



## Notice of a meeting of Cabinet

**Tuesday, 12 September 2017**  
**6.00 pm**  
**Pittville Room - Municipal Offices**

| <b>Membership</b>   |  |
|---------------------|--|
| <b>Councillors:</b> | Steve Jordan, Flo Clucas, Chris Coleman, Rowena Hay, Peter Jeffries, Andrew McKinlay and Roger Whyborn |

## Agenda

|           |  |   |                |
|-----------|--|---|----------------|
|           |  | <b>SECTION 1 : PROCEDURAL MATTERS</b>   |                |
| <b>1.</b> |  | <b>APOLOGIES</b>  |                |
| <b>2.</b> |  | <b>DECLARATIONS OF INTEREST</b>   |                |
| <b>3.</b> |  | <b>MINUTES OF THE LAST MEETING</b><br>Minutes of the Special Meeting held on 26 June and the Cabinet meeting on 11 July 2017.                                     | (Pages 3 - 16) |
| <b>4.</b> |  | <b>PUBLIC AND MEMBER QUESTIONS AND PETITIONS</b><br>These must be received no later than 12 noon on the fourth working day before the date of the meeting         |                |
|           |  | <b>SECTION 2 :THE COUNCIL</b><br><i>There are no matters referred to the Cabinet by the Council on this occasion</i>  |                |
|           |  | <b>SECTION 3 : OVERVIEW AND SCRUTINY COMMITTEE</b><br><i>There are no matters referred to the Cabinet by the Overview and Scrutiny Committee on this occasion</i> |                |
|           |  | <b>SECTION 4 : OTHER COMMITTEES</b><br><i>There are no matters referred to the Cabinet by other Committees on this occasion</i>                                   |                |
|           |  | <b>SECTION 5 : REPORTS FROM CABINET MEMBERS AND/OR OFFICERS</b>   |                |
|           |  |   |                |

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|----|--|--|--------------------|
| 5. |  | <b>REVIEW OF TAXI LICENSING POLICY</b><br>Report of the Cabinet Member Development and Safety            | (Pages<br>17 - 32) |
| 6. |  | <b>POWERS TO ACCOMMODATE ROUGH SLEEPERS</b><br>Report of the Cabinet Member Housing                      | (Pages<br>33 - 48) |
| 7. |  | <b>BUSINESS RATES REVALUATION RELIEFS</b><br>Report of the Cabinet Member Finance                        | (Pages<br>49 - 84) |
|    |  | <b>SECTION 6 : BRIEFING SESSION</b><br>• Leader and Cabinet Members                                      |                    |
| 8. |  | <b>BRIEFING FROM CABINET MEMBERS</b>   |                    |
|    |  | <b>SECTION 7 : DECISIONS OF CABINET MEMBERS</b><br>Member decisions taken since the last Cabinet meeting |                    |
|    |  | <b>SECTION 8 : ANY OTHER ITEM(S) THAT THE LEADER DETERMINES TO BE URGENT AND REQUIRES A DECISION</b>     |                    |
|    |  | <b>SECTION 9 : LOCAL GOVERNMENT ACT 1972 - EXEMPT BUSINESS</b>   |                    |
|    |  |  |                    |

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## Cabinet

**Monday, 26th June, 2017**  
**5.05 - 5.45 pm**

| Attendees                  |   |
|----------------------------|---|
| <b>Councillors:</b>        | Steve Jordan (Leader of the Council), Flo Clucas (Cabinet Member Healthy Lifestyles), Chris Coleman (Cabinet Member Clean and Green Environment), Andrew McKinlay (Cabinet Member Development and Safety) and Roger Whyborn (Cabinet Member Corporate Services) |
| <b>Also in attendance:</b> | Tracey Crews (Director of Planning), Councillor Harman (O&S Chairman), Peter Lewis (Head of Law), Phil Stephenson (Development Manager) and Pat Pratley (Head of Paid Service)Councillor Wendy Flynn, Councillor Tim Harman and Councillor Jon Walklett         |

## Minutes

### 1. APOLOGIES

Councillor Hay and Jeffries had given their apologies.

### 2. DECLARATIONS OF INTEREST

No interests were declared.

### 3. MINUTES OF THE LAST MEETING

The minutes of the last meeting would be tabled for approval at the next meeting of Cabinet (11 July).

### 4. PUBLIC AND MEMBER QUESTIONS AND PETITIONS

None had been received.

### 5. REPORT FROM O&S ON CALL IN REGARDING SPRINGBANK NEIGHBOURHOOD FORUM

The Leader proposed to take the scrutiny report under this section, before taking the Cabinet Member response (shown as the 'officer advice note' at page 25 of the pack) under Section 5 (Reports from Cabinet Members and/or Officers) and that this would be presented by the Cabinet Member Development and Safety.

The Chairman of the Overview and Scrutiny Committee (O&S), Councillor Harman, explained that he had called-in the decision following a request from Councillor Flynn, the first call-in he had undertaken in his time as Chair. The call-in meeting was held on the 12 June 2017 and the debate was set out in the minutes of that meeting (Appendix 1 of the O&S report). In summary the Committee felt that there were inconsistencies in the way in which Cabinet had dealt with the Springbank and West Cheltenham applications and they hoped that if the Springbank decision was to be rescinded, there would be an opportunity for both groups to reach a more appropriate solution, which would bring the communities together. He noted that all but one member, who had chosen to abstain, had supported this recommendation and whilst the process

had been followed, it had been divisive and the spirit of what was trying to be achieved, had been lost. He hoped that Cabinet would reconsider their original decision and help to re-join these communities.

A number of Cabinet Members queried the assertion by the O&S Committee that there was inconsistency in the way that Cabinet had dealt with the applications for Springbank and West Cheltenham and asked for examples. The Chairman referred members to the draft minutes of the meeting, which many of them had attended, and which summarised the debate and conclusions of the committee.

The Cabinet Member Development and Safety concluded that rather than there being an issue with the process or the decision on the Springbank application itself, the issue for Overview and Scrutiny was that Cabinet had not taken account of the wider implications. Councillor Harman considered this to be a fair assessment. The Cabinet Member went on to accept that the conflict between the two parts of this community was unfortunate but the problem Cabinet faced was that the group behind the Springbank application had been asked if they would consider withdrawing their application and had declined to do so. Cabinet were being asked to reject the Springbank application in consideration of wider issues but could only base their decision on what was before them, which was a valid application and therein lay the problem.

It was suggested, by the Cabinet Member Healthy Lifestyles, that in effect what the O&S Committee were asking Cabinet to do, was punish Springbank as a result of West Cheltenham not having revised their original application or reapplied after their first application was refused. Cabinet had expressed concerns on the 6 December 2016, that the proposed neighbourhood area would bisect the existing ward boundaries and the emerging West Cheltenham Strategic Allocation as proposed by the emerging JCS main modifications. The applicants were asked to reconsider their application and the decision was deferred until the 13 December. The West Cheltenham application was not revised and it was therefore refused.

The Chairman of the O&S Committee accepted that the call-in related to the Springbank decision but noted the letter of objection, dated the 8 May 2017, from Charmian Sheppard, on behalf of the West Cheltenham Forum.

There were no further questions.

### **6. RECONSIDERATION OF APPLICATION FOR DESIGNATION OF A NEIGHBOURHOOD AREA AND NEIGHBOURHOOD FORUM BY THE SPRINGBANK NEIGHBOURHOOD FORUM**

The Cabinet Member Development and Safety felt that it was unfortunate that a dispute had arisen between two communities. However, Cabinet could only assess applications against the national legislation and local guidance and he was mindful that the call-in related to the Springbank application and not the West Cheltenham application. It was accepted, by all, that the Springbank application was valid and that the decision had been taken properly and not in conflict with any other application, as no more had been received. In view of this, he considered it to be unreasonably punitive to refuse the Springbank application and therefore recommended that approval of the Springbank application be restated.

The Cabinet Member Corporate Services explained that Cabinet were obliged to deal with applications as they arrived and not in a preferred order. Whilst he understood the views of those that had supported the call-in and those that called for the application to be refused, essentially the request was that Cabinet refuse a valid application in order to consider wider issues; when no further application had been received from West Cheltenham. He suggested that the Springbank application should be approved and all parties asked to consider options for modifying boundaries in the future.

The Cabinet Member Healthy Lifestyles sought advice from the Head of Law on three points. Firstly, the Head of Law explained that the authority must determine the Springbank application by the 27 June 2017 (tomorrow) and that if this deadline was not met, the authority must designate all of the area applied for. Secondly, he repeated the advice that he had given at the last meeting (16 May) that the Regulations were detailed technical requirements which planning officers had considered and were clearly satisfied with in bringing this and the original report to Cabinet for decision. Members should be satisfied that they had been provided with sufficient facts and information, including the officer advice and report, to enable them to reach a balanced and reasoned decision on the recommendations before them. Were Cabinet to refuse the application at this stage, the authority would be vulnerable to challenge. Thirdly, the Head of Law said that a further neighbourhood plan application could not be made in respect of an area already designated but that there could be liaison between adjoining areas; he suggested that the planning officers address this point.

In response to the query raised by the Cabinet Member Healthy Lifestyles, the Development Manager confirmed that the Planning Practice Guidance stated that a local planning authority could amend the boundary of a neighbourhood area after it had been designated only if responding to an application for a neighbourhood area to be designated. He gave further explanation that were a further application to be submitted by West Cheltenham, that the boundaries could not overlap with Springbank boundaries but could be adjacent to them and that it would be possible for a number of neighbourhood areas to work together to develop a joint plan.

The Cabinet Member Clean and Green Environment stressed that debate of the West Cheltenham application had been deferred and the applicants asked to make revisions. When no revisions were made, Cabinet were forced to make a decision and duly refused it, which was an appropriate decision and one which was not called-in. Cabinet subsequently considered the Springbank application and in receipt of clear written and verbal advice from the planning officers and the Head of Law, approved the application. He suggested that for Cabinet to now refuse that application would result in the council being open to challenge and this was not an acceptable option. He also had concerns about the message that such a decision would send to Springbank and any potential future applicants. Whilst he found the current situation regrettable, he had been reassured by the officer advice that approving the Springbank application did not preclude others from submitting an application and would be supporting the recommendation for approval.

The Leader highlighted the minimal powers Cabinet possessed in relation to these applications, which were limited to receiving applications and approving or refusing them. The original legislation was based on parish wards and Cheltenham was split between parished and non-parished areas, which made

the process less than simple. Though he understood the request from O&S for Cabinet to try and resolve this issue, multiple attempts had been made to do this earlier in the year, following the decision to reject the West Cheltenham application on the 13 December 2016, but to no avail, and he was therefore unclear as to what the Committee expected Cabinet to do. In the absence of an alternative he proposed that the recommendation to approve the Springbank application be accepted and if the communities wished to have discussions and put forward an alternative, Cabinet would be happy to consider this in the future.

The Cabinet Member Corporate Services took the opportunity to pay tribute to those that had been working behind the scenes to try and bring this issue to a sensible conclusion and, in view of the advice from the Development Manager, he looked forward to welcoming future applications from other groups.

In closing, the Cabinet Member Development and Safety thanked his fellow Cabinet Members for their support. He acknowledged that one of the issues in relation to this matter, was the lack of government guidance and rules and in recognition of this he had agreed local guidance which he had hoped would assist communities when putting together an application. He felt that it was important that Cabinet approved the Springbank application as it demonstrated the authority's commitment and support for the neighbourhood planning process.

Upon a vote it was (unanimously)

**RESOLVED THAT**

- 1. the designation of the Springbank Neighbourhood Forum area (the current Springbank Ward) be approved for the purpose of preparing a Neighbourhood Development Plan**
- 2. the designation of the Springbank Neighbourhood Forum be approved as a neighbourhood forum .**

**7. BRIEFING FROM CABINET MEMBERS**

The Cabinet Member Development and Safety announced that, in light of current national security issues, a full review of security measures in the town centre would be undertaken. This review would include the Business Improvement District (BID) and relevant partners and would consider shared safety arrangements, ensuring maximum co-operation and co-ordination in the event of a security issue in the town.

**8. DECISIONS OF CABINET MEMBERS**

| Cabinet Member                     | Decision                                     |
|------------------------------------|--|
| <b>Clean and Green Environment</b> | <b>Recycling materials tender acceptance</b> |

**Chairman**

**Cabinet**

**Tuesday, 11th July, 2017**  
**6.00 - 6.40 pm**

| <b>Attendees</b>    |   |
|---------------------|---|
| <b>Councillors:</b> | Steve Jordan (Leader of the Council), Flo Clucas (Cabinet Member Healthy Lifestyles), Chris Coleman (Cabinet Member Clean and Green Environment), Rowena Hay (Cabinet Member Finance), Peter Jeffries (Cabinet Member Housing), Andrew McKinlay (Cabinet Member Development and Safety) and Roger Whyborn (Cabinet Member Corporate Services) |

**Minutes**

**1. APOLOGIES**

There were no apologies.

**2. DECLARATIONS OF INTEREST**

There were no declarations of interest.

**3. MINUTES OF THE LAST MEETING**

The minutes of the meeting held on 13 June were approved and signed as a correct record.

**4. PUBLIC AND MEMBER QUESTIONS AND PETITIONS**

There were none.

**5. REPORT OF THE STREET PEOPLE SCRUTINY TASK GROUP**

In the absence of the Chair of Overview and Scrutiny Members considered the report and recommendations from the scrutiny task group. The Cabinet Member Development and Safety said the report was a validation of the work the council was already undertaking including a number of successful initiatives, largely in conjunction with Cheltenham Borough Homes. The council had joined Project Solace and was reviewing the effectiveness of these arrangements. He therefore recommended to Cabinet that the recommendations be accepted.

The Cabinet Member Housing wished to put on record his thanks to those officers involved in the work and particularly to those officers on Project Solace who worked on the council's behalf with partners to tackle the issues.

**RESOLVED THAT**

**The recommendations of the Street People Scrutiny Task Group be accepted and it be noted that the authority has now joined the Solace partnership.**

**6. REVIEW OF PUBLIC REALM CCTV PROVISION IN CHELTENHAM**

The Cabinet Member Development and Safety introduced the report. He explained that the council owned and maintained a number of public realm CCTV cameras covering predominantly the town centre but also a number of outlying areas in the Borough. The day-to-day operation and monitoring of these cameras was undertaken by Gloucestershire Constabulary from its force control room at the Tri-Service Emergency Centre in Quedgeley, Gloucester.

The corporate plan had identified a priority area for the council to work in partnership with Gloucestershire Constabulary to review town centre CCTV provision and associated monitoring arrangements.

This report sought approval from Cabinet to move forward to the next stage of this project as outlined in the report.

The Cabinet Member Finance referred to Appendix 3 which listed the proposed upgraded camera sites. These had been discussed with the Police in terms of their priorities and the identified needs of the town centre. The Cabinet Member was confident that the proposed works to the CCTV network would be fit for purpose and improve the safety and police supervision of the town.

The Leader added that long and detailed discussions had been held with the Police and he was confident that the town would achieve maximum value out of this investment.

