

**To all Members of the Council**

6 September 2019

You are hereby summoned to attend a Meeting of Rother District Council to be held on **Monday 16 September 2019** at 6.30pm at the Council Chamber, Town Hall, Bexhill-on-Sea, when it is proposed to transact the business stated below.

At 6:25pm, prior to the commencement of the meeting, you are invited to join the Chairman in prayer which will be led by his Chaplain, Father Michael Bailey.

1. To approve as a correct record and to authorise the Chairman to sign the Minutes of the Council meeting held on 8 July 2019.
2. To receive apologies for absence.
3. Disclosure of Interest
To receive any disclosure by Members of personal and disclosable pecuniary interests in matters on the agenda, the nature of any interest and whether the Member regards the personal interest as prejudicial under the terms of the Code of Conduct. Members are reminded of the need to repeat their declaration immediately prior to the commencement of the item in question.
4. To receive the Chairman's communications.
5. To answer questions from members of the public, if any, in accordance with paragraph 10 of the Council Procedure Rules (*time limit 30 minutes).
6. To answer questions from Members of the Council, if any, in accordance with paragraph 11 of the Council Procedure Rules (*time limit 30 minutes).
7. To receive the report of the Cabinet on matters for determination by full Council at its meetings held on 29 July and 2 September, to include, as under: (Pages 1 - 14)

29 July 2019

- Community Governance Review – Bexhill-on-Sea (CB19/28)
- Revenue Budget and Capital Programme Monitoring Quarter 1 2019/20 (CB19/29)

2 September 2019

- Proposed Formal Substitute Procedure for Committees (CB19/38)
- Provision of Temporary Accommodation (CB19/39)

8. To receive the report of the Head of Paid Service (Pages 15 - 16)

In accordance with paragraph 17a of the Overview and Scrutiny Procedure
Any supplementary verbal questions put will be audio recorded for ease of reproducing the minutes of the meeting

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Rules and paragraph 4 of the Budget and Policy Framework Procedure Rules, of any decisions taken as matters or urgency at the Cabinet meetings held on 29 July and 2 September 2019.

9. To receive the report of the Licensing and General Purposes Committee on matters for determination by full Council, at its meeting held on 15 July 2019 as under: (Pages 17 - 76)

15 July 2019

- Discretionary Relief for Non-Domestic Rates Policy (LG19/06)

10. Appointments to outside bodies: East Sussex Energy, Infrastructure & Development Ltd and Hastings and Bexhill Renaissance Ltd (SeaSpace) - to receive the report of the Executive Director on the appointments of representatives. (Pages 77 - 78)
11. To receive a presentation from Kevin Boorman, Manager, 1066 country.
12. In accordance with Council Procedure Rule 12 consideration be given to the following Motion to Council submitted by Councillors Mrs C.A. Bayliss, K.P. Dixon and D.B. Oliver: (Pages 79 - 80)

Rother District Council will,

1. Declare a 'climate emergency'.
2. Pledge to do what is within our powers, to make Rother District carbon neutral by 2030, taking into account both production and consumption emissions.
3. Call on the Government to provide the powers and resources necessary for Rother District to achieve the target of becoming carbon neutral by 2030, and to implement best practice methods to limit global warming to 1.5°C.
4. Report to full Council within six months with an Action Plan, outlining how the Council will address this emergency. The Carbon Neutral 2030 Action Plan will detail the leadership role Rother District will take in promoting community, public, business and other Council partnerships to achieve this commitment throughout the District. The Action Plan will also outline adequate staff time and resources to undertake the actions to achieve the target.
5. To investigate all possible sources of external funding and match funding to support this commitment.
6. Identify citizens across Rother who are climate champions for their communities and to use them to inform on ideas to implement locally.



Malcolm Johnston
Executive Director

Town Hall, Bexhill-on-Sea, East Sussex, TN39 3JX

Any supplementary verbal questions put will be audio recorded for ease of reproducing the minutes of the meeting

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Rother District Council

Report to	-	Council
Date	-	16 September 2019
Report of the	-	Cabinet
Subject	-	References from Cabinet Meetings

The Council is asked to consider recommendations arising from the Cabinet meetings held on 29 July and 2 September 2019, as set out below.

CABINET – 29 July 2019

CB19/28. COMMUNITY GOVERNANCE REVIEW – BEXHILL-ON-SEA

In 2016/17 and in accordance with the provision of the Local Government and Public Involvement in Health Act 2007, the Council carried out a Community Governance Review (CGR), as a result of receiving a valid petition. As a CGR had been carried out within the previous two years, the Council could not be compelled through a petition to carry out a further review. However, on 22 May 2019, the Council passed a motion for officers to report on the required procedure to establish a Town Council for Bexhill by 2021. Therefore, the report of the Executive Director set out the considerations for the Council in conducting a new CGR of Bexhill-on-Sea, incorporating all nine wards.

Full Council was required to agree the Terms of Reference (ToR) for the CGR which specified the area under review and detailed what the Council wanted to achieve; draft ToR were attached at Appendix A to the report.

It was proposed that a Steering Group comprising seven Members was appointed in accordance with political balance requirements to manage the process and draft ToR for the Steering Group were set out at Appendix B to the report. This would result in seat allocation of three Conservative Members, two Association of Independent Members, one Liberal Democrat/Green Member and one Labour Member. It was noted that all Members of the Council would have the opportunity to contribute to the review.

Under the terms of the 2007 Act, the Council was obliged to consult with the local government electors for Bexhill-on-Sea, take into account any representations made and ensure the outcome of the review, including any decisions were well publicised. One of the key roles for the Steering Group would be to determine the consultation and communication programme for the CGR. As a result of the feedback received in 2017, it was proposed that only one six week consultation period be held.

The Council would be required to complete the review within 12 months of the start of the CGR, including any consequential

recommendations to the Local Government Boundary Commission for England. A draft timetable complying with the requirements of the 2007 Act was included within the ToR for the Steering Group at Appendix B.

The review would be completed once the Council approved the Reorganisation of Community Governance Order. Copies of the Order and associated maps would be deposited at the Council offices and published on the website. The Order would take effect for financial and administrative purposes on 1 April in the designated year.

Cabinet had sought advice from the Sussex Association of Local Councils who had advised that as the Council had conducted a full CGR in 2016/2017, it would not be necessary to repeat this process again, and that a consultation would only be required. For public clarity, it was also felt that the Council should not be seen to be “going over old ground”. Therefore it was proposed that recommendation 1) be reworded as follows: the draft ToR for a Community Consultation to consider the implementation of a new Parish Council covering the Bexhill-on-Sea area of Rother District Council be approved and updated accordingly. It was also suggested that the membership of the Steering Group be increased from seven to nine Councillors to ensure an equal balance of Bexhill Members were represented.

The Executive Director advised that in order to implement a CGR, it was essential that the Council conformed to the relevant local government legislation. Failure to conduct a thorough CGR could result in reputational damage and expose the process to the risk of legal challenge. This advice had been confirmed by the Council's Legal Team.

With regards to the increased membership, the Executive Director confirmed that the amended seat allocation would be as follows: three Conservative Members, three Association of Independent Members, two Liberal Democrat/Green Member and one Labour Member. Group Leaders would need to provide the names of the Steering Group membership before the full Council meeting scheduled to be held on 16 September 2019.

After discussion, Cabinet reiterated that, the proposed amendments be forwarded to full Council for consideration.

RECOMMENDED: That:

- 1) the draft Terms of Reference for a Community Consultation to consider the implementation of a new Parish Council covering the Bexhill-on-Sea area of Rother District Council be approved and updated accordingly; (Attached as Appendix A to this report).
- 2) a politically balanced Community Consultation Steering Group be established comprising nine Members; and

- 3) the proposed timetable for the review be agreed as set out at Appendix B to the report. (Attached as Appendix B to this report).

(Councillors Mrs Bayliss, Coleman and Courtel each declared a personal interest in this matter as they were members of Democracy4Bexhill and in accordance with the Members' Code of Conduct remained in the room during the consideration thereof).

(Cabinet Agenda Item 6)

CB19/29. **REVENUE BUDGET AND CAPITAL PROGRAMME MONITORING
QUARTER 1 2019/20**

Members received and considered the report of the Executive Directors on the Revenue Budget and Capital Programme Monitoring Quarter 1 2019/20. The report contained details of the significant variations of the Revenue Budget and updated Capital Programme.

Since the last report to Cabinet, there had been two reportable variations. In April, the Council acquired Glovers House, Bexhill, as part of its regeneration agenda, for the sum of £7.8m including costs. This would generate an annual rent of £425,000 rising to £475,000 in December 2020.

Overall the cost of services identified a small deficit of £58,000 which was 0.4% greater than the revised budget. Members were advised it was too early to predict the year end position as a result of the new waste contract, volatility in planning application income and the delivery of the Property Investment Panel. The main reasons for the variations were attributed to underspends/savings on employment related costs, staff vacancies and recycling credits. The deficit was attributed to election costs, software upgrades, costs associated within the Acquisitions, Transformation and Regeneration service, and resources for the Rother 2020 programme and Property Investment Strategy.

Investment returns were in-line with the budget. The final year end position would depend on treasury management and property investment decisions made between now and March 2020.

The Council Tax collection rate was comparable to previous years and the Business Rates collection performance was slightly lower compared to the same period last year. At this stage, the outturn for both was expected to be broadly in line with the original estimate.

No significant variances were predicted to the Capital Programme 2019/20 estimated spend of £24m, as identified in Appendix A to the report. Appendix B to the report, showed the Capital Programme for the period 2019/20 to 2023/24 which had been updated to take account of any slippage in the 2018/19 financial year.

Overall the Council's overspend was expected to be £58,000. Officers would be investigating mitigation measures during the financial year.

RECOMMENDED: That the updated Capital Programme at Appendix B to the report, be approved. (Attached as Appendix C to this report).

Cabinet also **RESOLVED:** That the report be noted.

(The Leader had accepted this item onto the Agenda as an Additional Agenda Item in order for Members to be kept abreast of the Council's financial position).

(Cabinet Agenda Item 12)

CABINET – 2 September 2019

CB19/38 PROPOSED FORMAL SUBSTITUTE PROCEDURE FOR COMMITTEES

Members received and considered Minute OSC19/14 arising from the Overview and Scrutiny Committee (OSC) meeting held on the 22 July 2019 that had considered a recommendation from the Member Development Task Group regarding introducing a formal substitute procedure for Committees.

Research had been undertaken with neighbouring authorities to devise a simplistic, uncomplicated procedure that suited the Council's decision making structure and available resources. It was noted that provision already existed in the Council's Constitution for Group Leaders to change membership and appoint substitute members to Task and Finish Groups. The OSC was supportive of the recommendations and noted a number of key points outlined in the draft procedure.

Cabinet was keen to introduce the changes and recommended that full Council approve and adopt the procedure identified at Appendix A to the report with effect from 17 September 2019. It was also recommended that Group Leaders nominate one substitute Member each in respect of Licensing and General Purposes Committee, OSC and Planning Committee at the full Council meeting scheduled to be held on 16 September 2019 and that the Council's Constitution be amended accordingly.

