

Cabinet 19 September 2017	 TOWER HAMLETS
Report of: Zena Cooke, Corporate Director, Resources	Classification: Unrestricted
Business Rates Relief	

Lead Member	Cabinet Member for Resources - Councillor David Edgar
Originating Officer(s)	Roger Jones – Head of Revenue Services
Wards affected	(All Wards);
Key Decision?	No
Community Plan Theme	A fair and prosperous community

Executive Summary

As part of the Budget on 8 March 2017, the Chancellor announced that the Government would make available a discretionary fund of £300 million over four years from 2017-18 to support those businesses that face the steepest increases in their business rates bills as a result of the revaluation.

The intention is that every billing authority in England will be provided with a share of the £300 million to support their local businesses. This will be administered through billing authorities' discretionary relief powers under section 47 of the Local Government Act 1988

The Government believes that local authorities are best placed to judge the particular circumstances of local ratepayers and direct the funding where it is most needed to support local economies. The Government will allocate the available funding to each billing authority area based on assumptions about how authorities will target their relief scheme.

The Council has been allocated the fifth largest amount nationally of £8.184m over four years, with no relief being funded for the final year of the rating list.

There are 2 options proposed on how to allocate the relief. These are –

1. Award a fixed amount which is consistent with other schemes introduced by the Government such as the Retail Relief scheme and more recently the scheme for Pubs. This would be simpler for the council to administer by paying a fixed amount for each ratepayer regardless of the size of the rateable value or the increase experienced by each ratepayer, but would not reflect the actual increase experienced.

Award relief based on a percentage of the actual amount of the increase as at the 1st April 2017. The increase is calculated by comparing the charge amount less any

reliefs or exemptions for 2016-2017 against the same calculation for 2017-2018. Awarding a percentage of any increase means that all ratepayers are treated equally and compensated consistently depending on the amount of increase that they have experienced. This means that all eligible ratepayers proportionally receive the same amount of assistance and relief.

Recommendations:

The Mayor in Cabinet is recommended to:

1. Agree the 2 options proposed for awarding the relief on either a fixed amount or based on a percentage increase.
2. Commence a consultation process with local businesses and business organisation.
3. Note that a further report will be presented giving details of the outcome of the consultation and recommendations for the final qualifying criteria to be included in the local relief scheme.

1. REASONS FOR THE DECISIONS

- 1.1 The Government has made it clear that the design of the scheme will be left to individual Councils but that funding will only be provided up to the maximum levels awarded each year. It is also assumed that the relief will be provided to the ratepayers or localities that face the most significant increases in bills for those ratepayers occupying lower value properties.
- 1.2 The funding for the scheme was determined by Government based on the national increases for properties with a rateable value of less than £200,000 where the value of the increase exceeds 12.5%. Since the upper rateable value of £200,000 was used by the Government for funding purposes we have adopted this to use as part of the general criteria for the relief, so that only small and medium businesses benefit from the relief.
- 1.3 The Government also made it clear that the relief should be aimed at supporting local economies and that state aid rules would apply when making any award of the relief. We have therefore excluded any company or other organisation with multiple rate accounts (three or more) that operates within or outside of the borough and also any public body that is listed as the ratepayer.
- 1.4 Awarding a percentage of any increase for businesses with a rateable value of below £200,000 means that all ratepayers are treated equally and compensated consistently depending on the amount of increase that they have experienced. This means that all eligible ratepayers proportionally receive the same amount of relief and it will target only small and medium sized businesses.
- 1.5 Eligibility for the relief is determined based on a fixed list which has been

extracted from the Council's Revenues system as at the 1st April 2017. This ensures that the amount of relief provided to ratepayers is maximised and kept within the allocation of resources provided by the Government.

2. ALTERNATIVE OPTIONS

- 2.1 The simplest option would to allocate a flat rate percentage to all ratepayers but this would not target small to medium sized businesses and would not reflect the size of the increase in rates payable as a result of the revaluation.
- 1.2 The Council could make a decision on the scheme criteria without consultation with local ratepayers but this would not be in line with the commitment to engage with and support local businesses and economic growth.