#### **RESOLVED THAT**

- 1. The proposed works to Cheltenham's public realm CCTV network as outlined in this report be approved.**
- 2. The capital expenditure required to carry out the proposed work within existing resources be approved**
- 3. Subject to resolution 2, authority be delegated to the Director of Environment, in consultation with the Cabinet Member for Development and Safety, to:**
  - a) approve appropriate specification requirements for tender processes;**
  - b) agree the capital and revenue implications within existing resources;**
  - c) agree prioritisation of works (if required);**
  - d) appoint a contractor to carry out the works following the tender process; and**
  - e) appoint a contractor to maintain and service the public realm CCTV network.**

#### **7. FOOD SAFETY SERVICE PLAN 2017-18**

The Cabinet Member Development and Safety introduced the report and explained that the Food Safety Service Plan was required under the Framework Agreement with the Food Standards Agency. It represented the Council's expression of commitment to the delivery of an improving cost effective and efficient regulatory food service. It was an annual operational plan which detailed how Cheltenham was going to execute its statutory food safety functions.



The Cabinet Member referred to Table 3 listing the official controls programmed for 2017-18 and revisits estimates and was pleased to report that 97% of premises were broadly compliant with targets. This was an increase on last year which was 96 % and the council would continue to aim for 100 % compliance. He reported that 100 % of target interventions in 2016/17 were achieved which was very positive news.

**RESOLVED THAT**

**The Food Safety Service Plan 2017-18 be approved.**

**8. PLACE AND ECONOMIC DEVELOPMENT - COMMERCIAL TRANSFORMATION PROGRAMME**

The Cabinet Member Development and Safety introduced the report which provided an update on the key programme deliverables identified in the report adopted by Cabinet in July 2016 and also proposed the next stage of the commercial transformation programme. A wide range of activities were covered :

- business management
- car parking
- economic development
- visitor economy/destination management
- fundraising/research,events
- anti-social behaviour/public spaces
- enviro-crime
- marketing and entrepreneurial approach, financial position and funding strategy.

Section 2 of the report identified work to date and the next steps as part of the action plan 2017-19. The key drivers behind the programme were to improve efficiency of the council as a whole, improve customer service, refocus work to make the maximum benefit of existing resources and use this to create new resource.

The Cabinet Member referred Members to Appendix 4 which outlined the financial plan for the service and Appendix 5 set out an indicative delivery timetable/action plan.

The Leader acknowledged the positive progress that had been made so far. He hoped that further capacity would be created to enable the council to achieve its aims.

**RESOLVED THAT**

- 1. the success of the programme's achievements to date be noted.**
- 2. the Managing Director for Place & Economic Development in consultation with the Cabinet Member for Development and Safety be authorised to continue with the next stage of the commercial transformation programme.**

**9. CHELTENHAM ENTERPRISE CENTRE**

The Cabinet Member Finance introduced the report and explained that CBC owned the freehold of the Cheltenham Enterprise Centre which was a small light industrial site off Arle Road. Planning consent was granted in 2003 to build 8 light industrial units and the construction of the first phase was completed in 2007 and comprised 4 units. These existing units had been fully occupied since completion generating a rental income of £44.5 k per year on a full repairing and insuring lease with all common area costs recovered by a service charge.

The report was seeking Cabinet's support to build 3 additional units of a similar size as part of the council's Property Portfolio Strategy as approved by Cabinet on 6 December 2016. These new buildings should deliver an additional £53k per annum in rental income, which after known costs would generate a yield of over 8% which was well above the 5% councils investment target.

The estimated construction costs of £585K would be confirmed via the tender process, but the build was to be funded through the investment property portfolio using unapplied capital receipts.

The Cabinet Member Finance explained that the Asset Management Working Group had been consulted and fully supported the proposal.

Members supported the proposal which they believed was an excellent use of funds which would generate an income for the council and help small businesses.

**RESOLVED THAT**

- 1. the further development of Cheltenham Enterprise Centre as part of the council's Property Portfolio Strategy be approved, funded from unapplied capital receipts.**
- 2. Authority be delegated to the Head of Property Services and the Borough Solicitor to proceed with the required contractors tendering process to develop the site.**

**10. FIVE-YEAR STRATEGY TO GROW CHELTENHAM'S VISITOR ECONOMY**

The Leader introduced the report which sought Cabinet's approval of a five year strategy to grow Cheltenham's visitor economy. It set out the vision for Cheltenham's tourism offer, the aims and outcomes and an action plan for achieving them. It also provided the framework for the council's place strategy outcome of a thriving visitor economy. The Leader explained that Kelly Ballard had been working with partners on the strategy and key to the action plan for

the first two years was the establishment of a new partnership-based marketing service. Once the five year strategy had been approved by Cabinet officers would work with the Trust to hand over the tourism marketing service ready for a go-live date of 1 August 2017. Officers would also begin the process of determining plans for the future of the TIC in consultation with the Trust and the Cabinet Member Healthy Lifestyles which would include a review of the current model within the context of a 21<sup>st</sup> century tourism marketplace to understand visitor need and to determine how best to meet that need in the future. The review would be completed by the end of November 2017. This would enable the legal, HR and financial implications to inform the negotiation of the management agreement and management fee beyond March 2019. Further Cabinet approval to implement the future model for the TIC would be achieved by October 2019.

**RESOLVED THAT**

- 1. the five-year strategy to grow Cheltenham's visitor economy and its action plan be adopted**
- 2. authority be delegated to the MD Place and Economic Development to work with the Cheltenham Trust and Cabinet Member Healthy Lifestyles to undertake and complete the handover of the marketing service for a go-live date of 1 August 2017 and also to bring forward plans for the future of the Tourist Information Centre in line with the timescales outlined in the report.**
- 3. a Variation to the management agreement between the Council and the Cheltenham Trust to remove tourism marketing from the agreement be approved**

**11. ARRANGEMENTS FOR MANAGING A SPORT ENGLAND GRANT TO MAKE IMPROVEMENTS TO LEISURE-AT-CHELTEHAM**

The Cabinet Member Healthy Lifestyles introduced the report and explained that the Cheltenham Trust successfully bid to Sport England for a Swim Local grant that will fund a range of improvements at Leisure@ Cheltenham. The grant award was broken down into two elements. A revenue grant of £150,981 to fund improvements to the swimming experience and a capital grant of £184,480 to fund the creation of new disabled changing units and improvements to the female changing area at Leisure@ Cheltenham. She explained that due to the Trust only having 7 secure years left of their lease, Sport England have offered the capital grant to Cheltenham Borough Council to manage. This report put forward a solution for managing the capital grant in 2017.

The Leader welcomed the grant which was positive news for Leisure@ Cheltenham.

**RESOLVED THAT**

- 1. It be noted that the Head of Paid Service has delegated authority under the Authority's constitution to enter into the grant agreement with Sport England.**

- 2. Authority be delegated to the s.151 Officer, in consultation with the Cabinet Member Healthy Lifestyles and Cabinet Member Finance, to agree any subsequent arrangements with the Trust to manage the capital funds to achieve the completion and funding of the works as set out in this report.**

**12. REVIEW OF THE COUNCIL'S PERFORMANCE AT END OF 2016-17**

The Leader introduced the report which provided Members with an overview of how the council was performing in regard to the published milestones, performance indicators and outcomes set out in the 2016-17 action plan that was agreed by Council on 4 April 2016. He congratulated all involved in achieving completed milestones. 8 milestones were set at amber, meaning that there were concerns about the deliverability of the project against the original timescales. These were set out at 2.2 of the report.

The Leader informed that the Overview and Scrutiny Committee had considered the report at its recent meeting and had raised the issue of devolution. It was noted that government capacity for progressing new devolution deals was much reduced other than for those authorities with elected Mayors and given Brexit negotiations little progress was expected. However on a local level devolution of highways matters which had been raised by CBC was under discussion albeit complex. The County Council had now consulted all districts on the issue. There was a break clause in the Amey contract in 2019 and CBC would be happy to look at reverting back to the 'old style' arrangements with particular emphasis on keeping the parking spend in Cheltenham. CBC would pursue the agenda wherever it could but ultimately progress relied upon the County Council. The O&S Committee had requested a briefing on this issue and on the issue of side waste.

He agreed that it would be beneficial for the committee to receive further briefings on this and on side waste and changes to recycling services.

**RESOLVED THAT**

**The review of performance in 2016-17 be noted.**

**13. COMMUNITY INFRASTRUCTURE LEVY**

The Leader introduced the report which sought Cabinet approval to undertake public consultation on the Proposed Statement of Modifications in respect of amending a Draft Charging Schedule for the Community Infrastructure Levy (CIL) and approval to compile and submit responses received to the CIL Examiner for examination. Tewkesbury Borough and Gloucester City Councils would also be consulting on their Statements of Proposed Modifications. He explained that CIL enabled the local planning authority to charge a tariff on most new development of land in its area and this would be held in a local fund and used to support development by funding the provisions, improvement, replacement, operation or maintenance of infrastructure. A four week consultation period was proposed following which feedback would be compiled and submitted to the CIL Examiner for examination.

**RESOLVED THAT**

- 1) **The Community Infrastructure Levy Proposed Statement of Modifications at Appendix 2 be approved for public consultation.**
- 2) **authority be delegated to the Director of Planning, in consultation with the Leader to amend the Proposed Statement of Modifications at Appendix 2 and prepare any further statements of modification that may be required following the JCS hearings and/or any further viability assessments undertaken.**
- 3) **The Director of Planning be authorised to agree the date of public consultation(s) with Gloucester City and Tewkesbury Borough Councils.**
- 4) **The Director of Planning, following the conclusion of the public consultation(s), be authorised to compile and submit responses received to the CIL Examiner for examination.**

**14. FINANCIAL OUTTURN 2016/17 AND BUDGET MONITORING TO JUNE 2017**

The Cabinet Member Finance introduced the report which highlighted the Council's financial performance for the previous year which set out the General Fund and Housing Revenue Account (HRA) revenue and capital outturn position for 2016/17. It had been another challenging year.

The Cabinet Member reported that in December 2016 a possible under-spend of £110,737 had been forecast and in February 2017 Cabinet made recommendations to Council that this be transferred to the Budget support reserve which was approved and therefore formed part of the revised budget for 16/17.

She explained that continued government funding arrangements and changes, together with the economic climate, presented ongoing concern for this council's budgets, particularly in light of the Business Rates retention bill having been dropped from the legislative plan and the uncertainty surrounding the next steps. It was important that this council looked to grow its economy at the same time as ensuring that it used under-spends to support economic growth, the budget strategy reserve and general balances, bearing in mind the Medium Term Financial Strategy.

The Cabinet Member was pleased to report that the year ended with an under-spend of £571,443 achieved through a great deal of hard work and sound financial management, by CBC employees and its partner organisations. This saving had been transferred into the Budget reserve pending decisions for its use in 2017/18 and future years.

The Cabinet Member highlighted the following :

- car parking and Cemetery & Crematorium income had increased
- the business rate pool had delivered a positive variance of nearly £300K

- The housing revenue outturn statement showed a net positive variance

She went on to explain that when the Council purchased Delta Place, the Section 151 Officer determined to pay additional voluntary debt repayments of £400k per annum from the current rental stream. Whilst this was a prudent decision at the time, the short-term challenges that the Council faces suggest that this rental stream would be better placed to support the revenue budget, which was the reason behind creating an investment portfolio.

The Cabinet Member reported that the business case for Delta Place had now been remodelled, based on revised occupancy needs. This confirmed that the rental stream previously used to finance voluntary debt repayments are better served to support the budget proposals in 2018/19 and 19/20, using the money now not paying off debt or cutting front line services.

The Leader reminded Members that this report would be considered by Council on 24 July.

**RESOLVED THAT**

**Council be recommended to :**

- 1. Receive the financial outturn performance position for the General Fund, summarised at Appendix 2, and notes that services have been delivered within the revised budget for 2016/17 resulting in a saving (after carry forward requests) of £571,443.**
- 2. Approve £80,000 of carry forward requests (requiring member approval) at Appendix 5.**
- 3. Approve the use of the budget saving of £571,443 as detailed in Section 3.**
- 4. Approve the suspension of voluntary debt repayments to support existing commitments and future budget proposals as detailed in Section 3.**
- 5. Note the annual treasury management report at Appendix 7 and approve the actual 2016/17 prudential and treasury indicators.**
- 6. Approve Investments in corporate bonds in respect of Green Investment Bonds increased to a maximum of 5 years with a monetary value limit of £2m as detailed in Section 5.**
- 7. Note the capital programme outturn position as detailed in Appendix 8 and approve the carry forward of unspent budgets into 2017/18 (section 7).**
- 8. Note the position in respect of Section 106 agreements and partnership funding agreements at Appendix 9 (section 9).**
- 9. Note the outturn position in respect of collection rates for council tax and non-domestic rates for 2016/17 in Appendix 10 (section 10).**

**10. Note the outturn position in respect of collection rates for sundry debts for 2016/17 in Appendix 11 (section 11).**

**11. Receive the financial outturn performance position for the Housing Revenue Account for 2016/17 in Appendices 12 to 13 and approves the carry forward of unspent budgets into 2017/18 (section 12).**

**12. Note the budget monitoring position to the end of June 2017 (section 13).**

**15. BRIEFING FROM CABINET MEMBERS**

The Cabinet Member Healthy Lifestyles informed Members that she was meeting with the Head of Unit for the Atlantic Strategy that week which could provide funding opportunities.

The Cabinet Member Development and Safety reminded Members that attached to the Cabinet agenda was the Health and Safety Service annual update which outlined the performance for the year and provided a plan for proactive work for the year ahead. There were no significant issues to report. A full report would be considered by Cabinet in 2018.

The Cabinet Member Housing referred to the recent Ofsted report on Gloucestershire County Council children's services. He had had the opportunity to ask questions at the County Council and had been robust in his criticism. However, with good partnership working in Cheltenham there were positive ways in which CBC could support the County Council. A Cabinet Member Working Group would be established to act as a critical friend thereby providing healthy, positive challenge to the County Council. The Leader was supportive of this proposal and said that the second domestic homicide review in Cheltenham was expected in the autumn which a wider group in Cheltenham would consider.

The Cabinet Member Finance was pleased to inform Members that a sponsorship deal for the Tour of Britain had been sealed. She called for any unwanted bikes to be donated to the council in preparation for the big event.

The Cabinet Member Clean and Green Environment reported that he had updated the C5 group of Parish councils on plans for the waste and recycling collection service which included changes to collection days. Parish Councils had pledged their support in communicating the messages arising from this. He also reminded Members that a member seminar would be held prior to Council on 24 July, led by the Head of Ubico, to update Members on changes to the waste and recycling service.

The Leader informed Members that the JCS Examination in Public would be held over the next 2 weeks and the Inspector would take a view in respect of the soundness of the plan. Residents would have an opportunity to input into the process.

The Leader informed that there was concern that the Government had not included the business rates bill in the Queens Speech. As this was a two year

programme there was therefore continued uncertainty surrounding existing funding arrangements in local government.