RECOMMENDED: That:

- 1) the proposed substitute procedure for formal committees, set out at Appendix A to the report be recommended for approval and adoption by full Council; (Attached as Appendix D to this report).
- 2) the system be implemented with effect from 17 September 2019;
- 3) Group Leaders be requested to nominate one substitute Member each in respect of the Licensing and General Purposes Committee, the Overview and Scrutiny Committee and the Planning Committee at the full Council meeting to be held on 16 September 2019; and

4) consequential amendments be made to the Council's Constitution.

(Cabinet Agenda Item 6)

CB19/39. **PROVISION OF TEMPORARY ACCOMMODATION**

Consideration was given to the report of the Executive Director which identified various options for the Council to acquire property to use as temporary accommodation. Under the Housing Act 1996, the Council had a duty to accommodate homeless households. Investing in property meant that the Council had greater control over the quality and quantity of provision, whilst reducing the net cost of provision.

The Council would continue to use a number of privately owned (15 including eight self-contained properties) well-managed temporary accommodation establishments. The budget for 2019/20 was £775,000 offset by £369,500 of income predominantly recovered through housing benefit; net cost was £385,500.

Requests for temporary accommodation were increasing. Between March 2015 and March 2019 homeless households had risen from 17 to 57. To date 66 homeless households were in B&B accommodation. Appendix 1 to the report identified the types of households the Council had placed in temporary accommodation during 2018/19. Members noted that the Council had no duty to provide self-contained accommodation for single people. The Council, in collaboration with East Sussex County Council and wider partners was currently reviewing the provision of supported accommodation for all groups and, in particular, single people with complex needs.

Members noted that the average length of stay in temporary accommodation across all household types was 77 days. The net cost of placing single households or childless couples and households with children was on average £1,360 and £2,900 respectively. If the Council purchased its own property, over a twelve month period, average costs of £6,000 – £13,000 per household could be avoided.

The report identified the financial assessment and investment required to purchase a range of properties. It also included an illustration of the costs which could be avoided by placing households in local authority rather than private accommodation. The projections were verified in consultation with neighbouring local authorities who delivered similar schemes. An overall net saving of £70,000 per annum was projected.

The Council's Temporary Accommodation Strategy (TAS) was appended to the report at Appendix 4. The TAS outlined the types of properties the Council intended to acquire, alongside how properties would be purchased, managed, maintained and repaired. Property management risks were outlined in Appendix 5 to the report. An audit of the in-house skills required for property management had been completed and highlighted that resources/expertise would be required for managing rental income recovery and out of hours residents' enquiries. In the short-term, these functions would be externally

purchased while the Council built its own portfolio of properties; ongoing skills reviews would be necessary.

Should the need for temporary accommodation reduce, the Council could review its assets. Assets could be sold and the capital receipt reinvested into Council budgets.

During discussion the following was noted:

- properties would be purchased in urban areas across the district, however specific need at the moment was particularly focused in Bexhill;
- all households would be supported by the Council to acquire any furnishings they required;
- important to establish in-house expertise or collaboration with other local authorities with regard to property management;
- investigate the option of building modular pre-fabrication constructions on Council owned land. This would be an innovative way to build quick tailor-made value for money properties; and
- investigate alternative solutions such as refurbishing empty/derelict buildings or convert/remodel existing buildings.

Cabinet was supportive of the Council building up a portfolio of suitable properties to use as temporary accommodation to meet the varied needs of homeless households across the district. They recommended that the TAS be approved and adopted. It was recommended that the Executive Director be authorised to borrow an initial sum of up to £3m to prioritise the purchase of properties and that the capital programme be amended accordingly.

RECOMMENDED: That:

- 1) the Temporary Accommodation Investment Strategy at Appendix 4 to the report be approved and adopted; (Attached as Appendix E to this report).
- 2) the Executive Director be authorised to purchase properties for use as temporary accommodation at a cost of up to £3 million funded through borrowing; and
- 3) the Capital Programme be amended accordingly.

(Cabinet Agenda Item 12)

Councillor D.B. Oliver
Leader of the Council

Rother District Council

Community Governance Review – Terms of Reference

A community governance review will be carried out by Rother District Council under the provisions of the Local Government and Public Involvement in Health Act 2007 (“the 2007 Act”). The review shall comply with the legislative requirements, have regard for the associated statutory guidance and will be conducted in accordance with these terms of reference.

The review will consider the establishment of a Parish Council for Bexhill-on-Sea encompassing all nine District Electoral Wards within the local authority area of Rother District Council.

It shall have particular regard for the need to secure that community governance within the area under review:

- reflects the identities and interests of the communities in that area; and
- is effective and convenient.

When carrying out the Community Governance Review, the District Council must also take into account other existing or potential community governance arrangements.

Following the review the Community Governance Review Steering Group shall make recommendations as to:

- whether or not to establish a new parish of Bexhill-on-Sea, the name of any new parish and the styling (i.e. parish, town, community, neighbourhood or village) of any new parish;
- whether or not any new parish should have a parish / town council (subject to the particular restrictions on recommendations in this area set out in Section 94 of the 2007 Act) and the electoral arrangements of any new parish council – including the ordinary year of election, warding and number of councillors;

The review shall invite and take account of submissions from all interested parties.

Proposed Timetable	Outline of Action
29 July 2019	Cabinet makes recommendations to Council on the CGR process.
16 September 2019	Full Council approves recommendations from Cabinet, sets ToR for CGR, appoints Steering Group and agrees ToR for Steering Group. East Sussex County Council to be notified of intention to undertake review.
October/November 2019	Meetings of CGR Steering Group to consider the proposed timetable for review, consultation methods etc.
25 November 2019	Report to OSC
2 December 2019	Report to Cabinet
16 December 2019	Report to full Council
6 January – 14 February 2020 (6 weeks)	Formal publication of ToR and launch of public consultation (12 months' timescale starts from now), timetable for review, consultation methods etc.
February/March 2020	CGR Steering Group considers submissions and develops recommendations for submission to the OSC (27 April 2020) for approval by Cabinet (11 May 2020)*
18 May 2020	Publish final proposals.
18 May 2020	Full Council makes final decision and approves the creation of Community Governance Orders (CGO), if any, in relation to any proposed parish / town councils.
Membership	7 Members
Quorum	4
Officer Leads	Malcolm Johnston, Executive Director Lisa Cooper, Democratic Services Manager

Rother District Council – Capital Programme 2019/20 to 2023/24

	2019/20 Budget £ (000)	2020/21 Budget £ (000)	2021/22 Budget £ (000)	2022/23 Budget £ (000)	2023/24 Budget £ (000)
<u>Acquisitions, Transformation and Regeneration</u>					
Community Grants	130	130	130	130	130
East Parade - project A - Bexhill East Beach	0	360	327	0	0
East Parade - project B - Shelters and Heritage Hub	32	358	0	0	0
Cemetery Entrance	240	0	0	0	0
Community Led Housing Schemes	650	0	0	0	0
Blackfriars Housing Development	3,052	0	0	0	0
Rother 2020 Programme					
Property Investment Strategy	12,238	20,000	0	0	0
Demolition	250	0	0	0	0
Rother 20/20 ICT Investment	390	0	0	0	0
Corporate Document Image Processing System	435	0	0	0	0
<u>Housing and Community Services</u>					
De La Warr Pavilion - Capital Grant	53	0	0	0	0
Fairlight Coastal Protection	70	0	0	0	0
Sidley Sports and Recreation	292	0	0	0	0
Land Swap re Former High School Site	1,085	0	0	0	0
Bexhill Leisure Centre – site development (move to ATR)	2,113	11,810	0	0	0
Disabled Facilities Grant	1,062	0	0	0	0
New Bins	13	0	0	0	0
Replacement/New Bins – New Contract	108	108	108	108	108
Camber Western Car Park	360	0	0	0	0

	2019/20 Budget £ (000)	2020/21 Budget £ (000)	2021/22 Budget £ (000)	2022/23 Budget £ (000)	2023/24 Budget £ (000)
Bexhill Promenade – Protective Barriers	50	0	0	0	0
Bexhill Promenade – Outflow Pipe	100	0	0	0	0
Housing (purchases – temp accommodation)	1,000	1,000	0	0	0
<u>Corporate Core including Executive Directors</u>					
Accommodation Strategy	TBD				
Lift for Amherst Road Offices	100				
<u>Resources</u>					
Enterprise Resource Planning System upgrade	36	0	0	0	0
ICT Infrastructure – Ongoing Upgrade Programme	166	0	0	0	0
Total Capital Programme	24,025	33,766	565	238	238
Funded By:					
Capital Receipts	3,198	0	0	0	0
Grants and contributions	4,064		0	0	0
Borrowing	12,488	20,000	-	-	-
Capital Expenditure Charged to Revenue	2,765	535	238	238	238
Unfunded	1,510	13,231	327	0	
Total Funding	24,025	33,766	565	238	238

Rother District Council

Appointment of Substitute Members of formal Committees and Sub-Committees

1. There shall be no substitution of members of the Audit and Standards Committee, Cabinet or Licensing Panels. Members of the Cabinet may not be substitutes on Overview and Scrutiny Committee.
2. The political groups may appoint substitute Members from their own group in accordance with this Procedure Rule on committees and sub-committees. Only substitute Members who have undergone related training may be substituted to the Planning Committee.
3. Substitute Members will have all the powers and duties of any ordinary Member of the committee.
4. Political Groups will be permitted to nominate one substitute Member for each relevant Committee on which they have an allocated seat(s).
5. Substantive Members must organise their own substitute arrangements and confirm the attendance of a substitute to the Democratic Services Manager or Officer at least one clear working day prior to the commencement of the meeting (unless there are extenuating circumstances such as a medical emergency or some other family-related emergency); notification by electronic mail or telephone will suffice for these purposes.
6. The Chairman of a relevant meeting will seek confirmation of substitute Members present at the "Apologies and Substitutes" Agenda Item.
7. Substitutes arriving after the commencement of the meeting and for which prior notification has not been received will not be permitted to act as a substitute.
8. Where a substantive Member is substituted on a relevant Committee for more than 50% of the scheduled meetings of that Committee in any civic year, Group Leaders will be alerted and consideration given to the removal of the substantive Member.
9. Substitute Members may attend meetings in that capacity only:
 - i. to take the place of the substantive Member for whom they are the designated substitute;
 - ii. where the substantive Member will be absent for the whole of the meeting;
 - iii. has undertaken the mandatory training in the case of the Planning Committee; and
 - iii. after notifying the Democratic Services Manager no later than 1 clear working day prior to the commencement of the relevant meeting.

Temporary Accommodation Investment Strategy

1. The Temporary Accommodation Investment Strategy will outline the number and type of properties the Council will target for use as temporary accommodation alongside how these properties will be purchased, managed, repaired and maintained.