3. DETAILS OF REPORT

- 3.1 As part of the Budget on 8 March 2017, the Chancellor announced that the Government would make available a discretionary fund of £300 million over four years from 2017- 2018 to support those businesses that face the steepest increases in their business rates bills as a result of the 2017 revaluation.
- 3.2 The intention is that every billing authority in England will be provided with a share of the £300 million to support their local businesses. This will be administered through billing authorities' discretionary relief powers under section 47 of the Local Government Act 1988.
- 3.3 The Government believes that local authorities are best placed to judge the particular circumstances of local ratepayers and direct the funding where it is most needed to support local economies. The Government will allocate the available funding to each billing authority area based on assumptions about how authorities will target their relief scheme.
- 3.4 The Council has been allocated the fifth largest amount nationally of £8.184m over four years which reduces substantially year on year as shown in the following table, with no relief being funded for the final year of the rating list.

Amount of Discretionary Relief Available						
Gross Increase in Rates Payable from 16/17 to 17/18	2017/2018	2018/2019	2019/2020	2020/21	2021/2022	Total
£40,567,000	£4,774,000	£2,319,000	£955,000	£136,000	£0.00	£8,184,000

- 3.5 To allocate the resource between authorities the Government has assumed that authorities will provide support only to those ratepayers who are facing an increase in their bills following revaluation. This will be a condition of the grant. It further assumes that more support will be provided to;

- Ratepayers or localities that face the most significant increases in bills; and
- Ratepayers occupying lower value properties

3.6 In line with those broad assumptions funding will be allocated to each billing authority by:

Working out the total increase in bills (excluding the impact of transitional relief and other reliefs), for every rateable property in the billing authority's area that satisfies both the following conditions:

- The property has a rateable value for 2017-18 that is less than £200,000;
- The increase in the property's 2017-18 bill is more than 12.5% compared to its 2016-17 bill (before reliefs);

Summing the total increase in bills in all billing authority areas and distributing the available funding in each year in accordance with the formula:

$$A \times B/C,$$

Where:

- A is the total funding available for the year;
- B is the total increase in bills in an individual authority's area; and
- C is the sum of the total increase in bills in all local authority areas.

3.7 Any discretionary relief paid by billing authorities in respect of "revaluation support" in excess of their allocation shown at paragraph 3.4 will not be supported by the Government by a Section 31 grant payment.

3.8 In each year of the scheme, the Government proposes to pay billing and major precepting authorities' Section 31 grant equivalent to their loss of income under the business rates retention scheme. Payments will be based on estimates of the relief to be provided to ratepayers, capped at the maximum of that year's allocation (as shown in the table at paragraph 1.4 above) Grant will be paid to authorities in four equal instalments, quarterly in arrears – i.e. at the end of June, September and December 2017 and the end of March 2018.

3.9 Operational Issues

3.10 The Council will be responsible for designing the discretionary relief schemes that will operate in the borough. However, the Government expects the Council to discuss options with their major precepting authorities at an early stage and to consult them before adopting any scheme and where applicable consult their combined authority. The Government will place conditions on the Section 31 grant that will be paid to the Council requiring the appropriate consultation.

- 3.11 The Non-Domestic Rating (Discretionary Relief) Regulations 1989 (S.I. 1989/1059)¹ 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. However, 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.
- 3.12 Therefore, when making an award, the Council must ensure contained in the conditions of the award are 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 re-calculated if the rateable value changes to ensure that the correct amount of relief is awarded where the chargeable amount either increases or decreases following any amendment to the rateable value.
- 3.13 Providing discretionary relief to ratepayers affected by Revaluation 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 (1407/2013)².
- 3.14 To adhere to State Aid rules 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).

3.15 Other Reliefs for 2017 Revaluation

The Government introduced a number of measures to provide additional relief to all ratepayers that may face increases in their rates bills following the revaluation.