**Chairman**



## Cheltenham Borough Council Cabinet – 12 September 2017 Review of Taxi and Private Hire Licensing Policy

|                                 |   |
|---------------------------------|---|
| <b>Accountable member</b>       | <b>Councillor Andrew McKinlay, Cabinet Member for Development and Safety</b>  |
| <b>Accountable officer</b>      | <b>Mike Redman, Director of Environment</b>   |
| <b>Ward(s) affected</b>         | <b>All</b>  |
| <b>Key/Significant Decision</b> | <b>No</b>   |
| <b>Executive summary</b>        | <p>The Council's current Licensing policy, guidance and conditions for private hire and taxis ("taxi policy") was adopted in July 2014.</p> <p>While there is no statutory requirement to undertake a review of the taxi policy, there is a commitment set out in the policy to do so at least once every three years to ensure the policy remains up to date and relevant.</p> <p>Cabinet is asked to consider the proposed amendments to the current taxi policy and approve it for consultation.</p> |
| <b>Recommendations</b>          | <p><b>Cabinet is recommended to:</b></p> <ol style="list-style-type: none"> <li><b>1. Approve the proposed policy changes as outlined in Appendix 2, 3 and 4 of this report for consultation.</b></li> </ol>  |

|  |  |
|--|--|
| <b>Financial implications</b>  | <p>No financial implications directly arise from these changes in policy.</p> <p><b>Contact officer: Myn Cotterill, <a href="mailto:myn.cotterill@cheltenham.gov.uk">myn.cotterill@cheltenham.gov.uk</a>, 01242 774958</b></p>   |
| <b>Legal implications</b>  | <p>There is no statutory requirement to undertake a review of the taxi policy but it is good practice to do so. Any legal implications are covered in the report.</p> <p><b>Contact officer: <a href="mailto:Vikki.fennell@tewkesbury.gov.uk">Vikki.fennell@tewkesbury.gov.uk</a>, 01684 272015</b></p>    |
| <b>HR implications (including learning and organisational development)</b> | <p>There are no direct HR implications identified in this report.</p> <p><b>Contact officer: Carmel Togher, HR Business Partner</b></p> <p><b>Email: <a href="mailto:carmel.togher@cheltenham.gov.uk">carmel.togher@cheltenham.gov.uk</a></b></p> <p><b>Tel: 01242 775215@cheltenham.gov.uk, 01242</b></p> |
| <b>Key risks</b>   | <b>As outlined in Appendix 1</b>   |

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|--|--|
| <b>Corporate and community plan Implications</b>     | N/A  |
| <b>Environmental and climate change implications</b> |  |
| <b>Property/Asset Implications</b>                   | <p>None</p> <p><b>Contact officer: David Roberts@cheltenham.gov.uk</b></p> |

## **1. Background**

- 1.1 The Council's current Licensing policy, guidance and conditions for private hire and taxis ("taxi policy" hereafter) was adopted in July 2014.
- 1.2 Whilst there is no statutory requirement to undertake a review of the taxi policy, there is a commitment set out in the policy to do so at least once every three years to ensure the policy remains up to date and relevant.
- 1.3 Attached at appendices 2, 3 and 4 are a breakdown of proposed policy changes.
- 1.4 Cabinet is asked to consider the proposed amendments to the current taxi policy and approve it for consultation. Subject to the aforementioned, a 12 week consultation will be undertaken.

## **2. Licensing Policy, Guidance and Conditions for Private Hire and Taxis**

- 2.1 The Council is responsible for the licensing and regulation of all hackney carriage and private hire drivers, vehicles and operators.
- 2.2 While there is no statutory requirement on the Council to have a taxi policy, it is common practice to do so. The taxi policy sets out how the Council intends to discharge its functions under the relevant legislation but also acts as a guide to Members, prospective applicants, licence holders and the wider public.

## **3. Policy review**

- 3.1 To facilitate the review and better engage with key stakeholders a taxi policy review working group was set up by the Licensing Committee in April this year. Representatives from the trade, council officers and Councillors sat on the working group.
- 3.2 The working group met on five occasions to consider the proposed changes to the current policy. The feedback and recommendations from the working group have been incorporated in the amended policy.
- 3.3 The working group membership were:
  - Cllr Adam Lillywhite
  - Cllr Paul McCloskey
  - Cllr David Willingham
  - Rob Bates (Starline)
  - Leon Jackson (Starline)
  - Stuart Hawthorne (Hackney Carriage Assoc)
  - Gary Knight (Hackney Carriage Assoc)
  - John Donohoe (independent HC driver & proprietor)
  - Phil Cooper (CBC Licensing Officer)
  - Andy Fox (CBC Senior Licensing Officer)

## **4. Reasons for recommendations**

- 4.1 To ensure the policy continues to be fit for purpose.

## 5. Alternative options considered

- 5.1 Cabinet can choose not to approve the proposed changes to the policy but this will leave the policy increasingly out of date and ineffective. This might also jeopardise public safety and confidence in the council's ability to regulate the trade and adequately protect the public.

## 6. Consultation and feedback

- 6.1 In accordance with normal practice, a 12 week consultation will be undertaken.
- 6.2 At the conclusion of the consultation period, a further report will be submitted to Cabinet to give Members an opportunity to consider the feedback. The responsibility for adopting policy in this area is a Cabinet function.

## 7. Performance management

- 7.1 The performance of the policy in terms of it achieving its intended outcomes is monitored continuously. This will continue to be the case once the new policy is in place.

|                               |   |
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| <b>Report author</b>          | <b>Contact officer: Louis Krog, louis.krog@cheltenham.gov.uk,<br/>01242 264217</b>  |
| <b>Appendices</b>             | <ol style="list-style-type: none"> <li>1. Risk Assessment</li> <li>2. Proposed policy changes</li> <li>3. Proposed "Three strikes policy for taxi &amp; private hire licences"</li> <li>4. Code of Good Practice for Licensed Driver's Working Practices</li> </ol> |
| <b>Background information</b> | <ol style="list-style-type: none"> <li>1. Current taxi and private hire licensing policy, adopted 15 July 2014</li> <li>2. Agenda, decisions and minutes, Cabinet Tuesday, 12th November, 2013 6.00 pm</li> </ol>   |

| The risk  |   |                         |             | Original risk score<br>(impact x likelihood) |                |       | Managing risk |                                 |          |                     |                              |
|---|---|-------------------------|-------------|--|----------------|-------|---------------|---------------------------------|----------|---------------------|------------------------------|
| Risk ref.   | Risk description  | Risk Owner              | Date raised | Impact 1-5                                   | Likelihood 1-6 | Score | Control       | Action                          | Deadline | Responsible officer | Transferred to risk register |
|   | If Cabinet does not approve the proposed changes for consultation the policy will become increasing out of date and ineffective.  | Director of Environment |             | 2  | 4              | 8     | Accept        | Approve policy for consultation |          |                     |                              |
|   | If Cabinet does not approve the proposed changes for consultation, it may jeopardise public safety and confidence in the council's ability to regulate the trade and adequately protect the public. | Director of Environment |             | 3  | 3              | 9     | Accept        | Approve policy for consultation |          |                     |                              |
|   |   |                         |             |  |                |       |               |                                 |          |                     |                              |
|   |   |                         |             |  |                |       |               |                                 |          |                     |                              |
|   |   |                         |             |  |                |       |               |                                 |          |                     |                              |
| <b>Explanatory notes</b><br><b>Impact</b> – an assessment of the impact if the risk occurs on a scale of 1-5 (1 being least impact and 5 being major or critical)<br><b>Likelihood</b> – how likely is it that the risk will occur on a scale of 1-6<br>(1 being almost impossible, 2 is very low, 3 is low, 4 significant, 5 high and 6 a very high probability)<br><b>Control</b> - Either: Reduce / Accept / Transfer to 3rd party / Close |   |                         |             |  |                |       |               |                                 |          |                     |                              |



## Appendix 2 – Proposed policy changes

This document outlines the *substantial* proposed changes to the current taxi and private hire licensing policy. Other minor and inconsequential changes are not referenced in this document.

### Driver fitness criteria

#### 1. Introduction of “Three Strikes” policy

It is proposed that the council adopts a “Three Strikes” policy. This policy will outline unacceptable behaviour by licensed drivers and operators and once any driver or operator has three of these registered against their name they will be subject to an automatic review of their licence.

The nature of the types of unacceptable behaviour outlined in this proposed policy is such that they may in isolation not be serious enough to be acted on, but a pattern of behaviour of the type listed will be.

The purpose of this policy will be to enable the council to be more effective in its ability to deal with lower level types of complaints and misdemeanours not captured by the “Relevance of convictions” policy.

A copy of the proposed policy is attached at Appendix 3 of the covering report.

#### 2. Amendments to knowledge test

It is proposed that aspects of the current knowledge test be changed. The knowledge test currently is an entirely written test covering local geographical knowledge, the Highway Code, basic literacy and numeracy and technical questions relating to taxi and private hire rules.

There have been changes to legislation, guidance and practice since the last policy. This has necessitated a review of the current arrangements for the knowledge test. It is therefore proposed that:

1. Aspects of the written test become practical with the introduction of a learning day to cover safeguarding, equalities training and awareness, and taxi and private hire rules;
2. Written Highway Code section of the test be removed as it has been replaced with a higher standard practical driving assessment;
3. Basic literacy section to be removed because the council now has a policy in place to assess applicants’ English comprehension;
4. The written local knowledge and basic numeracy elements of the test to be retained but to include a new section to assess comprehension of the learning day’s activities.

#### 3. Working hours

There are no national standards or statutory regulations that strictly govern working hours for licensed taxi and private hire drivers.

The policy review has identified a need for the council to be proactive in regulating this in so far as it is able and practical. To this end, the following proposed policy amendments will be made:

1. Amending licence conditions to set out a reasonable expectation on working hours for licence holders, implementing a mechanism whereby licence holders may need to keep a record of their working hours and to submit these records to the council; and
2. Adopting a code of good practice for licensed drivers setting out the council's expectations on safe working practices and the implications for non-compliance with the code.

A copy of the draft code is attached at Appendix 4 of the covering report.

### **Vehicle standards**

#### **1. Emissions policy/age limits**

It was necessary for the council to review its current emissions policy because the current deadline for phasing out older vehicles expires in 2018.

The purpose of the revised policy is 1) to contribute to the local and national air quality strategy to improve air quality in the town and 2) to have a safe, modern and professional licensed fleet.

To this end, the proposed revised policy is:

#### **New vehicles**

- Retain 5 year rule for petrol cars (which will result in an automatic Euro Emissions Standard 5 compliance)
- Apply Euro Emissions Standard 6 for diesel (i.e. vehicles no older than 1/9/2015)
- Any age for Ultra-low emission vehicles - defined as 75g CO<sub>2</sub>/km and under

#### **Existing vehicles**

Phase out older vehicles so to:

- Get all petrol vehicles to at least Euro 5 standard by 2020
- Get all diesel vehicles to Euro 6 standard by 2020

Given that by 2020 all licensed vehicles will be on the minimum Euro 5 emission standards, the council is not proposing a maximum age limit in vehicles provided that they continue to be in exceptional condition and safe. This will be assessed through the Council's enhanced MOT and fitness test for licensed vehicles, on the proviso that vehicles older than 8 years be subject to 6-monthly testing.

#### **2. Suitability standards**

A review has been undertaken of the council's suitability standards for vehicles to be licensed and the following changes are being proposed:

- a) Applying higher fitness standards for licensed vehicles by limiting new permitted wheelchair accessible vehicles to those that are side-loading only.

The rationale for this being that evidence shows that very few wheelchair users rely on public hire vehicles and there are difficulties with rear-loading public hire vehicles working off taxi ranks where safe entry is from the side. There have also been concerns raised about the



suitability of rear loading vehicles given that there is no other escape route for passengers in wheelchairs should the rear access point become damaged.

Rear-loading vehicles currently on the public hire fleet will be gradually phased out when these vehicles are replaced.

### **3. Testing arrangements**

The council currently only has one approved testing station for licensed vehicles which is Ubico. It has operated under this policy for several years but a need to review this has arisen. Due to the expansion of Ubico and the growth of the local trade, Ubico's ability to continue to act as sole testing provider within the agreed service level agreement has become increasingly difficult.

This has facilitated a review of the sole use arrangement with Ubico and it is proposed that testing arrangements be opened up to other testing stations that can demonstrate to the council their ability to test to the standard expected by the council.

### **4. Grandfather rights**

Due to a historic cap on numbers of public hire vehicles – that is no longer applicable – a situation has arisen where different rules apply to taxis depending on the number of the licence plate. Broadly speaking, proprietors of licence numbers 1-186 (which was the historic cap's maximum number) retained "grandfather rights" to license saloon vehicles whereas any licence plates above 186 were restricted to licensing wheelchair accessible vehicles.

The council is seeking to rationalise and simplify the rules so that they are the same for all taxi proprietors. It is also seeking to comply with Government guidance and targets to increase the proportion of wheelchair accessible vehicles available for public hire.

To this end, the council is proposing to seek views on a number of proposals to achieve this:

- a. Amend the grandfather rights so that these only apply to the current licensed vehicle and when the proprietor comes to replace that vehicle they are obligated to purchase a wheelchair accessible vehicle and/or purpose built taxi (preferred option);
- b. Make no changes to the current system;
- c. Amend the grandfather rights rules so that those who retain it can interchange between saloon cars and wheelchair accessible vehicles without those rights being affected.

### **Operators**

There is an increasing issue of out of town vehicles working in Cheltenham due to the relaxation of out of district sub-contracting rules. Whilst the council cannot enforce against vehicles and drivers not licensed by it (unless it is a criminal offence committed), it is proposed to consult with operators and others on a proposal that where an operator sub-contracts a Cheltenham booking to an "out of town" operator, they endeavour to ensure that the vehicle dispatched is not silver, thereby avoiding confusion with CBC licensed taxis that are silver.

There are also proposed additional obligations on operators as part of the proposed code of practice for safe working practices for licensed drivers. Please refer to Appendix 4 of the covering report for reference.



## **Appendix 3 - Proposed “Three strikes policy for taxi & private hire licences”**

1. The Council operates a policy for dealing with complaints, allegations and witnessed incidents of misconduct or infractions of a type which, individually, are not considered sufficiently serious to justify a review of a person’s suitability to hold a taxi or private hire driver, vehicle or operator licence, but which may give rise to such concerns if repeated or if regarded cumulatively with other such incidents.
2. Where complaints are substantiated for an applicable infraction, we may consider issuing a formal written warning, particularly if it would be disproportionate or inappropriate to take formal legal action for the infraction. Such warnings shall be issued only in situations where the investigating officer (or a reviewing officer) is satisfied that the infraction was committed, such as if they personally observed the infraction being committed, or if the results of the investigation into a complaint lead them to conclude on the balance of probabilities that the infraction was committed.
3. If a driver, operator or vehicle proprietor should receive three warnings for any combination of applicable infractions within a rolling period of two years, they shall be referred to the council’s Licensing Committee, for a review hearing into that individual’s suitability to continue to hold the relevant licence.
4. In conducting such reviews, the Committee will take account of all of the pertinent facts and any representation made by the driver, operator or proprietor before considering what action, if any, is appropriate to take. The Committee may also have regard to any previous warnings or Committee determinations in reaching a decision. The options available to the Committee, depending upon the severity of the infractions and any previous record of misconduct, will typically be: to take no further action; to warn the licensee as to their future conduct; or to revoke the licence.
5. The existence of this guidance does not bind the council, its officers or members to reach a particular decision in every case, and if the circumstances of a particular case support doing so it shall be open to the council to select a different course of action in respect of that case, such as prosecution for a single infraction of a type listed below, or issuing an informal warning which does not count towards the cumulative total.
6. The following lists of applicable infractions are non-exhaustive, and similar infractions may be regarded in the same way, even if not specifically referred to below.