Property Purchases

2. The risks of each potential investment will be considered by carrying out due diligence to include the following:
 - Valuation.
 - Market Conditions.
 - Building surveys.
 - Funding options.
 - External red book valuations.
 - Future costs: e.g. ground rent, service charges, major works, and maintenance throughout the lifecycle of the property.
3. The Council has many of the expertise to manage and oversee each property transaction in-house. It is proposed that external specialist property investment advisors be retained on each transaction as required, advising on suitability having undertaken detailed pre-purchase due diligence, including valuation and risk analysis.

Property Standards and Management

4. All property purchased will adhere to decent homes standards or be refurbished to meet these standards. Properties will be inspected by the Council Environmental Health team to ensure compliance with the Housing Health and Safety Rating Systems (HHSRS) standards.
5. The cost of repairs, maintenance and refurbishment are detailed within the property investment appraisal at Appendix 3 within the main report. It is proposed that the repairs, maintenance and refurbishment elements of the portfolio be delivered from existing resources within the Council's Housing Needs team with support from the Estates Maintenance and Private Sector Housing teams. We will contract additional specialist services as required.
6. We will also commission a specialist property management service either from market providers or in partnership with neighbouring local authorities - already managing similar accommodation – to manage the rent collection and tenant liaison responsibilities.
7. Households placed in temporary accommodation owned by the Council will not be required to pay utility bills or Council Tax directly as the accommodation is temporary. The Council will meet these costs and recharge the tenant an affordable personal contribution towards the cost; these personal contributions will be standardised across all types of temporary accommodation provision, including private sector provision.
8. Properties will not contain white goods and temporary accommodation residents will be expected to provide their own existing white goods or they

will be supported to purchase new white goods. All white goods supplied by the temporary accommodation residents will be PAT tested by the Council and replaced as necessary where existing white goods are faulty.

Property Type, Tenure & Location

9. Freehold tenure is preferred to leasehold. Freehold provides greater levels of security than a leasehold asset that would effectively decrease in value over time. However, the Council will consider leasehold properties where leases are in excess of 100 hundred years and where former local-authority flats – managed by Registered Provider partners – are available for purchase, following a due diligence process.
10. Homeless applicants will be accommodated temporarily under the Council's Housing Act powers, which it is able to do when a household is homeless. This is the practice presently in self-contained temporary accommodation operated by private providers and by neighbouring local authorities already managing their own temporary accommodation.
11. The Council will consider opportunities to purchase property for use as temporary accommodation across the whole of the Rother district with a focus on urban areas which are close to amenities, schools and transport links. The Council will focus on purchasing former local authority housing as these tend to be in urban areas as well as having been built to minimum space and decent homes standards.

Property Price

12. Taking all of the above considerations into account, the following specific criteria are proposed:
 - Up to £3m is set aside to purchase 1, 2 and 3 bedroom houses (preferred) and flats (considered).
 - Freehold preferred and leasehold considered where Registered Provider is the Freeholder.
 - Geographically located within the Rother District.
 - Meets decent homes standards or can be affordably refurbished to meet these standards.
13. Funding for the acquisition of assets should be reviewed on a case-by-case basis.
14. An initial budget of £3m will be set aside to invest, with further tranches subject to approval in due course.
15. The Council will review this strategy as the portfolio develops and as the Council's business needs evolve.
16. It is possible that we will experience a reduction in the level of homelessness we experience over time. The exit strategy from the investment will be to first review whether any property owned by the Council can be put to a difference use, for example accommodating households permanently as part of potential future strategic aims; ultimately any asset under Council ownership can be sold and the capital receipt reinvested into Council budgets.

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Rother District Council

Report to	-	Council
Date	-	16 September 2019
Report of the	-	Executive Director
Subject	-	Decisions taken as a matter of urgency at Cabinet Meetings

The Council is asked to receive the report of Cabinet, in accordance with paragraph 4 of the Budget and Policy Framework Procedure Rules and 17(a) of the Overview and Scrutiny Procedure Rules, on decisions taken as a matter of urgency at its meeting held on 29 July 2019. (Council to note that there were no urgent decisions taken at the Cabinet meeting held on 2 September 2019).

CABINET – 29 July 2019

CB19/34. DEVELOPMENT AND SITE ALLOCATIONS LOCAL PLAN – PROPOSED MAIN MODIFICATIONS

Consideration was given to the report of the Executive Director that sought authority from Cabinet to authorise the ‘Main Modifications’ and ‘Additional Modifications’ to the Development and Site Allocations (DaSA) Local Plan for a six week public consultation. It was noted that to allow the Council to publish the DaSA for consultation purposes on 30 July 2019, the Chairman of the Council had already agreed that this matter could be taken as an urgent decision and therefore outside the call-in arrangements.

The Council had submitted the Proposed Submission Version of the DaSA Local Plan for independent examination in January 2019. The DaSA implemented the development strategy and core policies set out in the adopted Core Strategy and sought to allocate sites for particular uses as well as setting out more detailed policies for the effective management of development in relation to key issues.

In January 2019, the Secretary of State appointed an Inspector to conduct the independent examination into the Plan's soundness and legal compliance and subsequently issue a report with conclusions. The examination hearings were held between the 8 – 16 May 2019 and officers and expert witnesses gave evidence on a number of matters, issues and questions set by the Inspector.

As a result of the examination process a number of modifications had been put forward to the Inspector. The Council was now required to conduct a further six week consultation on these modifications, once confirmed by the Inspector. Alongside the ‘Main Modifications and Changes to the Policies Map’ there would be further ‘Additional Modifications’ which were of a more minor nature and did not materially affect the policies set out in the DaSA Local Plan.

The report identified the proposed changes to the 'Main Modifications', 'Changes to the Policies Map' and 'Additional Modifications' as detailed at Appendices 1 to 3 respectively to the report. Copies of the Sustainability Appraisal and Habitat Regulations Assessment (HRA) had been prepared and placed in the Members' Room for perusal.

The six week public consultation would be open for anyone to make representations, would relate to the modifications only and not any other aspects of the plan; it would commence on 30 July 2019. All representations received on the 'Main Modifications' and 'Changes to the Policies Map' would be submitted to the Inspector for consideration. Representations received on 'Additional Modifications' would be considered by the Council.

It was essential that the consultation commenced as soon as possible to enable officers to undertake the consultation and compile and submit consultation responses to the Planning Inspector as promptly as possible after the period for representations had closed. This would provide the best possible chance for the Council to receive the Inspector's Report and adopt the DaSA at the September full Council meeting prior to the Core Strategy becoming more than five years old.

Officers were congratulated and thanked for all their hard work progressing the DaSA to date.

RESOLVED: That:

- 1) the proposed modifications to the Development and Site Allocations Local Plan to be considered alongside the respective Sustainability Appraisal and Habitats Regulation Assessment to enable representations to be made, be approved for public consultation purposes; and
- 2) the representations received to the 'Main Modifications' and 'Changes to the Policies Map' be subsequently sent to the Inspector following the close of the consultation.

The Chairman of Council had agreed that this decision could be taken as a matter of urgency to enable the Council to publish the Main Modifications, Changes to the Policies Map and Additional Modifications to the Development and Site Allocations Local Plan for consultation purposes on 30 July 2019.

(Cabinet Agenda Item 8)

Malcolm Johnston
Executive Director

Rother District Council

Report to	-	Council
Date	-	16 September 2019
Report of the	-	Licensing and General Purposes Committee
Subject	-	Reference from the Licensing and General Purposes Committee

The Council is asked to consider the recommendation arising from the Licensing and General Purposes Committee meeting held on 15 July, as set out below.

LICENSING AND GENERAL PURPOSES COMMITTEE - 15 JULY 2019

LG19/06. **DISCRETIONARY RELIEF FOR NON-DOMESTIC RATES POLICY**

Members received the report of the Executive Director providing summary information of the awards of Discretionary Rate Relief (DRR) for 2018/19, together with an updated policy that reflected changes introduced by the Government.

National Non-Domestic Rates were payable on all non-domestic properties. The amount payable was calculated by multiplying the rateable value (set by the Valuation Office Agency) with a national multiplier (which was increased each year by the retail price index).

The Local Government Finance Act 1988 and subsequent legislation required councils to grant mandatory relief for premises occupied by charities and similar organisations. Likewise, certain premises situated within a rural settlement area were also eligible for mandatory relief. The Council also had powers to grant discretionary relief and reductions to ratepayers, subject to certain criteria being met. In the case of new reliefs introduced, some guidance had been issued by the Government outlining actions expected to be taken by local authorities.

During the financial year 2018/19, 285 accounts were awarded Mandatory Rate Relief with a total value of £2,588,514.30. In addition, 44 accounts were awarded DRR with a total financial value of £41,332.92. Rother had met 40% of this cost; Members noted that under the new 2019/20 East Sussex Business Rate Retention 75% pilot, the Council would meet 44% of the cost of DRR. This increase was reflected in the Revenue Budget for 2019/20.

The Council's DRR Policy had last been reviewed in 2014. Since then a number of schemes had been introduced by the Government without specific legislation changes, administered under S47 of the Local Government Finance Act 1988 (Discretionary Provision) and fully funded by Central Government. The proposed policy document considered by Members detailed the schemes, along with the traditional Discretionary Provision in one document.

The most significant new relief detailed in the policy was the Retail Discount, whereby retail properties with a rateable value of less than £51,000 received a discount of one third of the rates bill for 2019/20 and 2020/21. Recipients of DRR at the time would not be adversely affected by the proposed updated policy, which would be applied retrospectively to take effect from 1 April 2019.

Members had the opportunity to raise questions and the following points were noted:

- the liability for payment of non-domestic rates applied to the occupier and followed them if moving to a new premises;
- the Localism Act 2011 allowed for DRR to be awarded on any property;
- Hardship Relief took into account profitability and the previous two year's accounts had to be submitted with an application; and
- external ATMs, where the machine was the only one in the High Street, were subject to Business Rates. The Council would give serious consideration to granting Business Rate relief subject to the outcome of the Valuation Office Agency's current appeal to the Supreme Court (Council Minute C18/58 refers).

RECOMMENDED: That the new Discretionary Rate Relief Policy as set out at Appendix A be approved and adopted.

(Licensing and General Purposes Agenda Item 7).