- 3.16 **Transitional Relief** - Small Businesses that have a rateable value up to 28,000 will have any increase capped to 5% in the first year, Medium Businesses with a rateable value of between 28,001 and 100,000 will have any increase capped to 12.5% and Large Businesses with a rateable value greater than 100,000 will have any increase capped at 42%.
- 3.17 **Small Business Relief** – The rateable value threshold where small businesses qualify for 100% relief has been doubled from £6,000 to £12,000 with a taper between £12,000 to £15,000 that will receive a pro-rata percentage reduction. The threshold where businesses pay the lower Small Business Multiplier has increased from £24,999 to £51,000.
- 3.18 **Small Business Rate Support Scheme** – As part of the budget announcement the government introduced an additional relief for small businesses to cap the level of increase in their bills to a maximum of £50 per month or £600 per year. The Government has provided some additional guidance to enable implementation of the scheme; however we need to obtain

the appropriate software in order to effectively administer the scheme on the Open Revenues system. We have already identified the ratepayers that will qualify for the scheme and have taken steps to hold any recovery action against them if they are unable to pay the amounts demanded. As soon as the software is available we will be able to award the relief and issue new bills accordingly.

- 3.19 **Public Houses** – A further announcement in the budget was to provide £1,000 to pubs that have a rateable value less than £100,000. We have so far awarded this relief to 94 public houses and will continue to look at local businesses who may qualify for this relief.

3.20 **Summary & General Criteria**

The Government has made it clear that the design of the scheme will be left to individual Councils but that funding will only be provided up to the maximum levels shown in the table shown in paragraph 3.4. It is also assumed that the relief will be provided to the ratepayers or localities that face the most significant increases in bills for those ratepayers occupying lower value properties.

- 3.21 The funding for the scheme was determined by Government based on the national increases for properties with a rateable value of less than 200,000 where the value of the increase exceeds 12.5%. Since the upper rateable value of 200,000 was used by the Government for funding purposes we have in this paper adopted this to use as part of the general criteria for the relief.
- 3.22 The Government also made it clear that the relief should be aimed at supporting local economies and that state aid rules would apply when making any award of the relief. We have therefore excluded any company or other organisation with multiple rate accounts (three or more) that operates within or outside of the borough and also any public body that is listed as the ratepayer.
- 3.23 The relief will only be available for those organisations that were in occupation of the property on or before the 31st March 2017 and the property appeared in the 2010 Local Rating list as at the 31st March 2017, and also appeared in the 2017 Local Rating List as at the 1st April 2017..
- 3.24 In order to qualify for the relief the property must remain occupied from the 31st March 2017 and as soon as the property becomes vacant the relief will cease with effect from the date of vacation.
- 3.25 The amount of relief that is awarded will be amended where a qualifying ratepayer's 2017-2018 and, or 2016-2017 rates bill is amended for any of the following reasons, the amount of their relief will be reduced or removed accordingly:
- A change in rateable value in the 2010 and, or 2017 rating lists
 - The provision of a certificated value for the 2010 rating list or historical change
 - The application of any additional rate relief or exemption

- Any other adjustment to their liability

- 3.26 The relief will be calculated after any other exemptions and relief has been awarded and before the application of the Business Rate Supplement.
- 3.27 Organisations will not be required to complete an application form as the relief will be awarded automatically by the Council based on the qualifying criteria established. Ratepayers that are not awarded the relief can ask for a review of their circumstances to see if they are eligible to receive the relief.
- 3.28 Analysis shows that out of the 16,057 ratepayers as at the 1st April 2017 8,658 saw their rates increase in a range of 1p to £2,618,700, with the total increase being £48,601,115.

A total of 3,782 ratepayers saw no change in their rates payable and 3,617 saw a decrease in their rates payable with values ranging from 1p to £570,903 with a total amount of £7,222,651.