### **Applicable infractions – operators**

- Failing to declare convictions / cautions in a timely manner
- Failing to produce operator licence on request
- Failing to maintain operators records complying with licence conditions, or to produce on request
- Touting of hire car services
- Abusive/improper behaviour by operator or staff
- Use of unapproved door signs on vehicles
- Obstruction of authorised officer or constable
- Making false statement to authorised officer or constable

- Making a false statement in connection with a licence or application

### **Applicable infractions – drivers / vehicle proprietors**

- Failing to declare convictions / cautions / motoring endorsements in a timely manner
- Failing to report accident and / or damage to a licensed vehicle
- Failing to produce vehicle/driver licence on request
- Failing to wear driver badge
- Failing to produce vehicle insurance certificate on request
- Failing to return licence plate / badge (following expiry, suspension or revocation)
- Using vehicle which is mechanically unsound / unsafe / excessively soiled
- Using vehicle at a time when it would not satisfy compliance standards
- Charging more than metered fare / use of incorrect tariff / previously agreed fare
- Non-display of fare card
- Prolonging journeys
- Tampering with taximeter seal, altering taximeter with intent to mislead
- Meter, radio or other equipment installed in dangerous position
- Non-display / incorrect display of licence plates
- Non-display of roof sign / door signs
- Display of roof/taxi sign on vehicle other than a hackney carriage
- Abusive/improper behaviour
- Injuring or endangering any person or property through wanton and furious driving or other wilful misconduct
- Driver improperly attired
- Touting
- Misuse of taxi ranks (obstructing or hindering other driver, preventing hiring)
- Hackney carriage driver refusing fare from taxi rank
- Private hire vehicle stopping on taxi rank
- Leaving hackney carriage unattended in public place
- Carrying excessive number of passengers
- Failing to deliver lost property to police station
- Obstruction of authorised officer or constable
- Making false statement to authorised officer or constable
- Making a false statement in connection with a licence or application
- Exceeding recommended safe working hours (as set out in the adopted code)
- Not carrying a fire extinguisher and/or first aid kit

### **Police infractions**

In addition to work undertaken by council officers, police officers may issue warnings which will have the same effect under this policy, for any of the above infractions, or for the following general violations:

- Minor offences under Road Traffic Acts in respect of a hackney carriage or private hire vehicle
- Minor offences under the Road Vehicles (Construction and Use) Regulations in respect of a hackney carriage or private hire vehicle
- Minor public order offences in the course of use of a hackney carriage or private hire vehicle

In all cases, issue of a warning under this scheme by a police officer shall represent an alternative disposal option, and police shall retain the right to instead utilise any other disposal method (e.g. fixed penalty notice or legal proceedings) for any applicable offence where deemed appropriate.

### **Excluded offences**

The following offences are deemed sufficiently serious that they will be excluded from this policy, with prosecution or Committee referral likely to result from a single incident:

- Plying for hire without HCV licence (or driving or standing for hire)
- Using an unlicensed vehicle for private hire
- Driving a licensed vehicle without a valid HC/PH driver's licence
- Employing an unlicensed driver to drive a licensed vehicle
- Operating unlicensed vehicles, or operating vehicles without an operator's licence
- Refusing to accept booking to carry disabled passenger, or passenger with assistance dog



## Appendix 4 – Code of Good Practice for Licensed Drivers' Working Practices

### About this Code

Licensed taxi and private hire drivers are exempt from the requirements set out by the EU Working Time Directive. As a consequence, there is no statutory national standard for acceptable and safe working hours for licensed drivers.

Excessive working hours can cause fatigue which can place the health and safety of drivers, passengers and other road users at risk.

This code is a guide for licensed operators, vehicle proprietors and licensed drivers alike, to make sure that everyone understands what fatigue is, how it can affect the safety of drivers and their passengers and what the council's expectations are for safe working practices in the trade.

It sets out a number of minimum standards regarding fatigue management and hours of work. In the absence of any specific legislation, these serve as benchmarks against which the council will measure the fitness and suitability of drivers and operators.

### Recommended hours of work

The UK Government recommends the following safe working time for passenger-carrying vehicles and drivers:

#### Obligation on licensed drivers

- You must not work more than 16 hours between the times of starting and finishing work **including non-driving work and any times when you're off (rest breaks).**
- After 5 hours 30 minutes of driving you must take a break of at least 30 minutes for rest and refreshment.
- You must take a rest of 10 hours before the first duty and immediately after the last duty in a working week.
- You must take a rest of at least 10 hours between 2 working days
- All duties must start and finish within a 24-hour period.
- Every 2 weeks you must take at least one period of 24 hours off duty
- Hackney Carriage drivers should keep a record of their hours of work through whatever practical means and present this to authorised council officers on request within a reasonable timescale. The council will not prescribe the format but expects as a minimum the records to include dates and working times for that date.

#### Obligations on licensed operators

- Operators shall, as far as is reasonably practical, have procedures in place to ensure that all licensed drivers do not work in excess of the maximum hours outlined in the recommended hours of work.

- Operators shall, as far as is reasonably practicable, have plans in place to ensure that all their drivers are fit to work at the start of their shift (ie. they are not fatigued).
- Operators shall on request provide authorised council officers records of private hire working hours as recorded on the dispatch system.

### **Indicators of fatigue**

- Not feeling refreshed after sleep
- Falling asleep at work
- Loss of concentration at work, leading to increased errors or lack of awareness of danger (eg. drifting out of lane when driving)
- Poor visual perception - even hallucinations - in poor light/weather conditions
- The need for extended sleep during days off
- The need for frequent naps in leisure time

### **Ways to avoid fatigue**

- Ensure you take plenty of rest breaks
- Avoid extended reliance on artificial aids such as loud radios, bright lights or “blowby” air-conditioners
- Don't rely on the prolonged use of stimulants such as caffeine drinks or drugs.
- If you feel sleepy, stop work and take a 20-minute “power nap”. If this does not work then go home and get some proper rest
- If you “nodded off” in your vehicle for any length of time, stop work immediately and get some rest
- When switching from day to night shifts (or vice-versa) take a 24-hour break in between
- Get 7.5 hours quality sleep every 24 hours



## Cheltenham Borough Council

## Cabinet – 12 September 2017

## Discretionary Power to accommodate Rough Sleepers

|                                 |  |
|---------------------------------|--|
| <b>Accountable member</b>       | <b>Councillor Peter Jeffries – Cabinet Member Housing</b>  |
| <b>Accountable officer</b>      | <b>Martin Stacy – Lead Commissioner Housing Services and Waste</b>   |
| <b>Ward(s) affected</b>         | <b>All</b>   |
| <b>Key/Significant Decision</b> | <b>No</b>  |
| <b>Executive summary</b>        | <p>Since 2012 the council has commissioned an assertive outreach service to combat rough sleeping in Cheltenham. The purpose of this service is to engage with rough sleepers in order to get them back on the pathway to independent living. Although there have been many successful outcomes, it has been noticeable that over the past 2 years there has been a significant rise in rough sleeping in Cheltenham. This rise is not unique to Cheltenham: rough sleeping has increased nationally by an estimated 134% since 2010.</p> <p>In November 2016 an Overview and Scrutiny working group was established to look into the rise in rough sleeping and street begging and in February 2017 Cllr Jeffries lived on the streets of Cheltenham for 72 hours to experience first-hand some of the challenges and conditions people who are sleeping on the streets face.</p> <p>This led to a Cabinet report dated 11<sup>th</sup> April 2017 to approve a new way of working with the police in order to reduce anti-social behaviour in the town through the introduction of Solace. Solace is an initiative between the council and the police to tackle anti-social behaviour. It works by supporting individuals to take responsibility for their actions, encouraging them to engage with a range of support services that are available, whilst challenging those who don't.</p> <p>The purpose of the report going to Cabinet today is to seek approval to extend the support options further, by focussing on a particular group of rough sleepers for whom the current range of accommodation options are relatively restricted.</p> |
| <b>Recommendations</b>          | <p><b>To endorse the council's use of its discretionary power under section 192 of the Housing Act 1996 to secure accommodation for rough sleepers on the terms proposed within the body of this report, initially as a pilot for six months, commencing Monday 2<sup>nd</sup> October.</b></p> <p><b>To note that the Cabinet Member – Housing will be delegated authority by the Leader to approve the continuation (or otherwise) of the council's use of this discretionary power, following the review of this pilot towards the end of the six month period.</b></p>   |

|  |  |
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| <b>Financial implications</b>  | <p>The report estimates there are relatively few rough sleepers with little or no support needs. Where possible, they will be accommodated within the council's existing stock of temporary accommodation. If this is not available, Bed and Breakfast (B&amp;B) accommodation will be used. Temporary accommodation costs are likely to be funded by Housing Benefit, with the balance of any B&amp;B cost met from the existing Housing Options Budget - as is the case currently for homeless B&amp;B placements. It is noted that this initiative will be implemented as a 6 month pilot. This will provide officers with the opportunity to fully consider the actual impact before a decision is taken on whether or not to continue with the initiative.</p> <p><b>Contact officer: Keith Saunders,</b><br/> <b>keith.saunders@cheltenham.gov.uk, 01242 264124</b></p>  |
| <b>Legal implications</b>  | <p>The primary duty under the Housing Act 1966 applies to applicants who have a priority need for accommodation as defined in the Act. There is also a discretionary power under s192 of the Act (introduced by the Homelessness Act 2002) to secure accommodation for those who are unintentionally homeless and not in priority need.</p> <p>Use of the discretionary power to assist a person who is not in priority need does not then give rise to a full housing duty towards that person; accommodation might perhaps be provided for a limited period to give them the opportunity of securing alternative housing. The applicant should be made aware that accommodation is being secured for them on that basis.</p> <p>In considering the use of the power to secure accommodation, regard must be had to the legitimate expectations of others in housing need who have applied for an allocation of housing because of priority need, as well as to the Human Rights Act.</p> <p>Alongside the power to secure accommodation, there is a duty under s 192 of the Act to ensure that the applicant is provided with advice and assistance in any attempts they themselves may make to secure that accommodation becomes available for their occupation.</p> <p><b>Contact officer: peter.lewis@teWKesbury.gov.uk, 01684 272012</b></p> |
| <b>HR implications (including learning and organisational development)</b> | <p>None as a direct result of this report.</p> <p><b>Contact officer: Carmel Togher,</b><br/> <b>carmel.togher@cheltenham.gov.uk, 01242 775215</b></p>   |
| <b>Key risks</b>   | <p><b>Please see risk register at Appendix 1.</b></p>  |
| <b>Corporate and community plan Implications</b>                           | <p>This will support our community outcome: people live in strong, safe and healthy communities</p>  |
| <b>Environmental and climate change implications</b>                       | <p>None as a direct result of this report.</p>   |

|                                    |   |
|------------------------------------|---|
| <b>Property/Asset Implications</b> | <p>None as a direct result of this report. Accommodation will be from existing stock of temporary, furnished accommodation within council-owned stock.</p> <p><b>Contact officer: David Roberts@cheltenham.gov.uk</b></p> |
|------------------------------------|---|

## 1. Background

- 1.1 Since 2012 the council has commissioned an assertive outreach service to combat rough sleeping in Cheltenham. The purpose of this service is to engage with rough sleepers in order to get them back on the pathway to independent living. Although there have been many successful outcomes, it has been noticeable that over the past 2 years there has been a significant rise in rough sleeping in Cheltenham. This rise is not unique to Cheltenham: rough sleeping has increased nationally by an estimated 134% since 2010.
- 1.2 In November 2016 an Overview and Scrutiny working group was established to look into the rise in rough sleeping and street begging. This led to a Cabinet report dated 11<sup>th</sup> April 2017 to approve a new way of working with the police in order to reduce anti-social behaviour in the town through the introduction of Solace. Solace is an initiative between the council and the police to tackle anti-social behaviour. It works by supporting individuals to take responsibility for their actions, encouraging them to engage with a range of support services that are available, whilst challenging those who don't.
- 1.3 The purpose of the report going to Cabinet today is to seek approval to extend the support options further by focussing on a particular group of rough sleepers for whom the current range of accommodation options are relatively restricted.

## 2. Reasons for the recommendation.

- 2.1 Most rough sleepers have support needs. Many have complex needs. The traditional pathway into independent accommodation for most rough sleepers has therefore been via Accommodation Based Support (commissioned by Gloucestershire County Council and delivered in Cheltenham by a number of providers, such as Stonham Housing Association and the YMCA). Access into Accommodation Based Support is supported by a range of services, notably the Assertive Outreach Service (currently provided by P3) whose role is to work with rough sleepers until they are ready to engage with support services and are able to access accommodation.
- 2.2 This pathway works well for many rough sleepers with support needs; however there are a small number of rough sleepers who have little or no support needs, and for whom accommodation based support is not an option. It is this group that the council is proposing to provide greater assistance towards.
- 2.3 At present, there is no duty on the council to house rough sleepers with little or no support needs. That duty will only arise if a household meets certain, defined tests. Rough sleepers with little or no support needs are unlikely to satisfy one of the key tests: the 'priority need' test, on the basis that they are unlikely to be deemed sufficiently 'vulnerable' – a relatively high-threshold test, defined by case law. Instead, the council's duty is to provide advice and assistance in any attempts the rough sleeper may make in finding alternative housing for themselves. While some rough sleepers with little or no support needs can (and do) secure alternative accommodation in this way, there is a risk that if they fail to do this quickly, then they may slip into a downward spiral of increasing support needs. It is with this in mind that the council wishes to take preventative action and to invoke our power to accommodate rough sleepers who are not in priority need and who are not intentionally homeless. We will seek to do this by utilising the council's own stock of temporary accommodation; though where this is not possible Bed and Breakfast will be used. To enable move-on from temporary accommodation, all homelessness prevention options will be explored, and opportunities will be given to enable individuals to access social housing via the council's allocations scheme.

- 2.4** An analysis of the Assertive Outreach Services (both currently with P3, and previously with Cheltenham Housing Aid Centre) show that approximately 10-15% of rough sleepers have little or no support needs. The number of rough sleepers presenting to the Assertive Outreach services (CHAC) over the two year period to the end of December 2016 was 37 in year 1 and 38 in year 2. This means that the council could expect to assist approximately 4-6 rough sleepers with little or no support needs in any given year. However, given that these are only estimates of need, it is appropriate to pilot this initiative for a period of six months in order to fully consider any unanticipated impacts arising as a result of the council's decision to use its discretionary power.

**3. Entrenched Rough Sleepers**

Whilst outside the scope of this report, it should be noted that there is a further group of rough sleepers for whom the current pathway into independent accommodation is not working as well as it could. These rough sleepers are those that in the main have become entrenched (i.e. long term, repeat rough sleepers). Following a successful bid from the 6 districts within Gloucestershire (along with the Clinical Commissioning Group) for approximately £1million, a new type of service is to be funded to support these entrenched rough sleepers. This funding is held by Gloucester City Council on behalf of all the districts, and it is anticipated that the service will be jointly commissioned and rolled out across the county by the end of this year, subject to any necessary approvals being given by this council.

**4. Alternative options considered**

- 4.1** To continue with the current approach, with the council not exercising its power to accommodate rough sleepers with little or no support needs. This is not our preferred option. Rough sleeping is at the sharp end of homelessness, and as such, we consider that it is appropriate to explore the use of our powers as detailed within this report.

**5. Consultation and feedback**

- 5.1** A working group was set up between the council's Lead Commissioner – Housing Services, Housing Strategy and Enabling Officer, Public & Environmental Health Team Leader, Cheltenham Borough Homes' Head of Neighbourhood Services and Cheltenham Borough Homes' Housing Options Manager. This group has reviewed the existing pathways and gaps, and support this recommendation to Cabinet.

