 April 2017 rateable value is less than £200,000.
- 3.6 In considering relief to remaining ratepayers, Epsom & Ewell will also exclude relief to:
 - National companies and companies with multiple premises (where total properties greater than 5, or if under 5, where total rateable value of all properties exceeds £199,999). The relief is designed to be applied locally and, nationally, revaluation is neutral, meaning national companies and chains may have seen rate reductions in other parts of

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the country offsetting increases elsewhere. Ratepayers with multiple properties maybe more resilient and if have business premises in other boroughs would mean any award could benefit more than the Epsom & Ewell locality.

- Empty Properties. The Council wants to encourage properties being brought back into use.
 - Charities. Charities receive 80% mandatory relief under a separate statutory scheme.
 - New ratepayers becoming liable on or after 1 April 2017. New ratepayers would not have seen an increase in their rate bills at the property.
 - Ratepayers receiving Small Business Rate Relief and/or Supporting Small Business Rate Relief. Ratepayers losing small business rate relief have limits on increases separately under the supporting small business rate relief scheme.
 - Precepting Authorities & Government Departments. Section 47 relief cannot be awarded to a precepting authority (e.g. Epsom & Ewell Borough Council/Surrey County Council/Surrey Police). Epsom & Ewell Borough will also exclude awards where the precepting authority is currently liable for the payment of Business Rates.
- 3.7 The remaining eligible ratepayer accounts will be awarded discretionary relief as a percentage of the increase from the 2016/17 full annual charge (excluding any small business rate relief supplement) based on the rateable value (or certified rateable value) at 31 March 2017 using the 2017 transitional base liability, to the 2017/18 chargeable bill (i.e. after all other reliefs and entitlements) based on an 'extract date' (to be on, or after 1 April 2017) taken for this purpose.

4 How much relief will be available

- 4.1 The percentage of relief will be the same for all qualifying ratepayers and will be based on the total funding available for each year. (Total funding available/Total increase in chargeable amount of qualifying ratepayers x100).
- 4.2 A minimum 10% of the funding each year will be held back when making initial awards to account for in year bill changes that may increase the total relief awarded. This percentage may be reviewed and annually based on experience and available funding. Any additional funds identified after review will be re-allocated and may lead to further awards being made to qualifying properties.

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- 4.3 The award will be made based on the increase calculated as at the date of the 2017/18 extract. Relief will be calculated on a daily basis and will cease from any date that the eligibility criteria are not met and/or the account is closed. Other changes to the chargeable amount will not generally affect the award but the amount of relief cannot exceed the chargeable bill amount. Later increases or decreases solely due to revaluation may lead to the award being reviewed.
- 4.4 Initial calculations suggest that 253 properties would qualify for the relief. In each year the majority of the qualifying properties will receive under £500. This equates to 151 properties in Year 1, 186 properties in Year 2, 232 properties in year 3 and all properties in year 4
- 4.5 The award will apply for that year only. The relief will be assessed and calculated on a daily basis (retrospective or otherwise as appropriate) and may be lower or higher than the original award.
- 4.6 If the property is split or merged consideration will be given to how much of the new split or merged hereditament(s) are occupied by the previous eligible ratepayer. In most cases relief will be awarded pro-rata in relation to the original award, but not exceeding that award.
- 4.7 Where relief has been found to have been awarded incorrectly or in error the relief will be removed and amended bills issued. If a change in circumstances that would affect the relief is not informed to the Council within 28 days the Council reserves the right to cancel all relief granted and refuse any further application.

5 Other Discretionary Reliefs reimbursed by s.31 grants

- 5.1 If a property is eligible for relief under other schemes for which section 31 grant is payable – relief should be first awarded under those schemes. A section 31 grant, is a grant provided by the government to cover the expense of granting statutory Business Rates Reliefs.

6 Application Process

- 6.1 The scheme entitlement is established based on information already held within Epsom & Ewell Borough Council's Business Rates system. Therefore, awards will be applied automatically where entitlement is found. Ratepayers may request we review their account where no automatic award has been made.