- 3.29 Based on the general criteria in 4.2 to 4.6 we have identified a total of 3,607 ratepayers that have seen an increase in their rates payable for 2017-2018 when compared to the amounts payable for the previous financial year. The percentage increases range from 0.06% to in excess of 1,000% with the values ranging from £1.40 to £26,746.01.
- 3.30 The Government has set financial limits on the amount available for years 1 to 4 with no relief in year 5. The scheme will need to be fixed for the four year period based on the increases identified as at the 1st April 2017.

3.31 Option 1 - Fixed Amount

- 3.32 A fixed amount is provided to each ratepayer depending on the actual amount of the increase as at the 1st April 2017. The increase is calculated by comparing the charge amount less any reliefs or exemptions for 2016-2017 against the same calculation for 2017-2018.
- 3.33 The following table shows the amount of relief that can be provided based on the percentage of increase they have experienced as a result of the revaluation.

A comparison is also shown where the annual increase exceeds £600 which is in line with the proposed relief provided by the Government for Small Business Rate payers. The estimates shown in years one to four are based on the amounts published by the Government as indicated in the table in paragraph 3.4.

Percentage of Increase	Year One ¹	Year Two ¹	Year Three ¹	Year Four ¹	Number of Ratepayers that would benefit
Any	£5,000.00	£1,100.00	£300.00	£35.00	3,607
5% +	£5,500.00	£1,100.00	£320.00	£37.50	3,523
7.5% +	£8,000.00	£1,700.00	£625.00	£80.00	1,612
10% +	£9,000.00	£1,800.00	£650.00	£90.00	1,513
12.5% +	£15,000.00	£2,400.00	£800.00	£100.00	1,214
15% +	£26,500.00	£4,000.00	£1,500.00	£175.00	726
£600 increase	£7,000.00	£1,550.00	£550.00	£80.00	1,619
Total Spend	£4,472,515.62	£2,253,124.02	£908,181.18	£125,091.85	£7,758,912.67
Tolerance	£301,484.38	£65,875.98	£46,818.82	£10,908.15	£425,087.33
Total Fund	£4,774,000.00	2,319,000.00	£955,000.00	£136,000.00	£8,184,000.00

3.34 Awarding a fixed amount is consistent with other schemes introduced by the Government such as the Retail Relief scheme and more recently the proposed scheme for Pubs. This would be simpler for the authority to administer by paying a fixed amount for each ratepayer regardless of the size of the rateable value or the increase experienced by each ratepayer.

3.35 The disadvantage to making a fixed award is that it will benefit more those ratepayers with smaller rateable values and smaller increases following the revaluation. For example the largest loser based on the general criteria had a 2016 rateable of 111,000 and would be £26,630.84 worse off after taking into account any reliefs granted. This equates to a 46% increase in the amount payable and an award of £5,500.00 would represent 18.7% of the increased amount. When compared to a ratepayer that had a rateable value of 61,000 that would be £4,998.29 this equates to an increase of 15.85% in the amount payable which is a third of the increase for the larger ratepayer. If a fixed award of £5,500.00 is made this would mean that the ratepayer is fully compensated for any increase within the first year.

3.36 Option 2 – Percentage Based on Increase

3.37 The relief is based on a percentage of the actual amount of the increase as at the 1st April 2017. The increase is calculated by comparing the charge amount less any reliefs or exemptions for 2016-2017 against the same calculation for 2017-2018.

¹ This is the maximum amount that ratepayers can receive based on their actual increase experienced at the time of revaluation. The fixed amount is capped to the upper limit and where the increase is less than this amount the maximum award will be the actual increase experienced

3.38 The following table shows the amount of relief that can be provided based on the percentage of increase they have experienced as a result of the revaluation.

A comparison is also shown where the annual increase exceeds £600 which is in line with the proposed relief provided by the Government for Small Business Rate payers. The estimates shown in years one to four are based on the amounts published by the Government as indicated in the table in paragraph 3.4.