**6. Performance management –monitoring and review**

- 6.1** Any outcomes and resource impacts arising from the use of this power will be monitored and reviewed regularly between the council and Cheltenham Borough Homes, and used to inform the Cabinet Member – Housing's decision over whether to continue with this initiative at the end of the pilot.

|                               |   |
|-------------------------------|---|
| <b>Report author</b>          | <b>Contact officer: Martin Stacy, Lead Commissioner – Housing Services and Waste</b><br><br><b>martin.stacy@cheltenham.gov.uk,</b><br><br><b>01242 775214</b> |
| <b>Appendices</b>             | 1. Risk Assessment<br><br>2. Community Impact Assessment  |
| <b>Background information</b> | 1. None   |

| The risk  |   |              |             | Original risk score<br>(impact x likelihood) |                |       | Managing risk |  |           |                                       |                              |
|-----------|---|--------------|-------------|--|----------------|-------|---------------|--|-----------|---------------------------------------|------------------------------|
| Risk ref. | Risk description  | Risk Owner   | Date raised | Impact 1-5                                   | Likelihood 1-6 | Score | Control       | Action   | Deadline  | Responsible officer                   | Transferred to risk register |
|           | If the council exercises its power to accommodate rough sleepers who are not in priority need, then there may not be sufficient capacity/resource within the Housing Options Service to cope with demand. | Martin Stacy | 18.5.17     | 3  | 4              | 12    | Reduce        | <p>The power to accommodate will only be triggered once the Housing Options team has completed its enquiries and is satisfied that the applicant is homeless, not in priority need, and is unintentionally homeless. Only one reasonable offer of suitable accommodation will be made.</p> <p>Priority will continue to be given to families requiring the council's temporary furnished accommodation. In the absence of furnished accommodation being available for rough sleepers, emergency bed and breakfast will be used and financed through Housing Benefit.</p> <p>Rough sleepers qualifying for assistance under the</p> | July 2017 | Paul Tuckey, Cheltenham Borough Homes |                              |

|  |   |              |         |   |   |    |        |   |           |  |  |
|--|---|--------------|---------|---|---|----|--------|---|-----------|--|--|
|  |   |              |         |   |   |    |        | discretionary power will also qualify for the full range of homelessness prevention options available.<br><br>The initiative will be piloted for the first 6 months so that a fuller understanding is gained as to how existing resources are affected. |           |  |  |
|  | If the council exercises its power to accommodate rough sleepers who are not in priority need, then this may lead to rough sleepers from neighbouring districts seeking accommodation from the council.                         | Martin Stacy | 18.5.17 | 3 | 4 | 12 | Reduce | The power to accommodate will be triggered only for rough sleepers with a local connection to the council, as defined by s.198 of the Housing Act.  | July 2017 | Paul Tuckey, Cheltenham Borough Homes  |  |
|  | If the council exercises its power to accommodate rough sleepers who are non-priority then it may raise expectations of other applicants, and potentially lead to increased levels of legal challenge on non-priority decisions | Martin Stacy | 19.6.17 | 2 | 5 | 10 | Reduce | Expectations will be managed through the Housing Options Service, with clarity provided to relevant agencies through the council's Housing & Support Forum.   | Ongoing   | Paul Tuckey, Cheltenham Borough Homes. |  |
|  | If rough sleepers are accommodated in the council's stock of temporary accommodation, this may prevent/reduce the ability of other homeless households to   | Martin Stacy | 19.6.17 | 2 | 6 | 12 | Reduce | Housing Options Service will look to direct match rough sleepers accommodated in the council's stock of temporary   | Ongoing   | Paul Tuckey, Cheltenham Borough Homes  |  |

|   |                            |  |  |  |  |  |  |  |         |              |  |
|---|----------------------------|--|--|--|--|--|--|--|---------|--------------|--|
|   | access this accommodation. |  |  |  |  |  |  | <p>accommodation in order to facilitate move-on. Households who unreasonably refuse an offer of suitable alternative settled accommodation will cease to be assisted under the discretionary power.</p> <p>Attempts will be made to find alternative housing solutions, other than the provision of temporary accommodation, through homeless relief/prevention initiatives.</p> <p>The provision of more temporary accommodation could be made available.</p> | Ongoing | Martin Stacy |  |
|   |                            |  |  |  |  |  |  |  |         |              |  |
| <p><b>Explanatory notes</b></p> <p><b>Impact</b> – an assessment of the impact if the risk occurs on a scale of 1-5 (1 being least impact and 5 being major or critical)</p> <p><b>Likelihood</b> – how likely is it that the risk will occur on a scale of 1-6 (1 being almost impossible, 2 is very low, 3 is low, 4 significant, 5 high and 6 a very high probability)</p> <p><b>Control</b> - Either: Reduce / Accept / Transfer to 3rd party / Close</p> |                            |  |  |  |  |  |  |  |         |              |  |





## Community impact assessments – for services, policies and projects

### What is a community impact assessment?

A community impact assessment is an important part of our commitment to delivering better services for our communities. The form will help us find out what impact or consequences our functions, policies, procedures and projects have on our communities, as well as employees and potential employees.

By undertaking an impact assessment, we are able to:

- Take into account the needs, experiences and circumstances of those groups of people who use (or don't / can't use) our services.
- Identify any inequalities people may experience.
- Think about the other ways in which we can deliver our services which will not lead to inequalities.
- Develop better policy-making, procedures and services.

### Background

|  |  |
|--|--|
| <b>Name of service / policy / project and date</b>   | <b>Discretionary Power to Accommodate Rough Sleepers with little or no support needs</b>                                       |
| <b>Lead officer</b>                                  | <b>Martin Stacy, Lead Commissioner Housing Services and Waste</b>  |
| <b>Other people involved in completing this form</b> | <b>This assessment has been completed in consultation with Paul Tuckey, Housing Options Manager, Cheltenham Borough Homes.</b> |

## Step 1 - About the service / policy / project

|  |  |
|--|--|
| <b>What is the aim of the service / policy / project and what outcomes is it contributing to</b>           | The aim of this service is to extend the range of housing options for rough sleepers with little or no support needs, by making available for them the use of temporary accommodation  |
| <b>Who are the primary customers of the service / policy / project and how do they / will they benefit</b> | Rough sleepers with little or no support needs will potentially benefit from the provision of accommodation.   |
| <b>How and where is the service / policy / project implemented</b>   | The services will be implemented through the council's Housing Options Service, which is managed on the council's behalf by Cheltenham Borough Homes.  |
| <b>What potential barriers might already exist to achieving these outcomes</b>                             | Lack of knowledge amongst rough sleepers and agencies that the council is piloting the use of its discretionary power to accommodate rough sleepers in temporary accommodation. We will seek to overcome this by ensuring that the Housing Options Team and the council communicate the implementation of this initiative through relevant channels, including Cheltenham's Housing and Support Forum, which is made up of a wide range of housing and support agencies across Cheltenham. |

## Step 2 – What do you know already about your existing / potential customers

|   |   |
|---|---|
| <b>What existing information and data do you have about your existing / potential customers e.g. Statistics, customer feedback, performance information</b> | Assertive Outreach Services (currently P3, and previously Cheltenham Housing Aid Centre) estimate that approximately 10-15% of rough sleepers have little or no support needs. The number of rough sleepers presenting to the Assertive Outreach service (CHAC) over the two year period to the end of December 2016 was 37 in the first year and 38 in the second. This suggests that the number of rough sleepers who will present to the Housing Options Service with little or no needs is likely to be around 4-6/year. However, given that this is only an estimate of need, it is appropriate to pilot this initiative for a period of six months in order to fully consider any unanticipated impacts arising as a result of the council's decision to use its discretionary power. |
| <b>What does it tell you about who uses your service / policy and those that don't?</b>   | Rough sleepers with little or no support needs are currently entitled to receive advice and assistance from the Housing Options service in helping them to find accommodation for themselves. Whilst some rough sleepers with little or no needs can and do find their own accommodation in this way, there is a risk that if they fail to do this quickly, then they may slip into a downward spiral of increasing support needs. It is with this in mind that the council wishes to take preventative action and to invoke our power to accommodate rough sleepers who are not in priority need and who are not intentionally homeless.   |
| <b>What have you learnt about real barriers to your service from any consultation with customers and any stakeholder groups?</b>                            | An understanding about the potential gaps in service has been highlighted during the monitoring of CHAC's delivery of the council's assertive outreach service. The focus of the assertive outreach service to get rough sleepers to engage with mainstream services again and ultimately to get them back on the pathway to independent living. Most rough sleepers have support needs and are able to access accommodation-based support, but for those without support needs their housing options are fewer as they have no automatic right to  |



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|   |                |
|---|----------------|
|   | accommodation. |
| If not, who do you have plans to consult with about the service / policy / project? | See above      |

### Step 3 - Assessing community impact

How does your service / policy / project impact on different groups in the community?

| Group   | What are you already doing to benefit this group   | What are you doing that might disadvantage this group  | What could you do differently to benefit this group                                  | No impact on this group |
|---|--|--|--|-------------------------|
| <b>People from black and minority ethnic groups</b> | Tailored housing advice and assistance will be given. Should accommodation be offered, this will seek to take account of individual needs. | The provision of accommodation for rough sleepers with little or no support needs may place additional pressures on our existing supply of temporary accommodation, with the result that other households may have to wait longer for suitable housing, or be housed in less suitable conditions in the short term. However, estimates of need from rough sleepers with little or no support requirements are understood to be relatively low. Furthermore, any impact arising from the provision of accommodation for rough sleepers will be monitored as part of a 6 month pilot before a final decision is taken over whether or not to use this discretionary power for the longer term. | n/a – housing advice and assistance is tailored to meet the needs of the individual. | n/a                     |
| <b>Gender</b>                                       | As above   | As above   | As above   | n/a                     |
| <b>Gender Reassignment</b>                          | As above   | As above   | As above   | n/a                     |

|  |          |  |          |     |
|--|----------|--|----------|-----|
| <b>Older people / children and young people</b>              | As above | As above, with the addition that for families, priority will continue to be given to homeless families with dependent children when allocating households into the council's own supply of temporary accommodation.<br>(Regulations require the council should not accommodate families in B&B for more than 6 weeks, so alternative temporary accommodation needs to be available). | As above | n/a |
| <b>People with disabilities and mental health challenges</b> | As above | As for the top entry   | As above | n/a |
| <b>Religion or belief</b>                                    | As above | As for the top entry   | As above | n/a |
| <b>Lesbian, Gay and Bi-sexual people</b>                     | As above | As for the top entry   | As above | n/a |
| <b>Marriage and Civil Partnership</b>                        | As above | As for the top entry   | As above | n/a |
| <b>Pregnancy &amp; Maternity</b>                             | As above | As for the top entry, with the addition that priority will continue to be given to those who are pregnant when allocating households into the council's own supply of temporary accommodation.   | As above | n/a |
| <b>Other groups or communities</b>                           | As above | As for the top entry   | As above | n/a |



## Step 4 - what are the differences

|   |  |
|---|--|
| <b>Are any groups affected in different ways to others as a result of the service / policy / project?</b>           | Rough sleepers who are not in priority need will benefit from the council's use of its discretionary power to accommodate, whereas households who are homeless (e.g. those who are living in insecure accommodation and who are not rough sleeping) will be advised and assisted in the normal way (i.e. in line with the council's statutory duties). |
| <b>Does your service / policy / project either directly or indirectly discriminate?</b>                             | The use of this discretionary power, whilst benefiting rough sleepers with little or no needs, will put additional pressure on the existing supply of temporary accommodation, with the result that other households who are entitled to assistance may have to wait longer for alternative accommodation.   |
| <b>If yes, what can be done to improve this?</b>  | Whilst it is estimated that the impact will be fairly minimal, it is appropriate to pilot this initiative for an initial 6 months and then to take a decision about how appropriate it is to continue with the initiative once more detailed intelligence about impacts are known.   |
| <b>Are there any other ways in which the service / project can help support priority communities in Cheltenham?</b> | Efforts will be made to house rough sleepers through other means, such as the private rented sector, in order than any potential impact on the supply of the council's temporary accommodation is minimised.   |

## Step 5 – taking things forward

|   |   |
|---|---|
| <b>What are the key actions to be carried out and how will they be resourced and monitored?</b> | <ul style="list-style-type: none"> <li>• Communication of the outcome of the decision to housing options team and all relevant agencies dealir with rough sleepers. This will be done through a variety of mechanisms, including via Cheltenham's Housing and Support Forum, which is a partnership of advice and support providers.</li> <li>• Ensuring advice and assistance to rough sleepers capture what has been approved by cabinet. In providing this advice, Housing Options team must have regard to the risks and activities detailed with the risk register at appendix 1 of the cabinet report.</li> <li>• An understanding of outcomes, outputs and resource implications arising from the implementation of this initiative will need to be agreed and monitored throughout this six month pilot.</li> </ul> |
| <b>Who will play a role in the decision-making process?</b>                                     | Cheltenham Borough Homes' Housing Options Manager and the council's Lead-Commissioner – Housing Services will consider the outcomes, outputs and resource implications; and these will be used to inform the Cabinet Member – Housing's decision over whether to continue with the initiative at the end of the six month pilot.  |
| <b>What are your / the project's learning and development needs?</b>                            | Whilst an estimate of need is understood, consideration will need to be given to any actual impact on resources during the running of this pilot.   |
| <b>How will you capture these actions in your service / project planning?</b>                   | Implementation of this initiative and the monitoring of outcomes, etc. will be captured as part of the regular Housing Options liaison meetings between the council and Cheltenham Borough Homes.   |





## Cheltenham Borough Council Cabinet – 12 September 2017 Discretionary Business Rate Reliefs

|                                 |   |
|---------------------------------|---|
| <b>Accountable member</b>       | <b>Councillor Rowena Hay, Cabinet Member Finance</b>  |
| <b>Accountable officer</b>      | <b>Jayne Gilpin, Head of Revenues and Benefits</b>  |
| <b>Ward(s) affected</b>         | <b>All</b>  |
| <b>Key/Significant Decision</b> | <b>Yes</b>  |
| <b>Executive summary</b>        | <p>At the Spring Budget, the Government announced three separate relief schemes to help business ratepayers facing large increases in bills as a result of the 2017 revaluation of business premises. The three schemes are</p> <ul style="list-style-type: none"> <li>• Supporting Small Businesses. A cap will be applied to businesses coming out of small business rate relief to limit the increase in rates payable to no more than £600, or £50 per month in 2017/18.</li> <li>• Relief for Pubs. A discount of £1,000 will be available to pubs with a rateable value of less than 100,000 in 2017/18.</li> <li>• Local Revaluation Support Scheme. A fund of £271,000 has been made available to the Council in 2017/18 to design its own local relief scheme for businesses most affected by increased rates bills.</li> </ul> <p>Approval is being sought to award these reliefs using discretionary powers introduced by the Localism Act. The first two reliefs are to be awarded in accordance with the Government set criteria and will be fully funded. The proposed criteria for the Local Revaluation Support Scheme is detailed in appendix 2.</p> |
| <b>Recommendations</b>          | <p><b>Cabinet is recommended to</b></p> <ol style="list-style-type: none"> <li><b>1. Approve a local discretionary revaluation support scheme for 2017/18 as set out in appendix 2</b></li> <li><b>2. Approve the relief scheme for pubs to be awarded in accordance with the detailed guidance in appendix 3</b></li> <li><b>3. Approve the Supporting Small Businesses relief scheme to be awarded in line with the detailed guidance in appendix 3</b></li> <li><b>4. Due to the volume of cases delegate decisions relating to the application of these reliefs to the Head of Revenues and Benefits and officers in the Business Rates team. In the case of a dispute a reconsideration is to be made by the Chief Finance Officer in consultation with the Cabinet Member Finance</b></li> </ol>  |

|  |  |
|--|--|
| <b>Financial implications</b>  | <p>As detailed within the report and appendices. Central Government will fully fund the revenue lost due to these reliefs (discount for pubs and relief for businesses losing small business rate relief), provided the Council uses its powers to grant relief in accordance with the guidance.</p> <p>With regards to local revaluation support, the Government has allocated a specific sum of money to billing authorities for each of the four years 2017/18 to 2020/21 to fund a locally designed relief scheme as set out in para 1.4.</p> <p><b>Contact officer: Paul Jones</b><br/> <b>paul.jones@cheltenham.gov.uk, 01242 775154</b></p>   |
| <b>Legal implications</b>  | <p>The Council has statutory power to award discretionary rate relief under: S44A</p> <p>S47 (as amended by S69 of the Localism Act 2011),</p> <p>S49 of the Local Government Finance Act 1988 and,</p> <p>S42A &amp; S42B of the Local Government &amp; Rating Act 1997.</p> <p>With the exception of S44a relief, the Council cannot grant discretionary relief in respect of 'excepted hereditaments'. An 'excepted hereditament' is one where the Council or precepting authority would be liable to pay the rates. Additionally, case law has established that, where a discretionary power exists, it must be applied fairly and not arbitrarily.</p> <p><b>Contact officer: donna.marks@teWKesbury.gov.uk, 0168427068</b></p> |
| <b>HR implications (including learning and organisational development)</b> | There are none associated with this report   |
| <b>Key risks</b>   | <b>See appendix 1</b>  |
| <b>Corporate and community plan Implications</b>                           | None   |
| <b>Environmental and climate change implications</b>                       | None   |
| <b>Property/Asset Implications</b>   | <p>There is nothing in this report which impacts on council properties</p> <p><b>Contact officer: David Roberts@cheltenham.gov.uk</b></p>  |