Councillor A.K. Jeeawon
Chairman of the Audit and Standards Committee

Rother District Council Policy for the granting of Discretionary Non-Domestic Rate Relief

Version Control

<i>Version</i>	<i>Version date</i>	<i>Revised by</i>	<i>Description</i>
1	January 2019	LM	Policy
2	April 2019	LM	Revisions
3	May 2019	LM	Amendments

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1.0 Purpose of the Policy

- 1.1 The purpose of this policy is to determine the level of discretionary relief and related areas to be granted to certain defined ratepayers within the Council's area.
- 1.2 The Local Government Finance Act 1988 and subsequent legislation requires the Council to grant mandatory relief for premises occupied by Charities and similar organisations that own or occupy them wholly or mainly for charitable purposes. Likewise, certain premises situated within a rural settlement area will be eligible for mandatory relief. Powers have also been granted under the Localism Act 2011, which allow for the granting of discretionary rate relief to any premises where the Council feels the granting of such relief would be of benefit to the local community.
- 1.3 In addition to the above, Central Government is keen that in certain cases, assistance should be provided to businesses who have had increases in their rate liability due to the revaluation of premises in April 2017. In these cases, and where the Council meets Central Government guidelines, grants are available under section 31 of the Local Government Act 2003.
- 1.4 Whilst the Council is obliged to grant relief to premises, which fall within the mandatory category, the Council also has powers to grant discretionary relief and reductions to ratepayers, subject to certain criteria being met. In the case of the new reliefs, some guidance has been issued by Central Government outlining actions expected to be taken by local authorities. This policy includes Government guidance where appropriate but also looks to target discretionary relief in line with the Council's priorities.
- 1.5 This document outlines the following areas:
 - Details of the criteria for receiving Discretionary Reliefs for all relevant areas;
 - The Council's policy for the granting of all types of Discretionary Reliefs;
 - Guidance on granting and administering the reliefs and awards;
 - European Union requirements including provisions for State Aid; and
 - The Council's Scheme of Delegation.
- 1.6 Where organisations apply for relief they will be granted (or not granted) relief or reductions in line with the following policy.

2.0 Mandatory Relief - Legislative Background

Charity Relief

- 2.1 The powers relating to the granting of mandatory¹ and discretionary relief are given to the Council under the Local Government Finance Act 1988². Charities and Trustees for Charities are only liable to pay one fifth of the Non-Domestic Rates that would otherwise be payable where property is occupied and used wholly or mainly for charitable purposes. This amounts to mandatory relief of 80%. For the purposes of the Act, a charity is an organisation or trust established for charitable purposes, whether or not it is registered with the Charity Commission. The provision has been extended under the Local Government Act 2003 (effective from 1st April 2004) to registered Community Amateur Sports Clubs (CASCs). Full details of the mandatory provisions are given later within this policy.
- 2.2 In the case of charity shops, the premises must meet the criteria laid down by section 64 (10) of the Local Government Finance Act 1988 which states that the premises are to be treated as used for charitable purposes at any time it is wholly or mainly used for the sale of goods donated to the charity and the proceeds of goods (after any deductions for expenses) are applied for the purpose of the charity.
- 2.3 The Council has discretion to grant relief of up to a further 20% for these mandatory cases under its discretionary provisions.

Rural Rate Relief

- 2.4 From 1st April 1998, under powers originally granted to the Council by the Local Government and Rating Act 1997³, certain types of business in rural settlements, with a population below 3000 may qualify for mandatory rate relief of 50 per cent. Businesses that qualify for this relief are the sole general store and the sole post office in the settlement, provided it has a Rateable Value of up to £8500; any food shop with a Rateable Value of up to £8500; and the sole pub and the sole petrol station in the settlement provided it has a Rateable Value of up to £12500.
- 2.5 From 1st April 2017, Central Government has indicated that it wants all authorities to give 100% relief to premises that receive mandatory rural rate relief. The legislation enabling this will not be forthcoming as yet and therefore it has indicated that where the additional 50% is granted, a section 31 grant will be made available to the Council. This is dealt with further within this policy and the Council will automatically grant the additional 50% discretionary relief where appropriate
- 2.6 Where businesses in rural settlements have a Rateable Value of up to £16,500 **and** are not in receipt of mandatory relief, the Council may decide to give up to 100 per cent discretionary relief if it is satisfied that the business is of benefit to the community and having regard to the interests of its Council Taxpayers.

¹ S43 & S45 Local Government Finance Act 1988

² S47 & S48 Local Government Finance Act 1988

³ LGFA 1988, s.47, as amended by Sch. 1 to the Local Government and Rating Act 1997

3.0 Discretionary Relief – Legislative Background

Introduction

- 3.1 The original purpose of discretionary relief was to provide assistance where the property does not qualify for mandatory relief, or to 'top' up cases where ratepayers already receive mandatory relief.
- 3.2 Over recent years and particularly since 2011, the discretionary relief provisions have been amended to allow authorities the flexibility to provide more assistance to businesses and organisations.
- 3.3 The range of bodies, which are eligible for discretionary rate relief, is wide and not all of the criteria laid down by the legislation will be applicable in each case.
- 3.4 Unlike mandatory relief, ratepayers are obliged to make a written application to the Council. The Council will expect all businesses to make applications in such a format as is required (which may vary from time to time) and for the business to provide such information and evidence as required in order to determine whether relief should be awarded.
- 3.5 The Council is obliged to consider carefully every application on its merits, taking into account the contribution that the organisation makes to the amenities within the authority's area. There is no statutory appeal process or Tribunal against any decision made by the Council although, as with any decision of a public authority, decisions can be reviewed by Judicial Review. The authority will however, upon request, review decisions made. Details of the internal review process are given within this policy.
- 3.6 Granting of the relief falls broadly into the following categories:
 - a. Discretionary Relief – Charities who already receive mandatory relief.
 - b. Discretionary Relief – Premises occupied by organisations not established or conducted for profit whose main objects are charitable or are otherwise philanthropic or religious or concerned with education, social welfare, science, literature or the fine arts **or** premises occupied by organisations not established or conducted for profit and wholly or mainly used for purposes recreation;
 - c. Discretionary Relief – Rural Rate relief - premises that already receive mandatory relief;
 - d. Discretionary Relief – Rural Rate relief - premises not receiving mandatory relief but of benefit to the local community and less than £16,500 RV;
 - e. Discretionary Relief – Granted under the Localism Act 2011 provisions;
 - f. Local Newspaper Relief (from 1st April 2017 for a period of three years);
 - g. Local Public House Relief (from April 2017 for a two-year period);
 - h. Supporting Small Businesses Relief (from 1st April 2017 for a period of five years or until business pay their full rate charge or their transitional rate charge (calculated in accordance with the Non-Domestic Rating (Chargeable Amounts) (England) Regulations 2016));
 - i. Discretionary Business Rates Relief Scheme (from 1st April 2017 for a period of up to four years);
 - j. Retail Discount Scheme; and
 - k. S49 Hardship Relief.

- 3.7 The decision to grant or not to grant discretionary relief is a matter purely for the Council.

The Council's general approach to granting Discretionary Relief

- 3.8 In deciding which organisations should receive discretionary rate relief, the Council has considered the following factors and priorities:
- a. The awarding of relief will be in line with the Council's vision and values.
 - b. That any award should support business, charities, organisations and groups that help to retain services in the Council's area and not compete directly with existing businesses in an unfair manner;
 - c. It should help and encourage business, charities, organisations, groups and communities to become self-reliant;
 - d. Awarding discretionary relief should not distort competition or significantly change the provision of services within the Council's area;
 - e. Local organisations will be given priority over national organisations. Where requested, the organisation will need to supply the Council with clear evidence of **all** financial affairs (normally two full years) including, and most importantly, the amounts of monies raised, used and invested locally. This will be essential where the organisation is national in nature;
 - f. To enable appropriate organisations to start, develop or continue their activities, which deliver outcomes to the community and that also relate to the priorities of the Council, which without granting discretionary relief they would be unable to do;
 - g. To assist the Council in delivering services which could not be provided otherwise;
 - h. To enable the Council to determine the level of rate change in comparison with the organisation's financial situation; and
 - i. To ensure that the financial impact of awarding discretionary business rate relief is justified in terms of the local outcomes achieved by the organisation receiving it.
- 3.9 Where any reduction or remission is granted to a ratepayer under S49 Local Government Finance Act 1988 where hardship is proven to the Council, then there will be no requirement to grant Discretionary Rate Relief for that amount.
- 3.10 In certain cases, the order in which relief is granted is specified. Mandatory relief shall be granted in all cases where the criteria is met irrespective of whether discretionary relief can be granted or not.

The Council's approach to granting Government led Discretionary Relief schemes

- 3.11 Over the past few years, a number of schemes have been led by Central Government but without specific legislative changes. These are administered under S47 of the Local Government Finance Act 1988 and guidance is often provided. The Council is keen to support such initiatives especially where they are designed to help local businesses and will look to maximise both the reliefs given as well as maximise

any grants receivable. However, the Council reserves the right to vary its approach where thought appropriate.

4.0 Effect on the Council's Finances

- 4.1 The granting of discretionary relief will, in the main, involve a cost to the Council. Since the change to the funding for Non-Domestic Rating in April 2013, the effect of the relief is complex.
- 4.2 Any amounts granted prior to 1st April 2013 and continuing since that date will be included in the Council's baseline within the Business Rates Retention Scheme. For any amounts granted for similar cases after 1st April 2013, the costs of the relief will be borne in accordance with the Business Rates Retention Scheme share namely 50% borne by Central Government, 40% by the Council and 10% by East Sussex County Council. This also applies where mandatory relief is granted. From 2020 the overall percentage of rates retained by local authorities will change in line with the 75% Business Rates Retention scheme announced by Central Government.
- 4.3 Where Central Government leads an initiative, grants are often available through section 31 of the Local Government Act 2003. This is not automatic and Central Government will look to the Council to adopt the recommended approach when granting in these areas
- 4.4 The financial effects of discretionary reliefs covered by this policy are as follows:

Appendix	Relief Type	Granted after 1 st April 2013
	Charity Relief	
A	Discretionary relief granted to Mandatory Relief recipients	40% borne by the Council
B	Non-profit Making Organisations including Sports Clubs and societies	40% borne by the Council
	Rural Rate Relief	
C	50% Discretionary relief granted to Mandatory Rural Relief recipients	Section 31 Grant
D	Other premises within a rural settlement under £16500 RV	40% borne by the Council
	Localism	
E	Discretionary Relief granted to ratepayers generally and not covered by any other section	40% borne by the Council
	Local Newspaper Relief	
F	Discretionary Relief granted to local newspapers meeting the criteria (From 1 st April 2017 for a period of three years)	Section 31 Grant
	Public House Relief	
G	Discretionary Relief granted to public houses meeting the criteria (From 1 st April 2017 for a period of two years)	Section 31 Grant

Appendix	Relief Type	Granted after 1st April 2013
	Supporting Small Business Relief	
H	Supporting Small Businesses Relief (from 1 st April 2017) for a period of up to five years if conditions are met	Section 31 Grant
	Discretionary Business Rates Relief Scheme	
I	Discretionary Business Rates Relief Scheme (from 1 st April 2017 for a period of up to four years)	Section 31 Grant up to a maximum level set by Central Government. Once the maximum has been reached any additional amount is borne 40% by the Council
J	Retail Discount	
	The Retail Discount Scheme (from 1 st April 2019 for a period of up to two years)	Section 31 Grant
	S49 Hardship Relief	
K	Partial or full relief for cases of hardship where it would be reasonable to do so having due regard to the interests of council tax payers	40% borne by the Council

5.0 Discretionary Relief – EU State Aid requirements

- 5.1 European Union competition rules generally prohibit Government subsidies to businesses. Relief from taxes, including non-domestic rates, can constitute state aid. The Council must bear this in mind when granting discretionary rate relief.
- 5.2 Rate relief for charities and non-profit making bodies is not generally considered to be state aid, because the recipients are not in market competition with other businesses. However, where other bodies receive relief and are engaged in commercial activities or if they are displacing an economic operator or if they have a commercial partner, rate relief could constitute state aid.
- 5.3 Relief will be State Aid compliant where it is provided in accordance with the De Minimis Regulations (1407/2013)⁴. 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).
- 5.4 Where the relief to any one business is greater than the De Minimis level, then permission will need to be obtained from the European Commission. In such cases the matter will be referred to the Ministry of Housing, Communities and Local Government (MHCLG) for advice and then referred back to the Council for consideration. It will be for the ratepayer to provide confirmation as to whether the State Aid provisions apply to them.
- 5.5 In all cases, where discretionary relief is to be granted or where liability is to be reduced, when making an application, ratepayers will be required to provide the Council with sufficient information to determine whether these provisions are applicable in their case.