Percentage of Increase	Year One ²	Year Two	Year Three	Year One	Number of Ratepayers that would benefit
Any	68.00%	33.00%	13.50%	2.00%	3607
5% +	69.00%	34.00%	14.00%	2.00%	3523
7.5% +	75.00%	38.00%	16.00%	2.00%	1612
10% +	77.50%	38.00%	16.00%	2.20%	1513
12.5% +	86.00%	42.00%	17.00%	2.40%	1214
15% +	100.00%	50.00%	20.00%	2.90%	726
£600 Increase	75.00%	36.00%	15.00%	2.10%	1619
Total Spend	£4,302,856.84	£2,088,151.11	£854,243.64	£126,554.61	£7,371,806.20
Tolerance	£471,143.16	£230,848.89	£100,756.36	£9,445.39	£812,193.80
Total Fund	£4,774,000.00	£2,319,000.00	£955,000.00	£136,000.00	£8,184,000.00

3.39 Awarding a percentage of any increase means that all ratepayers are treated equally and compensated consistently depending on the amount of increase that they have experienced. This means that all eligible ratepayers proportionally receive the same amount of assistance and relief.

3.40 General Conditions

3.41 Eligibility for the relief is determined based on a fixed list which has been extracted from the Council's Revenues system as at the 1st April 2017. This ensures that the amount of relief provided to ratepayers is maximised and kept within the allocation of resources provided by the Government.

3.42 There are 491 ratepayers where the increase is less than £100 and from an administrative and common sense perspective it would be prudent to exclude these cases from any award as such amounts are likely to be considered derisory in nature.

3.43 The scheme is fixed for a five year period based on the original list mentioned in paragraph 7.1. The relief provided in all years will not alter unless the circumstances in paragraphs 4.5 and 4.6 are applicable.

3.44 The relief will strictly apply to individual ratepayers that occupy the property stated and will not be transferable under any circumstances.

² This is the maximum amount that ratepayers can receive based on their actual increase experienced at the time of revaluation

3.45 The estimates and projections have a built in tolerance of 10% which will allow for appropriate amendments required as part of the scheme.

4. EQUALITIES IMPACT ASSESSMENT

- 4.1 There are no direct equalities issues, but that the policy will support small and medium sized local businesses.

5. COMMENTS OF THE CHIEF FINANCE OFFICER

- 5.1 The reduction in business rates income that would result from awarding this new discretionary relief will be met from a S.31 grant from central government, as long as the discounts awarded do not exceed the total allocation of £8.184m over the four year period 2017- 2022. The relief schemes being proposed are designed to ensure that this is the case. There should therefore be no direct financial implications on Council resources arising from this report.

6. LEGAL COMMENTS

- 6.1 National Non Domestic Rates (NNDR) or Business Rates is charged on all non-domestic properties and as a national scheme has been in place since 1990. The government is regularly required to update the 'rateable values' of business properties in England to make sure they are paying the right amount of rates. A business rates revaluation took effect on 1st April 2017 and as part of the Budget on 8th March 2017, the Chancellor announced that the Government would make available a discretionary fund of £300 million over four years from 2017-2018 to support those businesses that face the steepest increases in their business rates bills as a result of the 2017 revaluation.
- 6.2 There are a number of reliefs and exemptions available to help meet liability. These may be part of the national scheme or via local discretion which each local authority decides upon. Section 47 of the Local Government Finance Act 1988 gives discretionary relief powers to local authorities, specifically where "it is satisfied that it would be reasonable for it to do so, having the regard to the interests of persons liable to pay council tax set by it."
- 6.3 Section 47 requires the Council to maintain a Discretionary Rate Relief Scheme. The Council must have a Policy but the scale is discretionary and can be limited by appropriate factors as to what the Council wishes to support subject to Government Guidance. However, the discretionary fund that the Government is making available will be in the form of a grant made under section 31 of the Local Government Act 2003, specifically sub-section (1) which provides: provided to only support those ratepayers who are facing an increase in their bills following revaluation and this will be a condition of the grant. The Government further assumes that more support will be provided to:
- Ratepayers or localities that face the most significant increases in bills; and
 - Ratepayers occupying lower value properties
- 6.4 European Union competition rules generally prohibit Government subsidies to businesses. Relief from taxes, including non-domestic rates, can constitute state aid. The Council must bear this in mind when granting discretionary rate relief.