## 1. Background

- 1.1 In the spring budget the Government announced three new relief schemes to support businesses facing the steepest increases in their business rates bills as a result of the revaluation of business premises from April 2017.
- 1.2 As these reliefs are a temporary measure, the government is not changing business rates legislation; it expects billing authorities to use their discretionary relief powers under section 47 of the Local Government Finance Act 1988 to grant relief.
- 1.3 The Government has set the conditions which must be met for the discount for pubs and relief for businesses losing small business rate relief. It will fully fund the revenue lost due to these reliefs, provided the Council uses its powers to grant relief in accordance with the guidance.
- 1.4 With regards to local revaluation support, the Government has allocated a specific sum of money to billing authorities for each of the four years 2017/18 to 2020/21 to fund a locally designed relief scheme. This Council has been allocated the following amounts:

| Amount of discretionary fund awarded (£000s) |         |         |         |
|--|---------|---------|---------|
| 2017-18                                      | 2018-19 | 2019-20 | 2020-21 |
| 271  | 132     | 54      | 8       |

- 1.5 In addition, in line with the New Burdens doctrine, billing authorities will receive funding towards the administrative costs associated with the introduction of these relief schemes. Each authority will receive £12,000, with an additional payment due once rebilling costs can be established.
- 1.6 The Council can set its own qualifying conditions and the amount of relief to be awarded to local businesses, provided there has been an increase in the amount of business rates payable due to the revaluation.

## 2. Local Revaluation Support

- 2.1 Extensive modelling has been undertaken to identify business ratepayers who have faced increases in bills and establish how the funding should be distributed.
- 2.2 The proposed scheme is aimed at providing support to smaller local trading businesses. The core principles are as follows:
  - Relief will be available to businesses with rateable values of less than £200,000 and whose business rates bills (net of any existing reliefs) in 2017/18 have increased compared to 2016/17 by more than 3% or £50, whichever is the greater
  - Businesses occupying more than two properties anywhere in the UK will not be eligible. If a business occupies no more than two properties and both are in Cheltenham relief will be available in respect of both properties
  - Empty properties and properties in respect of which charitable, discretionary and community amateur sports club relief (CASC) applies will not be eligible for this relief
  - Larger national and multi-national businesses will not be eligible
  - To ensure the relief goes to trading businesses the following will not be eligible: educational establishments, sports centres, health centres/doctors surgeries and any

publicly funded organisation

- EU State Aid Regulations will apply which limits the amount of Aid an organisation can receive

- 2.3** These core principles will ensure that the funding is targeted to support as many smaller, local businesses as possible.
- 2.4** About 1,200 ratepayers already have nothing to pay due to receiving 100% small business rate relief and will not need help from this scheme.
- 2.5** Ratepayers qualifying for the national reliefs available for pubs and losing small business rate relief will also be eligible for this scheme. Eligibility will be assessed after the national reliefs have been applied.
- 2.6** The scheme will distribute the funding to eligible businesses in proportion to the increase in their rates bill.
- 2.7** The level of relief to be awarded is as follows:

| Increase in Rates Bill                | Relief          |
|---------------------------------------|-----------------|
| Above 3% or £50, whichever is greater | 50% of increase |

- 2.8** Based on the modelling undertaken it is estimated that just over £220,000 will be distributed to more than 300 businesses. The scheme is designed not to allocate all of the funding due to it being capped. This will leave some funding available to allocate to qualifying businesses not identified in the modelling or where circumstances may have changed since the modelling, or where properties are retrospectively entered on the rating list.
- 2.9** Many businesses that are likely to qualify have already been identified. In most cases revised bills will be issued to qualifying businesses without the need for application. Details of the scheme will be included and businesses will be asked to notify the business rates team if they are in breach of any of the conditions. Where it is not possible to clearly determine whether a business will qualify application forms will be issued.
- 2.10** Bills will also make it clear that the relief can be recalculated or cancelled in the event of the conditions no longer being met, a change in circumstances or change in rateable value.
- 2.11** Due to the volume of cases delegation is being sought for Officers in the Revenues team to make decisions on the award of reliefs based on the detailed criteria in appendix 2. Although there is no statutory right of appeal, where a decision is disputed it will be reconsidered by the Chief Finance Officer in consultation with the Cabinet Member Finance.
- 2.12** This scheme will apply to 2017/18 business rate bills. A review will be undertaken and a revised scheme will be formulated, based on the funding for future years, in time for 2018/19 bills being issued.

### **3. Relief for Pubs and Businesses losing Small Business Rate Relief**

- 3.1** A discount of £1,000 is available for pubs with a rateable value of up to 100,000 for 2017/18 only.

**3.2** The discount is to be awarded in line with the detailed guidance in Appendix 3 using the Council's discretionary powers. Sections 3 and 4 on State Aid and Administration in Appendix 2 will apply to this relief.

**3.3** 35 pubs have already been identified for this discount and revised bills have been issued.

#### **4. Supporting Small Businesses Relief**

**4.1** This relief is available to help those ratepayers who as a result of the revaluation have lost all or some of their small business rate relief and face large increases in bills.

**4.2** The supporting small businesses relief will ensure that ratepayers losing some or all of their small business rate relief will pay an increase limited to the greater of 5% or £600. The relief will be available for up to five years, reducing each year until the full rate bill is met.

**4.3** The relief is to be awarded in line with the detailed guidance in Appendix 3 using the Council's discretionary powers. Sections 3 and 4 on State Aid and Administration in Appendix 2 will apply to this relief.

#### **5. Alternative options considered**

**5.1** Funding is available for designing and implementing a local business rate relief scheme to businesses hardest hit by the impact of revaluation described in this report. If the policy is not approved and implemented the funding must be returned to the Government.

**5.2** With regards to the pubs and supporting small businesses relief, the Government expects billing authorities to grant these reliefs to qualifying ratepayers and will fully reimburse the Council for its share of the cost.

#### **6. Consultation and feedback**

**6.1** Gloucestershire County Council as a precepting authority receiving funding via the business rates retention system have been consulted through the countywide Chief Finance Officer group. The six billing authorities have worked collaboratively on designing the core principles for relief schemes which have been modified to take account of the size and type of properties and business rate payers in Cheltenham. The County Council is being kept informed of the final scheme.

#### **7. Performance management –monitoring and review**

**7.1** The number of businesses benefiting from these relief schemes and the total amount awarded will be monitored by the Head of Revenues and Benefits on a monthly basis. A summary position will be reported in the quarterly budget monitoring report.

**7.2** A review will be undertaken later this year with further modelling to design a revised scheme for future years based on the Government funding available.

|                      |  |
|----------------------|--|
| <b>Report author</b> | <b>Contact officer: Jayne Gilpin, Head of Revenues and Benefits</b><br><b>Jayne.gilpin@cheltenham.gov.uk,</b><br><b>01242 264323</b> |
|----------------------|--|

|                               |  |
|-------------------------------|--|
| <b>Appendices</b>             | <ol style="list-style-type: none"> <li>1. Risk Assessment</li> <li>2. Local Discretionary Business Rates Relief Schemes 2017/2018</li> <li>3. DCLG Business Rates information letter 4/2017 containing guidance in pubs and supporting small businesses relief</li> </ol>  |
| <b>Background information</b> | <ol style="list-style-type: none"> <li>1. Section 47 Local Government Finance Act 1988, as amended by clause 69 of The Localism Act 2011</li> <li>2. DCLG Business Rates information letter 4/2017 containing guidance in pubs and supporting small businesses relief.<br/> <a href="http://www.gov.uk/government/uploads/system/uploads/attachment_data/file/620750/BRIL_4-2017_Spring_Budget_update.pdf">www.gov.uk/government/uploads/system/uploads/attachment_data/file/620750/BRIL_4-2017_Spring_Budget_update.pdf</a> </li> </ol> |

| The risk  |   |            |             | Original risk score<br>(impact x likelihood) |                |       | Managing risk      |  |            |                     |                              |
|---|---|------------|-------------|--|----------------|-------|--------------------|--|------------|---------------------|------------------------------|
| Risk ref.   | Risk description  | Risk Owner | Date raised | Impact 1-5                                   | Likelihood 1-6 | Score | Control            | Action   | Deadline   | Responsible officer | Transferred to risk register |
| 1   | If the policy is not approved the funding will have to be returned to the government and local businesses will suffer                 | Paul Jones | 12/09/2017  | 2  | 1              | 2     | Accept             | Cabinet Approves the report recommendations  | 12/09/2017 | Jayne Gilpin        |                              |
| 2   | If more local revaluation support is awarded than the funding received from Government the council will be required to cover the cost | Paul Jones | 12/09/2017  | 2  | 3              | 6     | Accept and Monitor | The amount of relief available to businesses does not allocate all of the funding. Monitoring will be undertaken monthly |            | Jayne Gilpin        |                              |
|   |   |            |             |  |                |       |                    |  |            |                     |                              |
|   |   |            |             |  |                |       |                    |  |            |                     |                              |
|   |   |            |             |  |                |       |                    |  |            |                     |                              |
| <b>Explanatory notes</b><br><b>Impact</b> – an assessment of the impact if the risk occurs on a scale of 1-5 (1 being least impact and 5 being major or critical)<br><b>Likelihood</b> – how likely is it that the risk will occur on a scale of 1-6<br>(1 being almost impossible, 2 is very low, 3 is low, 4 significant, 5 high and 6 a very high probability)<br><b>Control</b> - Either: Reduce / Accept / Transfer to 3rd party / Close |   |            |             |  |                |       |                    |  |            |                     |                              |





**Cheltenham Borough Council Policy for  
Local Discretionary Business Rates Relief Schemes 2017/2018**

The policy sets out the Council's Local Discretionary Rate Relief Schemes for 2017/18 under section 47 of the Local Government Finance Act 1988, as amended.

**Section 1: Local Revaluation Support**

The revaluation support scheme will apply for the year 1<sup>st</sup> April 2017 to 31<sup>st</sup> March 2018, subject to Government funding being available. The support scheme will deliver business rate relief to qualifying ratepayers whose bills have increased due to the 2017 revaluation. The scheme will be reviewed and a new scheme adopted for 2018/19 provided funding arrangements continue.

**Qualifying Conditions**

Revaluation Support will only be awarded in respect of the rates payable for a property where the following conditions are met

- There has been an increase in the rates bill from 1<sup>st</sup> April 2017 compared to 2016/2017 bill, as a result of the 2017 revaluation
- The ratepayer must be in occupation and liable for business rates for the relevant property on 31<sup>st</sup> March 2017 and 1<sup>st</sup> April 2017
- The rateable value is less than 200,000
- The annual increase in rates bill for 2017/18 is more the £50.00 or 3% more, whichever is greater, when compared to the annual bill for 2016/17
- The property must be occupied, relief will not apply to empty properties
- The business must not occupy more than two properties anywhere in the UK. If a business occupies no more than two properties and both are in Cheltenham relief will be available in respect of both properties

Relief will not be awarded in the following circumstances

- The relevant property is empty or becomes empty
- The relevant property is not in the rating list on 31st March and 1st April 2017
- The ratepayer occupies the property on or after 1st April 2017
- The ratepayer is in receipt of mandatory, discretionary or CASC rate relief
- The rateable value is 200,000 or more, or increases to 200,000 or more
- New, split or merged properties in the rating list after 1st April 2017
- Where the rates payable increases due to the ratepayer ceasing to qualify for any other reliefs
- Where a business occupies more than two properties anywhere in the UK

- Educational establishments, sports centres, health centres/doctors surgeries and any publicly funded organisation will not be eligible

Relief will be recalculated in the following circumstances

- A change in rateable value in either the 2010 or 2017 rating lists
- The provision of a certificated value for the 2010 or 2017 rating list
- Any other reduction in the rates payable before revaluation support relief is applied
- Where there is an increase in rateable value after 1st April 2017 relief will not be awarded in respect of the rates payable attributable to the increase
- Any of the above conditions cease to be met

Revaluation support relief will apply to ratepayers receiving the national supporting small businesses and pub relief, provided the above conditions are met. Revaluation support will be calculated after the national reliefs have been applied

### How will relief be calculated

Revaluation support will be calculated on the 2017/18 rates payable after transitional protection and any other reliefs have been applied. The 2016/17 bill will be based on the charge at 31st March 2017. The amount of relief will be as follows

| Level of Increase                                 | Relief          |
|---|-----------------|
| Any increase over 3% or £50, whichever is greater | 50% of increase |

### Section 2: Relief for Pubs

A maximum discount of £1,000 will be awarded to pubs where the rateable value is less than 100,000 in line with the detailed guidance issued by the Department of Communities and Local Government. As this relief is for one year only it will end on 31<sup>st</sup> March 2018. State aid rules as detailed in section 4 will apply and the relief will be administered as detailed in Section 5.

### Section 3: Supporting Small Businesses Relief

Relief will be awarded to ratepayers losing some or all of their small business rate relief in line with the detailed guidance issued by the Department of Communities and Local Government. State aid rules as detailed in section 4 and will apply and the relief will be administered as detailed in section 5.

## Section 4: State Aid

The award of Supporting Small Businesses, Pubs and Revaluation Support Relief must comply with EU law on State Aid. Businesses applying for, or in receipt of, relief must advise the Council if they have received any other State Aid that exceeds, in total, €200,000 in a 3 year period, under the De Minimis Regulations EC 1407/2013. The total amount of State Aid received includes any other discretionary business rates reliefs being granted in respect of all properties for which the business is responsible. Further information on State Aid law can be found at <https://www.gov.uk/state-aid>.