⁴ <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2013:352:0001:0008:EN:PDF>

6.0 Administration of Discretionary Relief

- 6.1 The following section outlines the procedures followed by officers in granting, amending or cancelling discretionary relief and reduction. This is essentially laid down by legislation⁵.

Applications and Evidence

- 6.2 Applications for relief must be made on the Council's application forms. Any applications submitted without the supporting information will be subject to a decision being made solely on the information that is available at the time of the decision. Application forms can be downloaded at www.rother.gov.uk/businessraterelief
- 6.3 Organisations are required to provide a completed application form plus any such evidence, documents, accounts (normally the last two years), financial statements etc. necessary to allow the Council to make a decision. Where insufficient information is provided, then no relief will be granted. In some cases, it may be necessary for officers to visit premises and we would expect organisations claiming relief to facilitate this where necessary.
- 6.4 Applications should initially be made to the Revenues and Benefits Services and will be determined in accordance with Section 7 of this policy.
- 6.5 **The Council will provide this service and provide guidance free of charge. Ratepayers are encouraged to approach the Council direct and NOT pay for such services through third parties.**

Granting of relief

- 6.6 The Council will aim to make a decision within four weeks of receiving an application **and** all supporting evidence considered necessary to enable the application to be processed. Ratepayers are required to continue to pay Business Rates whilst their application is being considered. Failure to make payments will result in the Council pursuing collection via the usual recovery procedures which may result in costs being added to the ratepayers account. In all cases, the Council will notify the ratepayer of decisions made.
- 6.7 Where an application is successful, then the following will be notified to them in writing:
- The amount of relief granted and the date from which it has been granted;
 - If relief has been granted for a specified period, the date on which it will end. (It should be noted that reliefs are granted for the period specified in the appropriate Appendix and may vary from a day to a full financial year);
 - The new chargeable amount;

⁵ The Non-Domestic Rating (Discretionary Relief) Regulations 1989

- The details of any planned review dates and the notice that will be given in advance of a change to the level of relief granted; and
 - A requirement that the applicant should notify the Council of any change in circumstances that may affect entitlement to relief.
- 6.8 Where relief is not granted, then the following information is provided, again in writing:
- An explanation of the decision within the context of the Council's statutory duty; and
 - An explanation of the appeal rights (see below).
- 6.9 Discretionary relief can be granted from the beginning of the financial year in which the decision is made or when liability begins whichever is the later. Since 1997 decisions can be made up to 6 months after the end of the financial year for which the application was made. In such cases, the Council *may* backdate its decision.
- 6.10 A decision to award discretionary relief and how much relief is given is normally only applicable to the financial year for which the application is made. With the exception of applications on the grounds of hardship, rate relief will not normally be awarded in respect of any day prior to the day that an application is received. However, in very exceptional circumstances consideration may be given to awarding rate relief for a retrospective period where the ratepayer can demonstrate good cause for not submitting a claim earlier. The Council reserves the right to grant relief for any other period as appropriate.
- 6.11 Where the application is on the grounds of hardship an award may be made for a respective period where it is considered that the business suffered hardship during that period. However, no consideration shall be given to an award for a retrospective period where the Council is not able to verify to its satisfaction that the circumstances giving rise to the application pertained for that period
- 6.12 A fresh application for discretionary relief will be necessary for each financial year **or** at such time-period as the Council determines.

Variation of a decision

- 6.13 Variations in any decision will be notified to ratepayers as soon as practicable and will take effect as follows:
- Where the amount is to be increased due to a change in rate charge or a change in the Council's decision which increases the award – this will apply from a date determined by the Council as appropriate;
 - Where the amount is to increase for any other reason, it will take effect at the expiry of a financial year and so that at least one year's notice is given;
 - Where the amount is to be reduced due to a reduction in the rate charge or liability including any reduction in rateable value, awarding of another relief or exemption this will apply from the date of the decrease in rate charge; and
 - Where the amount is to be reduced for any other reason, it will take effect from a date determined by the Council as appropriate;

-
- 6.14 A decision may be revoked at any time however; a one-year period of notice will be given and the change will take effect at the expiry of a financial year.

7.0 Scheme of Delegation

Granting, Varying, Reviewing and Revocation of Relief

- 7.1 All powers in relation to reliefs are given under the Local Government Finance Act 1988, the Local Government and Rating Act 1997, the Local Government Act 2003 and the Localism Act 2011. However section 223 of the Local Government Act 1992 allows for delegation of decisions by the Council to Cabinet, Committees, Sub-Committees or Officers.
- 7.2 The Council's scheme of delegation allows for the Executive Director, or any officer nominated by them, to award, revise or revoke any discretionary relief applications. However, any application which is considered to be of a significant nature will be subject to consultation with the relevant executive or committee prior to final determination.
- 7.3 Applications that are refused will, on request, be reconsidered if additional supporting information is provided or the refusal is subsequently considered to be based on a misinterpretation of the application.

Reviews

- 7.4 The policy for granting relief will be reviewed annually or where there is a substantial change to the legislation or funding rules. At such time, a revised policy will be brought before the relevant committee of the Council.

Appeals

- 7.5 All unsuccessful applicants will receive a letter detailing the reasons why their application has not been successful. If the ratepayer is dissatisfied with this decision, they can appeal in writing to:
Revenues and Benefits
Post Handling Service,
PO Box 10665,
Nottingham, NG6 6DZ
- 7.6 An appeal should be received in writing within 4 weeks of the date of the decision regarding the award or refusal of a discretionary relief. The appeal letter should detail the reasons for the appeal and also provide any additional supporting information which may assist the decision maker in support of the appeal.
- 7.7 Requests for appeals will be considered against unsuccessful applications or against the level of discretionary rate relief awarded where a partial award has been granted. Appeals will be dealt with by the Executive Director or any officer nominated by them, and the ratepayer notified in writing. Where the taxpayer remains dissatisfied with the decision, the final appeal route is by way of judicial

review. Business rates remain payable as demanded whilst applications for relief are being considered.

8.0 Reporting changes in circumstances

- 8.1 Where any award is granted to a ratepayer, the Council will require any changes in circumstances which may affect the relief, to be reported as soon as possible. This will be important where the change would result in the amount of the award being reduced or cancelled e.g. where the premises comes unoccupied or is used for a purpose other than that determined by the Council as eligible for relief.
- 8.2 Where a change of circumstances is reported, the relief will, if appropriate, be revised or cancelled as appropriate. Where any award is to be reduced, the Council will look to recover the amount from the date the change of circumstances occurred.

9.0 Fraud

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

Appendix A

Discretionary Relief - Mandatory Relief recipients

Discretionary Relief – Mandatory Relief recipients

General Explanation

- A.1 S43 of the Local Government Finance Act 1988 allows mandatory relief (80%) to be granted on premises if the ratepayer is a charity or trustees for a charity and the premises are wholly or mainly used for charitable purposes. No charge is made in respect of unoccupied premises where it appears that *when next in use* it will be used wholly or mainly for those purposes.
- A.2 The legislation has been amended by the Local Government Act 2003 (effective from 1st April 2004) to include registered⁶ Community Amateur Sports Clubs (CASC). These organisations can now receive the mandatory (80%) relief.

Charity registration

- A.3 Charities are defined within the legislation as being an institution⁷ or other organisation established for charitable purposes only or by persons administering a trust established for charitable purposes only.
- A.4 The question as to whether an organisation is a charity may be resolved in the majority of cases by reference to the register of charities maintained by the Charity Commissioners under s.4 of the Charities Act 1960. Entry in the register is conclusive evidence. By definition, under the Non-Domestic Rating legislation, there is no actual need for an organisation to be a registered charity to receive the relief and this has been supported by litigation⁸, however in all cases the organisation must fall within the following categories:
- trusts for the relief of poverty;
 - trusts for the advancement of religion;
 - trusts for the advancement of education; and
 - trusts for other purposes beneficial to the community, but not falling under any of the preceding heads.
- A.5 Certain organisations are exempted from registration generally and are not required to make formal application to the Charity Commissioners these are:
- the Church Commissioners and any institution administered by them;
 - any registered society within the meaning of the Friendly Societies Acts of 1896 to 1974;
 - units of the Boy Scouts Association or the Girl Guides Association; and
 - voluntary schools within the meaning of the Education Acts of 1944 to 1980.

⁶ Registered with HMRC as a CASC

⁷ S67(10) Local Government Finance Act 1988

⁸ Income Tax Special Commissioners v Pemsell (1891)

Use of Premises - wholly or mainly used

- A.6 Irrespective of whether an organisation is registered as a charity or not, the premises **must** be wholly or mainly used for charitable purposes. This is essential if any relief (either mandatory or discretionary) is to be granted. In most cases this can be readily seen by inspection, but on occasions the Council has had to question the actual use to which the premises are to be put. In some cases, it will be necessary for the Council to inspect any premises fully.
- A.7 Guidance from the Ministry of Housing, Communities and Local Government (MHCLG) has stated that in the case of 'mainly', at least 51% must be used for charitable purposes whether of that charity or of that and other charities
- A.8 The following part of this section gives details on typical uses where relief may be given plus additional criteria that have to be satisfied. The list is not exhaustive but gives clear guidance on premises for which mandatory relief can be granted *and therefore* premises which may be equally considered for discretionary rate relief.

Offices, administration and similar premises

- A.9 Premises used for administration of the Charity include:
- Offices;
 - Meeting Rooms; and
 - Conference Rooms.

Charity shops

- A.10 Charity shops are required to meet additional legislative criteria if they are to receive mandatory relief. Section 64 (10) of the Local Government Finance Act 1988 provides that a property is to be treated as being wholly or mainly used for charitable purposes at any time if, at the time, it is wholly or mainly used for the sale of goods donated to a charity and the proceeds of the sale of the goods (after any deduction of expenses) are applied for the purposes of the charity.
- A.11 In order to ascertain whether an organisation meets these requirements, inspections may be made by an officer of the Council when an application is received

Granting of Mandatory Relief - the Council's Policy

- A.12 Where the criteria for awarding mandatory relief are met, the rate charges shall be calculated in accordance with the legislation reducing the liability of ratepayers for each day that the criteria are met.