7 Appeals Process

- 7.1 There is no statutory right of appeal against a decision regarding discretionary rate relief. Decisions can be challenged under by way of judicial review in the normal way, but are unlikely to be set aside unless the decision was so unreasonable that no reasonable person could have reached it ('Wednesbury Rules').

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- 7.2 However, the Council recognises that ratepayers should be entitled to have a discretionary decision reviewed if dissatisfied with the outcome. Only the ratepayer or authorised agent may appeal against the decision not to award relief or the level of relief awarded. Appeals must be made within four weeks of the notification of decision.
- 7.3 The appeal process for this relief will follow our current appeal procedure for discretionary rate relief:-
 - Appeals must be in writing specifying reasons why a decision should be amended and supported by relevant new or additional evidence.
 - An appeal will be deemed to be discontinued if further evidence requested from the ratepayer has not been received within four weeks of the request.
 - Appeals against decisions made under delegated authority by Revenues Manager will be considered by Head of Revenues and Benefits and the Council's s151 Officer.

8 Financial and Manpower Implications

- 8.1 Epsom & Ewell Borough Council will be granted the full funding allowance in line with the rates retention scheme and be asked to pay back any underspend. The Government have not yet decided whether flexibility should be provided to allow funding to be moved between years.
- 8.2 Although the functionality to update the Academy Revenues System is already available, each case will have to be manually input and calculated which will mean there will be a delay in awarding the relief. It is anticipated that all those qualifying accounts will be updated by the end of October 2017.

Chief Finance Officer's comments: *It is proposed that the additional funding provided by Government be redistributed to local businesses as set out in this report. If the cost of reliefs granted from the scheme exceeds the level of grant funding provided then the cost of the excess will be borne by the Council.*

9 Legal Implications (including implications for matters relating to equality)

- 9.1 No new legislation is required to deliver the scheme. Instead, the Council will use its discretionary relief powers, under section 47 of the Local Government Finance Act 1988 to grant relief. Central Government will reimburse Epsom & Ewell using grants under section 31 of the Local Government Act 2003, up to the level of our allocation each year.
- 9.2 State Aid law is the means by which the European Union regulates state funded support to businesses. Providing discretionary relief to ratepayers is likely to amount to State Aid. However, our Local Discretionary relief scheme will be State Aid compliant where it is provided in accordance with the De Minimis Regulations (1407/2013).

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- 9.3 The De Minimis Regulations allow an undertaking to receive up to €200,000 of De Minimis aid in a rolling three-year period (consisting of the current financial year and the two previous financial years). As the Council's scheme excludes national/chains and properties with a rateable value over £200,000 it is unlikely (any) ratepayers will exceed the limit. However, the Council will request ratepayers inform the Council if any award exceeds the limit.
- 9.4 ***Monitoring Officer's comments:*** *As the name suggests, the nature of the scheme to be adopted is at the discretion of the Council. The scheme as proposed accords with the law. Any proposed changes would require careful consideration.*

10 Sustainability Policy and Community Safety Implications; Partnerships

- 10.1 Locally Epsom & Ewell Borough Council and our partners have already put a much resource in to improving our commercial areas. Assisting with Business Rates liabilities where possible, supports this objective and helps to maintain diverse and healthy commercial sectors, which in turn bring people and additional revenue into the borough.

11 Risk Assessment

- 11.1 The government set out clear guidance requiring local authorities to develop and adopt local schemes to distribute the additional funding for business rates, announced in the spring budget. Failure to adopt the local scheme would be in direct conflict with this requirement.
- 11.2 If the scheme was not adopted by Epsom & Ewell Borough Council, it would be the only authority in Surrey not to have adopted a scheme. This would leave us vulnerable to challenges from business owners.
- 11.3 The Department of Communities and Local Government have indicated that they will consider issuing fines to those local authorities who fail to develop a scheme, as soon as practicable.

12 Conclusion and Recommendations

- 12.1 The implementation of the scheme up to the 31 March 2021, will fulfil Epsom & Ewell Borough Council legal obligations and support businesses within our local commercial areas,

WARD(S) AFFECTED: (All Wards);