- 6.5 Rate relief for charities and non-profit making bodies is not generally considered to be state aid, because the recipients are not in market competition with other businesses. However, where other bodies receive relief and are engaged in commercial activities or if they are displacing an economic operator or if they have a commercial partner, rate relief could constitute state aid.
- 6.6 Relief will be State Aid compliant where it is provided in accordance with the De Minimis Regulations (1407/2013). The De Minimis Regulations allow an undertaking to receive up to €200,000 of De Minimis aid in a three year period (consisting of the current financial year and the two previous financial years).
- 6.7 For all Discretionary Rate Relief, the Council will need to ensure, as best as it can, that awards are in compliance with the De Minimis regulations.
- 6.8 There are a number of block exemptions to state aid (other than the de minimis exemption) under European Law particularly in respect of the assistance of SMEs. However, either option under the report does not fall within any of the exemptions as set down.
- 6.9 However, it is notable that the relief is intended to apply to all SMEs with a turn-over of less than £200,000. State Aid is prohibited on the grounds that it gives an advantage to one enterprise over another and therefore distorts the market place. However, given the fact that the Council intends to make the funds available to all SMEs of a certain class it is arguable that this does not distort the market place in any event. However, this may well not be an issue as in the first instance the De Minimis block exemption would have to be fully utilised.
- 6.10 As to Consultation, the Council must consider its common law duty and which imposes a general duty of procedural fairness upon public authorities exercising a wide range of functions which affects the interests of individuals (see *R (Moseley) v Haringey London Borough Council* [2014] UKSC 56, [2015 1 All ER 495 at [35] per Reed LJ and the consultation must comply with the following common law criteria:
- (a) it should be at a time when proposals are still at a formative stage;
 - (b) the Council must give sufficient reasons for any proposal to permit intelligent consideration and response;
 - (c) adequate time must be given for consideration and response; and
 - (d) the product of consultation must be conscientiously taken into account.
- 6.11 The duty to act fairly applies and prior to undertaking a consultation exercise, consideration must be given to whether the matter to be consulted on impacts on those with protected characteristics. If it does then the method of consultation should be adapted to ensure that those persons are able to respond to the consultation so as to inform the decision making process. For example, if a group of persons with a protected characteristic is a 'hard to

reach' group then they may not be reached by traditional consultation techniques.

- 6.12 When deciding whether or not to proceed with the proposals, the Council must have due regard to the need to eliminate unlawful conduct under the Equality Act 2010, the need to advance equality of opportunity and the need to foster good relations between persons who share a protected characteristic and those who don't (the public sector equality duty)..

7. ONE TOWER HAMLETS CONSIDERATIONS

- 7.1 Any financial assistance to local ratepayers will support economic growth and help local businesses to continue to trade and create local employment.

8. BEST VALUE (BV) IMPLICATIONS

- 8.1 This proposal will give small and medium local businesses financial support to help alleviate the effect of the increase in rateable values as a result of the 2017 revaluation with all costs being met by central government. The options presented should ensure the most efficient and effective distribution of the funding.

9. SUSTAINABLE ACTION FOR A GREENER ENVIRONMENT

- 9.1 There are no SAGE implications arising from this report.

10. RISK MANAGEMENT IMPLICATIONS

- 10.1 There is a risk that the government funding will be insufficient to meet the full cost of the scheme. The budget for and impact of this policy will be monitored regularly to ensure spending is within the S.31 grant allocation from central government.

11. CRIME AND DISORDER REDUCTION IMPLICATIONS

- 11.1 There are no crime and disorder implications arising from this report

12. SAFEGUARDING IMPLICATIONS

- 12.1 There are no safeguarding implications arising from this report.
-

Linked Reports, Appendices and Background Documents

Linked Report

None

Appendices

"2017 Revaluation – Discretionary Relief for Business Rates"

Background Documents – Local Authorities (Executive Arrangements)(Access to Information)(England) Regulations 2012

None

Officer contact details for documents:

N/A