Charity Relief – Mandatory Relief recipients, the Council’s Policy for granting discretionary relief.

- A.13 The Council will consider applications for a discretionary rate relief top up from charities based on their own merits, on a case-by-case basis.
- A.14 In determining the application, the following matters will be taken in to consideration:
1. How the charity supports and links into the Council’s corporate vision and priorities;
 2. The purpose of the charity and the specific activity carried out within the premises for which the relief is requested;
 3. Whether the charity operates at a local or national level and where appropriate, the local and national funding streams and financial position of the charity. The Council is keen to ensure that the organisation provides significant benefit to local residents; and
 4. The Council will focus on local charities where the residents of Rother District are the primary recipients.
- A.15. Whilst not excluding an application, the Council will not consider as priority any of the following:
1. Administrative offices of national charitable organisations which are already in receipt of mandatory relief;
 2. Charity shops and shops operated by trading arms of charities;
 3. Housing Associations;
 4. Organisations which have a commercially operated bar within the relevant property serving alcohol;
 5. Properties which are used for storage;
 6. Properties which support overseas organisations; and
 7. Schools and other educational establishments.
- A.16 The Council is keen to support businesses that have a critical role to play in the local economy and to assist the Council in meeting the Corporate aims and values.
- A.17 In the case of registered Community Amateur Sports Clubs, the key criteria in determining the application will be:
1. The ratepayer occupies the whole hereditament;
 2. Relief cannot be granted in respect of premises that are occupied by the Council or precepting authority;
 3. How the CASC supports and links into the Council’s corporate vision and priorities;
 4. The membership and fee structure, and whether the CASC is accessible to all residents, including whether there are concessions for certain groups, for example people on a low income or young people under 18;
 5. Membership numbers and the number and percentage of these members that are local residents;
 6. If the CASC has due regard to equality issues and if it actively encourages members from under-represented groups, for example black and minority ethnic residents, people over 50 and people with disabilities;
 7. Whether facilities are available to the wider community regardless of ability; and
 8. If the CASC runs a bar or food provision: the level of income from this activity and how this money is

used; and whether the CASC operates at a local or national level and where appropriate, the local and national funding streams and financial position of the CASC.

- A.18 The Council wishes to support and enable appropriate businesses to start, develop and continue with their operations that deliver outcomes directly related to the Council's aims and vision. In the main, this will be done through other means rather than granting discretionary relief. There may be occasions where applications are made for such relief or where a package of measures, including discretionary relief, are appropriate in supporting businesses. This would need to be in accordance with any limitations in respect of state aid.

Appendix B

Discretionary Relief - Non-Profit Making Organisations including Recreation

Discretionary Relief - Non-Profit Making Organisations including Recreation

General explanation

Non-Profit

- B.1 The legislation⁹ allows the Council to grant discretionary relief where the property is not an *excepted* one and all or part of it is occupied for the purposes of one or more institutions or other organisations none of which is established or conducted for profit and each of whose main objects are charitable or are otherwise philanthropic or religious or concerned with education, social welfare, science, literature or the fine arts.
- B.2 Relief cannot be granted to any premises occupied by the Council, or any town, parish council or major Precepting Authority (*excepted premises*).
- B.3 A number of issues arise from the term 'not established or conducted for profit'. This requires the Council to make enquiries as to the overall purpose of the organisation although if surpluses and such amounts are directed towards the furtherance or achievement of the objects of the organisation then it does not necessarily mean that the organisation was established or conducted for profit.¹⁰

Recreation Clubs

- B.4 Ideally all recreation clubs should be encouraged to apply for Community Amateur sports Club (CASC) status, which would automatically entitle them to 80% relief. The relief granted to CASCs is covered earlier within this policy.
- B.5 Recreation clubs can also apply to the Charity Commissioners for registration as a Charity (thereby falling under the mandatory provisions for 80% relief) where they meet the following conditions:
- a. The promotion of community participation in healthy recreation and by the provision of facilities for the playing of particular sports; and
 - b. The advancement of the physical education of young people not undergoing formal education.
- B.6 Where sports clubs do not meet the CASC requirement, and are not registered charities, discretionary relief can be granted (0-100%) where the property is not an *excepted* one, it is wholly or mainly used for purposes of recreation and all or part of it is occupied for the purpose of a club, society or other organisation not established or conducted for profit.

⁹ S47 Local Government Finance Act 1988

Definition of Recreation

B.7 Recreation is clearly defined by the Sports Council as any of the following¹¹

Aikido	Croquet	Kabaddi	Real Tennis	Tang Soo Do
American Football	Crossbow	Karate	Roller Hockey	Tenpin Bowling
Angling	Curling	Kendo	Roller Skating	Trampolineing
Archery	Cycling	Korfball	Rounders	Triathlon
Arm Wrestling	Disability Sport	Lacrosse	Rowing	Tug of War
Association Football	Dragon Boat Racing	Lawn Tennis	Rugby League	Unihoc
Athletics	Equestrian	Life Saving	Rugby Union	Volleyball
Australian Rules Football	Fencing	Luge	Sailing	Water Skiing
Badminton	Fives	Modern Pentathlon	Sand/Land Yachting	Weightlifting
Ballooning	Flying	Motor Cycling	Shinty	Wrestling
Baseball	Gaelic Football	Motor Sports	Shooting	Yoga
Basketball	Gliding	Mountaineering	Skateboarding	
Baton Twirling	Golf	Movement, Dance, Exercise & Fitness	Skiing	
Biathlon	Gymnastics	Netball	Skipping	
Bicycle Polo	Handball	Orienteering	Snowboarding	
Billiards and Snooker	Hang/Para Gliding	Parachuting	Softball	
Bobsleigh	Highland Games	Petanque	Sombo Wrestling	
Boccia	Hockey	Polo	Squash	
Bowls	Horse Racing	Pony Trekking	Skater/Street Hockey	
Boxing	Hovering	Pool	Sub-Aqua	
Camogie	Hurling	Quoits	Surf Life Saving	
Canoeing	Ice Hockey	Racketball	Surfing	
Caving	Ice Skating	Rackets	Swimming & Diving	
Chinese Martial Arts	Jet Skiing	Raquetball	Table Tennis	
Cricket	Ju Jitsu	Rambling	Taekwondo	
	Judo			

Access to clubs

B.8 Guidance issued by the MHCLG also requires the Council to consider access to clubs within the community before granting discretionary relief.

B.9 Membership should be open to all sections of the community. There may be legitimate restrictions placed on membership which relate for example to ability in sport or to the achievement of a standard in the

¹¹ Definition last reviewed by Sport England in 2002

field covered by the organisation or where the capacity of the facility is limited, but in general membership should not be exclusive or restrictive.

- B.10 Membership rates should not be set at such a high level as to exclude the general community. However, membership fees may be payable at different rates that distinguish the different classes of membership such as juniors, adults, students, pensioners, players, non-players, employed and unemployed. In general, the club or organisation must be prepared to show that the criteria by which it considers applications for membership are consistent with the principle of open access.
- B.11 The Council also asks the following question to help establish the level of access 'Does the organisation actively encourage membership from particular groups in the community e.g. young people, women, older age groups, persons with disability, ethnic minorities' etc.?'

Provision of facilities

- B.12 Clubs which provide training or education are encouraged, as are those who provide schemes for particular groups to develop their skills e.g. young people, the disabled, retired people.
- B.13 A number of organisations run a bar. The mere existence of a bar will not in itself be a reason for not granting relief. However, the Council focuses on the main purpose of the organisation. The Council is encouraged to examine the balance between playing and non-playing members and is mainly focussed on organisations who do not have a commercially operated bar within the premises.
- B.14 Within this area, the Council also considers whether the facilities provided relieve the Council of the need to do so or enhance and supplement those that it does provide.

Discretionary Relief - Non-Profit Organisations including Recreation - the Council's Policy

- B.15 The Council will consider applications for discretionary rate relief from non-profit making organisations on their own merits on a case-by-case basis. In determining the application, the following matters will be taken in to consideration (The list is not exhaustive):
- How the organisation supports and links into the Council's corporate vision and priorities;
 - Whether the facilities provided include education and/or training for members as a whole or for special groups;
 - The extent to which the facilities provided reduce the demand for Council services or produce savings;
 - Any membership and fee structure and whether the facilities are accessible to all residents, including whether there are concessions for certain groups, for example people on a low income, young people under 18 or persons of state pension age;
 - If covered by a membership scheme, membership numbers and the number and percentage of these members that are local residents;
 - Membership is encouraged from groups who face social barriers, for example, young people not in employment, education or training or people with disabilities; and
 - If the organisation has due regard to equality issues and if its facilities are used by all members of

the community, for example black and minority ethnic residents, people over 50 and people with disabilities.

- B.16 The Council will also require additional financial information including:
- If the organisation runs a bar or food provision, the level of income from this activity and how this money is used; and
 - Whether the organisation operates at a local or national level and where appropriate, the local and national funding streams and financial position of the organisation.
- B.17 Whilst not excluding an application, the Council will not consider as priority any of the following:
1. Administrative offices of national charitable organisations which are already in receipt of mandatory relief;
 2. Charity shops and shops operated by trading arms of charities;
 3. Housing Associations;
 4. Organisations which have a commercially operated bar within the relevant property serving alcohol;
 5. Properties which are used for storage;
 6. Properties which support overseas organisations; and
 7. Schools and other educational establishments.

Appendix C

Discretionary Relief - Rural Rate Relief - Mandatory Relief recipients

Discretionary Relief - Rural Rate Relief - Mandatory Relief recipients

What are the qualifying criteria for Mandatory Relief?

- C.1 For a Post Office or General Store to be entitled to 50% Mandatory Relief, all the following criteria must be met:
- The Rateable Value of the property must not exceed £8,500 (from 1 April 2010);
 - The property must be used as a Post Office or a General Store (see below for definition), or both;
 - The property must be the only Post Office or the only General Store within the Rural Settlement.
- C.2 For a Public House or Petrol Filling Station to be entitled to 50% Mandatory Relief, all the following criteria must be met:
- The Rateable Value of the property must not exceed £12,500 (from 1 April 2010);
 - The property must be used as a Public House (see below for definition) or a Petrol Filling Station (see below for definition); and
 - The property must be the only Public House or the only Petrol Filling Station within the Rural Settlement.
- C.3 For a village food shop to be entitled to 50% Mandatory Relief, all the following criteria must be met:
- The Rateable Value of the property must not exceed £8,500 from 1 April 2010); and
 - The property must be used as a shop selling mainly food (see below for definition).

What rural settlements exist within the Rother District Council's area?