## Section 5: Administration

- Cheltenham Borough Council will administer the schemes under The Local Government Finance Act 1988 as amended by The Localism Act 2011 and The Non-Domestic Rating (Discretionary Relief) Regulations 1989 (S.I. 1989/1059)
- Entitlement to Revaluation Support, Supporting Small Business Relief and Relief for Pubs will be dependent on the qualifying conditions being met. Relief will be recalculated or cancelled to reflect a change in circumstances, change to entries in Rating List, or any of the conditions cease to be met
- Decisions relating to the granting of reliefs will be delegated to the staff within the Revenues Service
- Reliefs may be granted automatically where information held on the business rate account confirms eligibility in line with the qualifying criteria. In these cases businesses will be asked to notify the council if they are in receipt of other State Aid
- Where sufficient information is not held businesses will be required to complete and submit an application form including a declaration in respect of State Aid
- There is no statutory right of appeal against a decision made by the Council in respect of Supporting Small Businesses, Pubs or Revaluation Support Relief. However, the Council will reconsider the decision if the ratepayer is dissatisfied with the outcome. The review will be carried out by the Chief Finance Officer in consultation with the Cabinet Member Finance
- If an unsuccessful applicant requests a reconsideration they will need to continue to pay their rates bill. Once the reconsideration has been carried out, the ratepayer will be informed, in writing, of the decision





Department for  
Communities and  
Local Government

Non-Domestic Rates Team  
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Fry Building  
2 Marsham Street  
London SW1P 4DF

20 June 2017

Email: [ndr@communities.gov.uk](mailto:ndr@communities.gov.uk)

**Chief Finance Officers of English Billing Authorities**

**FOR THE ATTENTION OF THE BUSINESS RATES SECTION**

Dear Chief Finance Officer

**Business Rates Information Letter (4/2017): Spring Budget Update**

This is the fourth business rates information letter to be issued by the Department for Communities and Local Government this year. Previous letters are available on the internet at:

<https://www.gov.uk/government/collections/business-rates-information-letters>

or for archived letters:

<http://webarchive.nationalarchives.gov.uk/20120919132719/http://www.communities.gov.uk/localgovernment/localgovernmentfinance/businessrates/busratesinformationletters/>.

- **Supporting Small Businesses**
- **New Discretionary Relief Scheme**
- **New Business Rate Relief Scheme for Pubs**

**Supporting Small Businesses**

At the Spring Budget, the Chancellor announced that a scheme of relief would be made available to those ratepayers facing large increases as a result of the loss of small business or rural rate relief. Initial terms for this scheme were published with the BRIL (2/2017) on 9 March 2017.

The transitional relief scheme does not provide support in respect of changes in reliefs. Therefore, those ratepayers who are losing some or all of their small business or rural rate relief may be facing very large percentage increases in bills from 1 April 2017.

On the 16 May a letter was sent to Chief Finance Officers, it included as an annex final guidance on the scheme to authorities about the operation and delivery of this policy for more complex cases. It includes full technical guidance to identify all eligible ratepayers for the duration of the scheme. For completeness, this guidance is attached at **Annex A**.

Local authorities are expected to have begun implementing this scheme for simple cases with the initial terms published on 9 March 2017, with a full rollout to all cases with the attached final terms.

### **Discretionary Relief Scheme**

At the Spring Budget, the Government announced the establishment of a £300m discretionary fund over four years from 2017/18 to support businesses in their area. 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

DCLG published a consultation of the design of the scheme and draft allocations to billing authorities on 9 March. Allocations were confirmed on 21 April in accordance with those draft allocations published as part of the consultation. On the 28 April the accompanying Grant Determination was also circulated to Chief Finance Officers. The allocations can be found at:

<https://www.gov.uk/government/consultations/discretionary-business-rates-relief-scheme>

The Government is grateful for all responses to the consultation, which ran until 7 April. Billing authorities have already begun developing their own discretionary schemes to deliver targeted support to the most hard-pressed ratepayers. For avoidance of doubt, the design and administration of schemes is for authorities to decide and does not necessarily need to follow the distribution methodology used in the consultation to determine allocations.

### **Support for Pubs**

At the Spring Budget, the Government also announced a new relief scheme for pubs that have a rateable value of below £100,000. Under the scheme, eligible pubs will receive a £1000 discount on their bill. The relief will have effect for 2017/18.

DCLG has worked with key industry stakeholders to determine the operation of the relief scheme for pubs. Many authorities have already begun the work to identify eligible pubs in their area and final guidance on the design and delivery of the scheme is attached at **Annex B**.

### **Administration of New Reliefs**

Billing authorities are expected to deliver the scheme through the use of their discretionary relief powers under section 47 of the Local Government Finance Act 1988, as amended. Billing authorities will be compensated through a Section 31 grant for the cost to the authority of granting the relief – up to a maximum amount based on the authority's allocation of the £300m fund. The grants will be made quarterly in arrears for the duration of the scheme.

We expect billing authorities to have communicated with ratepayers on the confirmed terms of the new schemes for relief covered by the BRIL (2/2017) and this BRIL (4/2017), including anticipated timescale for rebilling where necessary.

### **New Burdens**

DCLG recognises that implementing these schemes places additional burdens on billing authorities. In accordance with the New Burdens doctrine, the Department has conducted an assessment of the expected reasonable additional costs of new software and staffing/administration around rebilling affected ratepayers.

Full details of this funding will be published shortly so we encourage local authorities to continue to progress with this in mind.

### **Progress Review**

We are conducting a short, progress update survey for local authorities to update us on their work to date. We would be grateful for responses from local authorities by Friday 30 June 2017. The survey can be found at: [www.surveymonkey.co.uk/r/DCLG\\_Budget\\_2017](http://www.surveymonkey.co.uk/r/DCLG_Budget_2017)

In addition to this, the Department will undertake a wider data collection exercise to review the implementation of the schemes once underway. The Department will continue to liaise with local government stakeholders as to the form this will take and will confirm with local authorities in due course.

## **Supporting Small Businesses: Annex A**

### **About this Guidance**

1. This guidance is intended to support local authorities in administering the scheme of relief for properties losing some or all of their Small Businesses Rate Relief or Rural Rate Relief as a result of the 2017 Revaluation – known as “Supporting Small Business” relief. This Guidance applies to England only.
2. This guidance sets out the criteria which central government will use to determine funding relief for properties eligible for Supporting Small Businesses relief. The Guidance does not replace existing legislation on any other relief.
3. Enquiries on this measure should be addressed to:  
[ndr@communities.gsi.gov.uk](mailto:ndr@communities.gsi.gov.uk)



## Introduction

4. For 2016/17, eligible ratepayers<sup>1</sup> with a rateable value less than or equal to £6,000 are entitled to 100% small business rate relief. Those with a rateable value of between £6,000 and £12,000 enjoy tapered relief from 100% to 0%. Following the measures in the 2016 Budget, we are increasing these thresholds from 1 April 2017 to £12,000 for the 100% relief and £15,000 for the tapered relief. This ensures that most ratepayers currently entitled to small business rate relief will pay less or nothing following the revaluation. However, some ratepayers that are facing large increases in their rateable value will lose some or all of their small business rate relief.
5. For 2016/17 the sole post office, general store, pub or petrol station in rural settlements are (subject to rateable value thresholds) entitled to 50% rate relief. This is increasing to 100% relief from 1 April 2017. However, some ratepayers currently eligible for rural rate relief may lose that entitlement if their rateable value increases above the threshold due to the revaluation.
6. The transitional relief scheme does not provide support in respect of changes in reliefs. Therefore, those ratepayers who are losing some or all of their small business or rural rate relief may be facing large percentage increases in bills from 1 April 2017.
7. In the Spring Budget the Chancellor 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 or rural rate relief due to the revaluation. This document provides guidance to authorities about the operation and delivery of this policy.

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<sup>1</sup> Businesses with more than one property are only eligible for small business rate relief if their additional property or properties all have rateable values of under £2,600, and the total rateable value of all their properties are below £18,000 (£25,500 in London).

## How will the relief be provided?

8. The government is not changing the legislation around transitional relief<sup>2</sup>. Instead the government will, in line with the eligibility criteria for the Supporting Small Businesses scheme, reimburse billing authorities that use their discretionary relief powers, under section 47 of the Local Government Finance Act 1988, as amended<sup>3</sup>, to grant relief. Central government will fully reimburse local authorities for the local share of the Supporting Small Businesses relief (using a grant under section 31 of the Local Government Act 2003). In view of the fact that such expenditure will be reimbursed, the government expects billing authorities to grant Supporting Small Businesses relief to all qualifying ratepayers.
9. Central government will reimburse billing authorities and those major precepting authorities within the rates retention system for the actual cost to them under the rates retention scheme of the relief that falls within the definitions in this guidance. DCLG will also undertake a New Burdens assessment of the IT and administrative costs in local government associated with the Supporting Small Businesses scheme.

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<sup>2</sup> The Non-Domestic Rating (Chargeable Amounts) (England) Regulations 2016 No. 1265

<sup>3</sup> Section 47 was amended by the Localism Act 2011

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

10. This section describes in principle the Supporting Small Business Scheme. Local authorities should use the detailed guidance at section 2 to determine eligibility and calculate bills. 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 or rural rate relief and, as a result, are facing large increases in their bills.
11. To support these ratepayers, the Supporting Small Businesses relief will ensure that the increase per year in the bills<sup>4</sup> of these ratepayers is limited to the greater of:
  - a. a percentage increase p.a. of 5%, 7.5%, 10%, 15% and 15% 2017/18 to 2021/22 all plus inflation. Unlike the transitional relief scheme, 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 rural rate relief , or
  - b. a cash value of £600 per year (£50 per month). 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.
12. In the first year of the scheme, this means all ratepayers losing some or all of their small business rate relief or rural 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 are currently paying 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.
13. 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.
14. Ratepayers 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<sup>5</sup>. A change of ratepayers 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.

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<sup>4</sup> Prior to the Business Rates Supplement (2p for properties in London with a rateable value of more than £70,000) and City of London multiplier (which is 0.5p higher for all properties in London). The level of these supplements are unchanged at the revaluation but changes in the amounts paid through the supplements are outside the transitional relief scheme and the Supporting Small Businesses scheme.

<sup>5</sup> This will be the bill in the main transitional relief scheme.

15. There is no 2nd property test for eligibility for the Supporting Small Businesses relief scheme. However, those ratepayers who during 2016/17 lost entitlement to small business rate relief because they failed the 2nd property test but have, under the rules for small business rate relief, been given a 12 month period of grace before their relief ended can continue on the scheme for the remainder of their 12 month period of grace.
16. Guidance on eligibility and the value of the Supporting Small Businesses relief is at Section 2.

## Recalculations of relief

17. As with all reliefs, the amount of relief awarded under the Supporting Small Businesses relief scheme should be recalculated in the event of a change of circumstances. This could include, for example, a backdated change to the rateable value or the hereditament. This change of circumstances could arise during the year in question or during a later year.
18. The Non-Domestic Rating (Discretionary Relief) Regulations 1989 (S.I. 1989/1059)<sup>6</sup> require authorities 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, local authorities 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.
19. Therefore, when making an award for Supporting Small Businesses relief, local authorities should ensure in the conditions of the award that the relief can be recalculated in the event of a change to the rating list for the property concerned (retrospective or otherwise). This is so that the relief can be recalculated if the rateable value changes.

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<sup>6</sup> The Non-Domestic Rating (Discretionary Relief) Regulations 1989 No. 1059.

## State Aid

20. 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 the Supporting Small Businesses relief scheme will be State Aid compliant where it is provided in accordance with the De Minimis Regulations (1407/2013)<sup>7</sup>.
21. 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). Local authorities should familiarise themselves with the terms of this State Aid exemption, in particular the types of undertaking that are excluded from receiving De Minimis aid (Article 1), the relevant definition of undertaking (Article 2(2)<sup>8</sup>) and the requirement to convert the aid into Euros<sup>9</sup>. They should ensure each business has not exceeded its threshold through all sources of state funding<sup>10</sup>.
22. To administer De Minimis it is necessary for the local authority to establish that the award of aid will not result in the undertaking having received more than €200,000 of De Minimis aid. Note that the threshold only relates to aid provided under the De Minimis Regulations (aid under other exemptions or outside the scope of State Aid is not relevant to the De Minimis calculation). Where local authorities have further questions about De Minimis or other aspects of State Aid law, they should seek advice from their legal department in the first instance<sup>11</sup>.

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<sup>7</sup> <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2013:352:0001:0008:EN:PDF>

<sup>8</sup> The 'New SME Definition user guide and model declaration' provides further guidance:

[http://ec.europa.eu/enterprise/policies/sme/files/sme\\_definition/sme\\_user\\_guide\\_en.pdf](http://ec.europa.eu/enterprise/policies/sme/files/sme_definition/sme_user_guide_en.pdf)

<sup>9</sup> [http://ec.europa.eu/budget/contracts\\_grants/info\\_contracts/infoeuro/infoeuro\\_en.cfm](http://ec.europa.eu/budget/contracts_grants/info_contracts/infoeuro/infoeuro_en.cfm)

<sup>10</sup> Article 3(2) of the De Minimis Regulation

<sup>11</sup> Detailed State Aid guidance can also be found at:

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/15277/National\\_State\\_Aid\\_Law\\_Requirements.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/15277/National_State_Aid_Law_Requirements.pdf)

## Other Reliefs

23. Hereditaments eligible for charity or Community Amateur Sports Club relief or hereditaments which are unoccupied are not eligible for Supporting Small Businesses Relief. And, for the avoidance of doubt, small business rate relief or rural rate relief should not be applied to further reduce the bill found under Supporting Small Business relief (to avoid the double counting of relief – see the detailed rules in section 2). For example,
- a ratepayer eligible for Small Business Rate Relief whose rateable value has increased from £3,000 (paying £0 in 2016/17) to £14,000 would be paying the following in 2017/18 before Supporting Small Businesses relief:
    - Bill before reliefs: £6,524,
    - Bill after transitional relief: £1,555
    - Bill after Small Business Rate Relief (@1/3) £1.037.
  - After Supporting Small Business Relief the bill for 2017/18 would be reduced to £600. No further Small Business Rate Relief should be applied to the £600 bill.
24. 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 should not further reduce the bill found under the Supporting Small Business scheme.
25. All other discretionary reliefs, including those funded by section 31 grants, should be considered after the application of Supporting Small Businesses relief. Following discussions with local government stakeholders and their software providers, the expectation is that Supporting Small Businesses relief will be shown on the bill as an adjustment to the chargeable amount after any transitional relief – i.e. it will appear as a deduction.

## Compensation Arrangements

26. Central government will reimburse billing authorities and those major precepting authorities for the actual cost to them under the rates retention scheme of the Supporting Small Businesses relief. Local authorities will be asked to provide an estimate of their likely total cost for providing the relief in a one off estimate for 2017/18. Central government will then provide payments to local authorities for their share of the cost of the estimated relief for 2017/18. The final cost to local authorities will be calculated and reconciled following the NNDR3 for 2017/18.
27. Guidance for local authorities on how to calculate the value of the section 31 grant will be included in the guidance notes for completing the National Non-Domestic Returns (NNDRs). However, in line with the New Burden's principle, section 31 compensation will be calculated having regard to the additional costs on local government of awarding the relief (before any other section 47 reliefs). Therefore, the section 31 grant for Supporting Small Businesses should be calculated by:
  - a. taking the chargeable amount which would have applied for the hereditament after the transitional arrangements and other mandatory reliefs but before discretionary reliefs,  
  
and deducting
  - b. the chargeable amount found under the Supporting Small Business scheme before other discretionary reliefs.
28. The same principle will apply for calculation Transitional Protection Payments (TPPs) for the purposes of non-domestic rating income in the rates retention scheme. TPPs on NNDR1s and NNDR3s will be calculating ignoring the Supporting Small Businesses scheme.