- C.4 The following are deemed to be rural settlements within the District Council's area:
- Ashburnham & Ponto Green (x2); Netherfield (x2); Telham; Beckley (x2); Beckley Four Oaks (x2)
Bodiam; Cackle Street (x2); Broad Oak; Brightling; Oxleys Green; Hollingrove; Twelve Oaks; Burwash
Burwash Common/Weald; Camber; Catsfield; Crowhurst (x2); Dallington (x3); East Guldeford
Etchingam; Ewhurst (x2); Ewhurst Green; Staplecross; Fairlight; Guestling Green; Guestling - Three
Oaks; Guesting - Batchelors Bump; Friars Hill; Icklesham; Rye Harbour; Winchelsea; Winchelsea Beach
(x2); Iden; Mountfield (x3); Northiam; Mill Corner; Peasmarsh; Flackley Ash; Pett; Pett Level Cliff End
Playden; Rye Foreign (x3); Salehurst; Robertsbridge; Northbridge Street; Sedlescombe; Ticehurst
Flimwell; Stonegate; Wallcrouch; Three Leg Cross; Udimore; Westfield; Whatlington (x3)

What is the definition of a General Store?

- C.5 For the purposes of Rural Rate Relief, 'General Store' means a business or trade, which wholly or mainly sells by retail both food (other than confectionery) for human consumption and general household goods. Where there are two or more General Stores within the same Rural Settlement, none can qualify for Mandatory Relief on that basis, although if one of them functions as a Post Office or a Food Shop relief may be claimed independently on that ground. However, both a General Store and a Post Office in the same Rural Settlement will qualify for Mandatory Relief, provided that, they both meet the criteria. Although a General Store or a Post Office may not meet the criteria for Mandatory Relief, they

may still be eligible to apply for Discretionary Relief.

What is the definition of a Public House?

- C.6 For the purposes of Rural Rate Relief, 'Public House' means any premises as defined in the Licensing Act 2003, which has a premises license authorising sale by retail of alcohol for consumption on the premises. In addition, the premises must be used principally for retail sales of alcohol to members of the public for consumption on the premises, and sales must not be subject to the condition that buyers reside at or consume food on the premises.

What is the definition of a Petrol Filling Station?

- C.7 For the purposes of Rural Rate Relief, 'Petrol Filling Station' means premises where petrol or other automotive fuels are sold retail to the general public for fuelling motor vehicles intended or adapted for use on roads

What is the definition of a Food Shop?

- C.8 For the purpose of Rural Rate Relief, 'Food Shop' means a trade or business consisting wholly or mainly of the sale by retail of food for human consumption (excluding confectionery and catering – in this context catering means any supply of food for consumption on the premises on which it is supplied and any supply of hot food for consumption off the premises). This definition may also include shops, which sell mainly household foods, and which may partly also sell hot take away food or food consumed on the premises. But shops whose main business is a restaurant, tearoom, take-away, or confectionery sales are not food shops and so will not qualify for mandatory relief.

What are the qualifying criteria for Discretionary Relief?

- C.9 The Council may grant up to 50% Discretionary Relief in respect of any property which qualifies for 50% Mandatory Relief and the Council may also grant up to 100% Discretionary Relief to any rural business which does not meet the mandatory provisions. It should be noted that for 2017 onwards Central Government has requested that Council grant 50% discretionary relief to all ratepayers who receive 50% mandatory rural rate relief.

Rural Rate Relief - Mandatory Relief recipients, the Council's Policy for granting discretionary relief.

- C.10 As Central Government has requested and fully funds any additional relief granted to ratepayers who receive mandatory rural rate relief, the Council will automatically grant the additional 50% until such time as primarily legislation is changed.

Appendix D

Discretionary Relief - Premises within Rural Settlements

Discretionary Relief – Premises within Rural Settlements

- D.1 In addition to having the ability to grant discretionary relief to those in receipt of mandatory relief, the Local Government and Rating Act 1997 allows discretionary relief of up to 100% to be granted where the rateable value is £16500 or less and:
- a. Property is used for purposes which are of benefit to the local community; and
 - b. It would be reasonable for the billing authority to award relief, having regards to the Council's Council Taxpayers.
- D.2 As with most discretionary relief, part of the cost, is met by Central Government and the balance from local sources.
- D.3 The main criteria for granting discretionary relief in respect of rural rate relief is that premises are used to benefit the local community.

Benefit to the local community

- D.4 Whilst each application for the relief will be considered on its own merits, there are certain factors which weigh heavily in the decision-making process. It is this Council's belief that the spirit of the legislation is to assist businesses and amenities, which contribute significantly to the quality of life of the people who have their main home in the Rural Settlement.
- D.5 To be successful for consideration, a business must show that its existence is a significant benefit to the local community with the majority of local residents directly benefiting from services or facilities provided by that business

Rural Rate Relief – the Council's Policy for granting discretionary relief.

- D.6 The Council will also consider applications for a discretionary rural rate relief from all ratepayers, not entitled to mandatory relief up to a maximum of 100%.
- D.7 In determining the application the following matters will be taken in to consideration:
- The granting of any discretionary relief will be essential in ensuring the viability of any business within the rural settlement;
 - The granting of any discretionary relief is proportionate given the level of any business rates charged compared with the overall turnover of the business;
 - The granting of any discretionary relief will assist the business in continuing to be viable and / or prevent the business from failing;
 - The business is considered by the Council to be essential to the community and that any reduction or withdrawal of the business will have a serious detrimental effect on the rural settlement; and

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- The granting of any discretionary relief is reasonable having regard to the effect on taxpayers of the District.

Appendix E

Discretionary Relief - Localism Act 2011

Discretionary Relief – Localism Act 2011

General explanation

- E.1 Section 69 of the Localism Act 2011 amended Section 47 of the Local Government Finance Act 1988. These provisions allow all Councils to grant discretionary relief in **any** circumstances where it feels fit having regards to the effect on the Council Tax payers of its area.
- E.2 The provisions are designed to give authorities flexibility in granting relief where it is felt that to do so would be of benefit generally to the area and be reasonable given the financial effect to Council Tax payers.

Discretionary Relief – Localism – the Council’s Policy

- E.3 Applications will be considered from any ratepayer who wishes to apply. However, where a ratepayer is suffering hardship or severe difficulties in paying their rates liability then relief can be granted under the existing provisions as laid down by Section 49 of the Local Government Finance Act 1988. There will be no requirement to grant relief in such cases under the Council’s discretionary relief policy.
- E.4 Any ratepayer applying for discretionary rate relief under these provisions and who does not meet the criteria for existing relief (charities, non-profit making organisations etc.) must meet **all** of the following criteria and the amount of relief granted will be dependant on the following key factors:
- a. The ratepayer **must not** be entitled to mandatory rate relief (Charity or Rural Rate Relief);
 - b. The ratepayer **must not** be entitled to Central Government funded reliefs;
 - c. The ratepayer **must not** be an organisation that could receive relief as a non-profit making organisation or as a sports club or similar;
 - d. The ratepayer **must** occupy the premises (no discretionary rate relief will be granted for unoccupied premises);
 - e. The premises and organisation **must** be of *significant* benefit to residents of the Council’s area;
 - f. The premises and organisation **must** relieve the Council of providing similar facilities;
 - g. The ratepayer **must**;
 - a. Provide facilities to certain priority groups such as elderly, disabled, minority groups, disadvantaged groups; **or**
 - b. Provide *significant* employment or employment opportunities to residents of the Council; **or**
 - c. Provide the residents of the area with such services, opportunities or facilities that cannot be obtained locally or are not provided locally by another organisation;
 - h. The ratepayer **must** demonstrate that assistance (provided by the discretionary rate relief) will be for a *short time only* **and** that any business / operation is financially viable in the medium and long term;
 - i. whether the premises occupied are considered to be reasonable having regard to the size and location of the premises, the size and nature of the organisation, and the use being made of the premises by the organisation; **and**

-
- j. The ratepayer **must** show that the activities of the organisation are consistent with the Council's core values and priorities.
 - E.5 Where a ratepayer can demonstrate that **all** of the above criteria are met, relief will be considered for initially a short period.
 - E.6 A formal application from the ratepayer will be required in each case and any relief will be granted in line with State Aid requirements as specified within section 6 of this policy.

Appendix F

Local Newspaper Relief

General Explanation

- F.1 This is a temporary relief for 2017-18, 2018-19 and 2019-20 and the Government is not changing the legislation around the reliefs available to these properties. Central Government will reimburse local authorities that use their discretionary relief powers (under section 47(3)) of the Local Government Finance Act 1988 to grant relief in line with the eligibility criteria set out in this guidance.
- F.2 The Council will be compensated by Central Government through a grant under section 31 of the Local Government Act 2003.

Eligibility criteria

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

Local Newspapers

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

Office Space

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

Amount of Relief

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

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

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

Appendix G

Supporting Small Businesses Relief

General Explanation

- G.1 Central Government has increased the thresholds for Small Business Rate Relief from 1 April 2017 to £12,000 for the 100% relief and £15,000 for the tapered relief. They have also allowed rural rate relief to be granted up to 100% using S47 of the Local Government Finance Act 1988 as a top up to the mandatory level of 50%, albeit that the rateable value limits have not been changes in respect of rural hereditaments (see section D of this policy). Unfortunately, despite these changes, some small businesses and businesses in rural areas may lose their entitlement to the relief due to increases in Rateable Value through the revaluation on 1st April 2017.
- G.2 The transitional relief scheme (provided under the Non-Domestic Rating (Chargeable Amounts) (England) Regulations 2016 No. 1265) does not provide support in respect of changes in reliefs. Therefore, those ratepayers who have lost some or all of their small business or rural rate relief may face large percentage increases in bills from 1 April 2017.
- G.3 In view of this, Central Government announced that a new scheme of relief would be made available to those ratepayers facing large increases as a result of the loss of small business or rural rate relief due to the revaluation. All authorities are encouraged to grant the relief in accordance with the guidelines laid down by Central Government and if granted strictly in accordance with guidance, the Council will be compensated by Central Government through a grant under section 31 of the Local Government Act 2003.
- G.4 The relief is known as the 'Supporting Small Businesses Scheme'.

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

- G.5 The Supporting Small Businesses relief will help those ratepayers who as a result of the change in their rateable value at the revaluation are losing some or all of their small business or rural rate relief and, as a result, are facing large increases in their bills.
- G.6 To support these ratepayers, the Supporting Small Businesses relief will ensure that the increase per year in the bills of these ratepayers is limited **to the greater of:**
- a. a percentage increase per annum. of 5%, 7.5%, 10%, 15% and 15% 2017/18 to 2021/22 all plus inflation. (Unlike the transitional relief scheme under the Chargeable Amount regulations), for the first year of the scheme the percentage increase is taken against the bill for 31 March 2017 after small business rate relief or rural rate relief; **or**
 - b. a cash value of £600 per year (£50 per month).
- G.7 This cash minimum increase ensures that those ratepayers paying nothing or very small amounts in 2016/17 after small business rate relief are brought into paying something.
- G.8 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 in 2016/17 paid nothing under small business rate relief and are losing all of their entitlement to relief (i.e. moving from £6,000 rateable value or less to more than £15,000) would under this scheme be paying £3,000 in year 5.