## Section 2: Detailed guidance for operation of the Supporting Small Businesses (SSB) scheme

### Day 1 Eligibility for the Scheme

29. For 1 April 2017, the supporting small businesses (SSB) relief scheme applies to hereditaments for which<sup>12</sup>:
- a. the chargeable amount for 31 March 2017 is calculated in accordance with section 43(4B) or (6B),
  - b. in relation to 43(4B) the value of E for 31 March 2017 is greater than 1,
  - c. the chargeable amount for 1 April 2017 is found in accordance with section 43(4), 43(4B), 43(6A) or where regulations 12(3), 12(7) or 12(9) of the Non-Domestic Rating (Chargeable Amounts) (England) Regulations 2016 No. 1265 applies, and
  - d. the chargeable amount for 1 April 2017 is more than (£600/365) higher than the chargeable amount for 31 March 2017.
30. Where for 31 March 2017 the chargeable amount has been found under section 47, then eligibility for SSB should be determined as if section 47 did not apply.
31. Where the hereditament is shown in a local list for the area of a special authority (i.e. the City of London), then eligibility for SSB should be determined as if the special authority's small business non-domestic rating multiplier was 48.4p for 2016/17 and 46.6p for 2017/18.

### Continued eligibility for the scheme after 1 April 2017

32. After 1 April 2017, the Supporting Small Businesses (SSB) scheme will cease to apply where:
- a. the chargeable amount for a day found under the SSB scheme is the same as or more than the chargeable amount found in the absence of the SSB scheme. This ensures that where, for example, the minimum increase in the chargeable amount in the SSB scheme would take the bill above the level it would otherwise have been then the hereditament will drop out of the SSB scheme. It also ensures that where, for example, with effect from after 1/4/17, the hereditament becomes eligible for 100% Small Business Rate Relief then they also fall out of the SSB scheme,
  - b. the chargeable amount for a day would otherwise fall to be found by section 43(5) or where paragraph 12(5) or sub-paragraphs 2(4), 3(4), 4(4), 5(4) of Schedule 2 of the Non-Domestic Rating (Chargeable

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<sup>12</sup> unless otherwise stated, references are to the Local Government Finance Act 1988

Amounts) (England) Regulations 2016 No. 1265 applies (charities or registered community amateur sports clubs), or

c. the hereditament for a day is unoccupied.

33. Furthermore, where the ratepayer during 2016/17 lost entitlement to small business rate relief because they failed the 2nd property test but have, under the rules for small business rate relief, been given a 12 month period of grace before their relief ended (and therefore was still entitled to small business rate relief on 31 March 2017), then eligibility for the SSB scheme will cease at the end of that 12 months period of grace.

34. Hereditaments which cease to be entitled to Supporting Small Businesses for a day cannot return to eligibility if their circumstances change from a later day. For example, if a property falls unoccupied it will not then be eligible for Supporting Small Businesses relief if it subsequently becomes occupied again.

### **Chargeable Amount under the Supporting Small Businesses Scheme**

35. Where the Supporting Small Businesses scheme applies then DCLG will fund local authorities to apply a chargeable amount under section 47 of the 1988 Act for the period 1 April 2017 to 31 March 2022 found in accordance with the rules in [Part 1 to Part 3 of] the Non-Domestic Rating (Chargeable Amounts) (England) Regulations 2016 No. 1265 subject to the following changes:

- a. BL for 2017/18 is the chargeable amount for 31 March 2017 x 365 (on the assumption that section 47 did not apply for 31 March 2017 and on the assumption in the City of London that the special authority's small business non-domestic rating multiplier was 48.4p for 2016/17). This ensures the starting base liability for hereditaments eligible for SSB include the SBRR or rural rate relief for 31 March,
- b. Where a certificate has been issued under regulations 17 or 18 then BL for 2017/18 should be found in line with a) above but on the assumption that the rateable value in the rating list was the rateable values as certified,
- c. References to "(BL x AF)" are to "(BL x AF) or (BL + 600) whichever is the greater". This ensures the bill increase is the greater or £600 or the increase under the caps in the transitional relief scheme,
- d. AF is found in accordance with regulation 10(6) irrespective of the rateable value of the hereditament for 1 April 2017. This ensures only the cap on increases for small properties is applied in the SSB scheme irrespective of the actual rateable value of the hereditament,

- e. regulation 12(6)(b) is omitted. This ensures SBRR is not also applied to the capped bill in the SSB scheme. This avoids double counting of relief as illustrated at paragraph 23 above,
  - f. the reference to “2” in regulation 12(8) is “1”. This ensures rural rate relief is not also applied to the capped bill in the SSB scheme. This avoids double counting of relief,
  - g. “U” is taken to have a value of 0 throughout. This ensures that any hereditament whose rateable value is £51,000 or more does not have to pay the 1.3p supplement whilst eligible for SSB relief,
  - h. for a year (the year concerned) other than 2017/18, BL is  $(BL \times AF)$  or  $(BL + 600)$  from the year immediately the year concerned whichever is the greater.
36. No change is made to the meaning of NCA. However, as discussed above, eligibility for Supporting Small Businesses relief ceases when the chargeable amount for a day found under the Supporting Small Businesses scheme is the same as or more than the chargeable amount found outside the scheme.
37. Regulation 6 (special authorities) will apply as normal under the Supporting Small Businesses scheme. This ensures ratepayers in the City of London continue to pay any additional amount attributable to the City multiplier.
38. For the avoidance of doubt, the rules for changes in rateable value with effect from after 1 April 2017 (regulation 13) will continue to apply as normal subject to the amendments in paragraph 35 above. This ensures that, for example, later increases in rateable value are paid in full in the normal way<sup>13</sup>.

## Splits and mergers

39. The SSB scheme will apply to hereditaments:

- a. coming into existence because of the circumstances described in paragraph 1 of Schedule 2 of Non-Domestic Rating (Chargeable Amounts) (England) Regulations 2016 No. 1265,
- b. where one of the hereditaments from which the new hereditament was formed in whole or in part was for the day immediately before the creation day eligible for the SSB scheme, and
- c. the circumstances described at paragraph 32 above do not apply for the creation day in respect of the hereditament.

40. After the creation day, the SSB scheme will cease to apply in the circumstances described in paragraph 32 above.

41. The number of hereditaments eligible for SSB which then split or merge is likely to be very small and devising rules in particular for mergers with

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<sup>13</sup> based on the small business non-domestic multiplier. This is because U is taken to have a value of 0 throughout.

properties outside of the SSB scheme would be complex. Therefore, in discussions with local authority stakeholders, DCLG has concluded it would be disproportionate to devise detailed rules to prescribe the chargeable amounts in the various circumstances which could arise from a split or a merger.

42. Instead, for hereditaments meeting the criteria in paragraph 39 and 40 above, DCLG will fund local authorities to apply a chargeable amount under section 47 of the 1988 Act found in accordance with the following principle:
  - a. that the protection offered by the SSB scheme (that the bill will not rise by the greater of £600 p.a. or the transitional relief caps) will continue to apply in principle to that part of the newly created hereditament which was immediately before the creation day in the SSB scheme, and
  - b. that increases (or reductions) in overall rateable value arising from the split or merger are not subject to the protection of the SSB scheme.
43. For simple splits of hereditaments previously eligible for SSB, authorities may wish to simply apportion the chargeable amount in the SSB scheme for the hereditament before the split in line with the change in rateable value from the split (i.e. in line with the principle in Schedule 2 of Non-Domestic Rating (Chargeable Amounts) (England) Regulations 2016 No. 1265).
44. For mergers and reorganisations, authorities will have to estimate the degree to which, in line with the principle of the SSB scheme, that part of the hereditament which was formerly eligible for SSB should continue to receive support under the SSB scheme. DCLG does not expect authorities to seek any formal apportionments of the rateable value for this purpose.

## **Support for Pubs Guidance: Annex B**

### **1. About this guidance**

- 1.1 This guidance is intended to support local authorities in administering the “Pubs Relief Scheme” announced in the Budget on 8 March 2017. This guidance applies to England only.
- 1.2 This guidance sets out the detailed criteria, which local Government will use to provide funding relief for pubs. This guidance does not replace existing legislation or any other relief.
- 1.3 Enquiries on this measure should be addressed to:  
[ndr@communities.gsi.gov.uk](mailto:ndr@communities.gsi.gov.uk)

## **2. Introduction**

- 2.1 The Government recognises the important role that pubs play in urban and rural communities across the country. At Spring Budget 2017, the Chancellor announced a £1,000 business rate discount for public houses with a rateable value of up to £100,000 for one year from 1 April 2017. This was part of a wider £435m package to support businesses – including pubs - facing significant increases in rate bills following the business rates revaluation. This included £110m of support for small businesses losing small business rates relief (SBRR) or rural rate relief (RRR) and providing local authorities with funding to support £300 million of discretionary relief.
- 2.2 This document provides guidance on the pubs relief scheme. It sets out how the scheme should operate and the eligibility criteria that should apply.
- 2.3 The Government expects local billing authorities to use their discretionary relief powers under section 47 of the Local Government Finance Act 1988 to grant relief to all qualifying ratepayers. We will reimburse local authorities using grants under section 31 of the Local Government Act 2003, provided they have acted in accordance with guidance. No new legislation will be required to deliver the scheme. Sections below explain how the scheme will operate, the level of funding available, and the means of compensation.
- 2.4 The guidance will be of interest to local authorities, operators of pubs and similar businesses, and their representative bodies.

### **3. Eligibility criteria - which properties should benefit**

- 3.1 This section describes in principle the Pubs Relief Scheme. Local authorities should use this section to determine eligibility for the relief. The scheme will be available to eligible occupied properties with a rateable value of less than £100,000. The majority of pubs are independently owned or managed and will not be part of chains. Where pubs are part of a chain, relief will be available for each eligible property in the chain, subject to meeting State Aid requirements (see section 5 of this guidance).
- 3.2 There is no definitive description of a traditional pub or public house in law which could be readily used by local authorities to determine eligibility. The objective has been to adopt an approach that makes the design and eligibility of the scheme easy to implement by local authorities in a clear and consistent way, is widely accepted by the industry and which is consistent with the Government's policy intention as set out in this section.
- 3.3 The Government's policy intention is that eligible pubs should:
- be open to the general public
  - allow free entry other than when occasional entertainment is provided
  - allow drinking without requiring food to be consumed
  - permit drinks to be purchased at a bar.

For these purposes, it should exclude:

- restaurants
- cafes
- nightclubs
- hotels
- snack bars
- guesthouses
- boarding houses
- sporting venues
- music venues
- festival sites
- theatres
- museums
- exhibition halls
- cinemas

- concert halls
- casinos

- 3.4 The proposed exclusions in the list at para 3.3 is not intended to be exhaustive and it will be for the local authority to determine those cases where eligibility is unclear. We believe that billing authorities will already have a good understanding of the licensed premises in their areas and will be able to readily form a view on eligibility in the majority of cases. We expect local authorities to design the implementation of the scheme with regard to their business rates base and existing collection practices.
- 3.5 Where eligibility is unclear authorities should also consider broader factors in their considerations – 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, local authorities may also wish to consider other methods of classification, such as the planning system and the use classes order to help them 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.



## **4. How much relief will be available?**

- 4.1 The total amount of Government-funded relief available for 2017/18 under this scheme is up to £1,000 for each eligible property. There is no relief available under this scheme for properties with a rateable value of £100,000 or more. Eligibility for the relief and the relief itself will be assessed and calculated on a daily basis.
- 4.2 In addition to the pub scheme set out in this guidance, the Chancellor announced in the Spring Budget that £110 million will be available to assist ratepayers losing small business rates relief or rural rate relief as a result of revaluation. On top of this, the Government is also making available a separate £300 million discretionary relief fund over the next four years to enable local authorities to help individual businesses that are facing increased rates bills. Both of these schemes may also be available to pubs.

## 5. Compensation arrangements

- 5.1 Government will reimburse billing authorities and those major precepting authorities for the actual cost to them under the rates retention scheme of the relief that falls within the adopted criteria for pubs relief. Local authorities will be asked to provide an estimate of their likely total cost for providing the relief in a one off estimate for 2017/18. The Government will then provide payments to local authorities for their share (under the rates retention scheme) of the cost of the estimated relief for 2017/18. The final cost to local authorities will be calculated and reconciled following the NNDR3 for 2017/18.

### **State Aid**

- 5.2 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 the support for ratepayers will be State Aid compliant where it is provided in accordance with the *de minimis* regulations (EC 1407/2013)<sup>14</sup>.
- 5.3 The *de minimis* regulations allow an undertaking to receive up to €200,000 of 'de minimis' aid over a rolling three year period (consisting of the current financial year and the two previous financial years). Local authorities should familiarise themselves with the terms of this State Aid exemption, in particular the types of undertaking that are excluded from receiving *de minimis* aid (Article 1), the relevant definition of undertaking (Article 2(2)<sup>15</sup>) and the requirement to convert the aid into Euros<sup>16</sup>.
- 5.4 It is necessary for the local authority to establish that the awarding of aid will not result in the undertaking having received more than €200,000 of *de minimis* aid. Note that the threshold only relates to aid provided under the *de minimis* regulations (aid under other exemptions or outside the scope of State Aid is not relevant to the *de minimis* calculation). Where local authorities have further questions about the *de minimis* regulations or other aspects of State Aid law, they should seek advice from their legal department in the first instance<sup>17</sup>.

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<sup>14</sup> <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2013:352:0001:0008:EN:PDF>

<sup>15</sup> The 'New SME Definition user guide and model declaration' provides further guidance:  
[http://ec.europa.eu/enterprise/policies/sme/files/sme\\_definition/sme\\_user\\_guide\\_en.pdf](http://ec.europa.eu/enterprise/policies/sme/files/sme_definition/sme_user_guide_en.pdf)

<sup>16</sup> [http://ec.europa.eu/budget/contracts\\_grants/info\\_contracts/infoeuro/infoeuro\\_en.cfm](http://ec.europa.eu/budget/contracts_grants/info_contracts/infoeuro/infoeuro_en.cfm)

<sup>17</sup> Detailed State Aid guidance can also be found at:  
[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/15277/National\\_State\\_Aid\\_Law\\_Requirements.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/15277/National_State_Aid_Law_Requirements.pdf)

- 5.5 Pubs are within the scope of State Aid law as companies within the hospitality sector can and do set up business in other Member States as they trade on a market. Linked enterprises are considered as one single undertaking for the application of the *de minimis* rule, therefore can receive €200,000 *de minimis* aid (including that outside of business rates relief) over three years.

***Discretionary Relief in Enterprise Zones?***

- 5.6 Where an eligible property is also eligible for Enterprise Zone relief, then Enterprise Zone relief should be granted and this will be funded under the rates retention scheme by a deduction from the central share. Local authorities should not provide pub relief to properties which would otherwise qualify for Enterprise Zone Government funded relief.

***Other Discretionary Reliefs reimbursed by s.31 grants***

- 5.7 Similarly, if a property is eligible for relief under other schemes for which s.31 grant is payable – for example, “new empty property” relief, or the Supporting Small Business Scheme– authorities should first award relief under those schemes and claim s.31 grant funding in the normal way. Only having awarded relief under those schemes, should they then award additional relief in accordance with the Pubs Relief Scheme.
- 5.8 DCLG does not prescribe whether Scheme 2 (Discretionary Relief) is calculated before or after Scheme 3 (Support for Pubs). However, DCLG understands that authorities and software companies will follow the practice of taking the Discretionary Relief before the Pubs Relief.