- G.9 The Government has also decided that those on the Supporting Small Businesses relief scheme whose 2017 rateable values are £51,000 or more will not be liable to pay the supplement (1.3p) to fund small business rate relief while they are eligible for the Supporting Small Businesses relief scheme.
- G.10 Ratepayers will remain in the Supporting Small Businesses relief scheme for either 5 years or until they reach the bill they would have paid without the scheme (this would be the charge payable as their true rates payable or the charge calculated under the Non-Domestic Rating (Chargeable Amounts) (England) Regulations 2016).
- G.11 A change of ratepayer will not affect eligibility for the Supporting Small Businesses relief scheme, **but** eligibility will be lost if the property falls vacant or becomes occupied by a charity or Community Amateur Sports Club.
- G.12 The rules for state aid (as detailed in section 6 of this policy) shall apply when considering Supporting Small Businesses Relief.

Recalculation of relief

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

Other Reliefs

- G.15 Hereditaments eligible for charity or Community Amateur Sports Club relief or hereditaments which are unoccupied are not eligible for Supporting Small Businesses Relief. Likewise, the same principle applies to properties for which a Section 44A certificate has been granted (apportionment of rateable values for partly occupied properties). The presence of a section 44A certificate will not further reduce the bill found under the Supporting Small Business scheme.
- G.16 In accordance with Central Government guidelines, all other discretionary reliefs, will be considered **after** the application of Supporting Small Businesses relief.

Supporting Small Businesses Relief - the Council's policy for granting discretionary relief.

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

Appendix H

Public House Relief

General Explanation

- H.1 This is a temporary relief for 2017-18 and 2018 – 19 and the Government is not changing the legislation around the reliefs available to premises. Central Government will reimburse local authorities that use their discretionary relief powers (under section 47(3)) of the Local Government Finance Act 1988) to grant £1000 relief in line with the eligibility criteria set out in guidance to be produced by Central Government
- H.2 Central Government guidelines have been issued and it has been established that any amount granted will be reimbursed by a section 31 grant.

Eligibility criteria

- H.3 The Council's policy, in line with Central Government requirements, will provide a relief of £1,000 relief for two years only (1st April 2017 to 31st March 2019) for all eligible public houses who have a rateable value of less than £100,000 on 1st April 2017.
- H.4 The definition of a 'Public House' means any premises as defined in the Licensing Act 2003, which has a premises license authorising sale by retail of alcohol for consumption on the premises. In addition, the premises **must** be used principally for retail sales of alcohol to members of the public for consumption on the premises, and sales must not be subject to the condition that buyers reside at or consume food on the premises.
- H.5 It will be for the Council to decide whether any premises falls within the definition give in the above paragraph. No relief shall be given where the premises are unoccupied.

Other Reliefs

- H.6 Pubic House relief will be granted after applying any other mandatory reliefs and reductions

Public House Relief - the Council's policy for granting discretionary relief.

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

Appendix I

Discretionary Business Rate Relief

General Explanation

- I.1 In March 2017, Central Government announced that it would make available a discretionary fund of £300 million over four years from 2017-18 to support those businesses that face the steepest increases in their business rates bills as a result of the revaluation. Government determined that Councils would be best placed to determine how this fund should be targeted and administered to support those businesses and locations within their area that are in the greatest need.
- I.2 Every authority within England is to be provided with a share of a £300 million fund to support their local businesses. This is to be administered through billing authorities' discretionary relief powers under section 47 of the Local Government Act 1988.
- I.3 Government also believes that local authorities are best placed to judge the particular circumstances of local ratepayers and direct the funding where it is most needed to support local economies.
- I.4 The funding is not provided equally over the four-year period but in the following approximate proportions:
- Year 1 (2017/18) 58%
- Year 2 (2018/19) 28%
- Year 3 (2019/20) 12%
- Year 4 (2020/21) 2%
- I.5 Councils will be compensated for any relief granted under section 31 of the Local Government Act 2003. The Government has decided that any underspend **cannot** be 'vired' from one year to the next.
- I.6 A key criteria of reimbursement will be that all Billing Authorities will consult with major precepting authorities when formulating their schemes.
- I.7 The financial effects to the Council of the Discretionary Business Rates Relief Scheme are shown in the following table

Amount of discretionary fund awarded (£000s) - Rother District Council			
2017-18	2018-19	2019-20	2020-21
228	111	46	7

Consultation

- I.8 The Council has consulted with the major preceptors in relation to this scheme and has taken their comments into account when determining the eligibility criteria. This is an essential part of the Discretionary Business Rates Relief Scheme and is in line with the grant determination issued by the Department of Communities and Local Government (DCLG) No.31/3071.
- I.9 The grant determination states that a condition of the fund is that consultation is undertaken with 'relevant authorities'. Relevant authorities for the purposes of this scheme means:
- a. Any major precepting authority; and
 - b. Any combined authority.
- I.10 In the case of the District Council the major precepting authorities have been consulted namely:
- a. East Sussex County Council
 - b. The Police and Crime Commissioner for Sussex; and
 - c. East Sussex Fire and Rescue Service.

State Aid

- I.11 The rules relating to State Aid (as defined within section 6 of this policy) apply. The Council will ensure full compliance in this area to ensure that relief can be given to the most deserving ratepayers.

Decisions by the Council

- I.12 Decisions by the Council are made directly in line with the Scheme of Delegation as outlined within section 7 of this policy. Any decision to award relief under this scheme will follow the core principles of the Council's discretionary relief policy as defined by section 3.8.
- I.13 It should be noted that whilst the funding from Central Government for Discretionary Business Rate Relief Scheme is limited, the decision of the Council whether to award any relief under this scheme **will not take account** of the level of any funding.

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

Applications for relief under this scheme

- I.14 The Council is keen to identify ratepayers who may qualify for the relief and as such will look to encourage certain ratepayers to apply. The Council will look to simplify the application process wherever possible, but it will expect any ratepayers to provide such information as is required by the Council to support their application.

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

- I.16 The Council has decided that relief under the scheme will be awarded using the following criteria:
- a. The scheme is designed to assist ratepayers who have suffered significant increases in rate liability due to the revaluation and the subsequent increase to their Rateable Value;
 - b. In assessing any potential entitlement to an award under this scheme, the Council will compare the following:
 - i. The rate liability of the ratepayer at 31st March 2017 after any reliefs and reductions; and
 - ii. The rate liability of the ratepayer at 1st April 2017 after any reliefs and reductions;
 - c. Relief will be awarded where the calculation in b. above would result in an increase of more than **5%** (determined by the Council as an acceptable increase);
 - d. Relief will only be given to premises which are liable for occupied rates. No relief within this scheme will be granted for unoccupied premises;
 - e. Relief will only be granted to ratepayers who were in occupation at 31st March 2017 and in occupation on 1st April 2017 and for each day subsequently;
 - f. Ratepayers taking up occupation after the 1st April 2017 will **not** be eligible for relief on the basis that new ratepayers would not have suffered from increases due to a revaluation;
 - g. Relief will only be granted to hereditaments whose rateable value at 1st April 2017 is up to £100,000;
 - h. Relief may be awarded for more than one premises as long as **all** other criteria are met;
 - i. Relief will **not** be awarded where the ratepayer has applied for a reduction under S44a of the Local Government Finance Act 1988;
 - j. Relief will **not** be awarded for hereditaments who are wholly or mainly used for:
 - i. Local Authorities (including The District, County Council and any Parish or Town Councils);
 - ii. Other Precepting Authorities (including the Police and Crime Commissioner and the Fire and Rescue Service);
 - iii. Public Sector Organisations (e.g. Health, Local Government, Ministry of Defence etc.);
 - iv. Utility and Communication companies;
 - v. Financial Services (e.g. banks, building societies, ATM's, accountancy);
 - vi. Gambling establishments;
 - vii. Pawn brokers and similar organisations;
 - viii. Estate Agents;
 - ix. Solicitors; or
 - x. Educational Establishments – (post nursery education).

Amount of Relief

- I.17 The amount of relief will be tapered and calculated as follows:

2017/18

- Where the increase calculated in I.16 is less than 5% no relief shall be given. Where the increase calculated in I.16 is 5% or more, the award granted shall be calculated as 100% of the increase above 5%

2018/19

- The award granted shall be calculated as 48% of the discretionary relief awarded in 2017/18

2019/20

- The award granted shall be calculated as 20% of the discretionary relief awarded in 2018/19

2020/21

- The award granted shall be calculated as 3% of the discretionary relief awarded in 2019/20

Variation and amendment of relief under the scheme

- I.18 As with all reliefs, the amount of relief awarded under the Discretionary Businesses Rates relief scheme will be recalculated in the event of a change of circumstances. This will 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.
- I.19 The Non-Domestic Rating (Discretionary Relief) Regulations 1989 (S.I. 1989/1059) requires the Council to provide ratepayers with at least one year's notice in writing before any decision to revoke or vary a decision so as to increase the amount the ratepayer has to pay takes effect. Such a revocation or variation of a decision can only take effect at the end of a financial year. But within these regulations, the Council may still make decisions which are conditional upon eligibility criteria or rules for calculating relief which allow the amount of relief to be amended within the year to reflect changing circumstances.

Appendix J

Retail Discount

General Explanation

- J.1 The Government announced on 29 October 2018 that it will provide a business rates Retail Discount scheme for occupied retail properties with a rateable value of less than £51,000 in each of the years 2019-20 and 2020-21.
- J.2 The value of discount should be one third of the bill and must be applied after mandatory reliefs and other discretionary reliefs funded by section 31 grants have been applied.
- J.3 Where an authority applies a locally funded relief, under section 47 this must be applied after the Retail Discount.
- J.4 As this is a measure for 2019-20 and 2020-21 only, the Government is not changing the legislation around the reliefs available to properties. Instead the Government will, in line with the eligibility criteria defined by them, reimburse any authorities that use their discretionary relief powers, introduced by the Localism Act (under section 47 of the Local Government Finance Act 1988, as amended) to grant relief.
- J.5 It is for the Council to adopt a local scheme and determine in each individual case when to grant relief under section 47.

Who is eligible for the relief?

- J.6 Properties that will benefit from the relief will be occupied hereditaments with a rateable value of less than £51,000, that are wholly or mainly being used as shops, restaurants, cafes and drinking establishments. The Government consider shops, restaurants, cafes and drinking establishments to mean:

i. Hereditaments that are being used for the sale of goods to visiting members of the public:

- Shops (such as: florists, bakers, butchers, grocers, greengrocers, jewellers, stationers, off licences, chemists, newsagents, hardware stores, supermarkets, etc);
- Charity shops;
- Opticians;
- Post offices;
- Furnishing shops/ display rooms (such as: carpet shops, double glazing, garage doors);
- Car/ caravan show rooms;
- Second hand car lots;
- Markets;
- Petrol stations;
- Garden centres; and
- Art galleries (where art is for sale/hire).

ii. Hereditaments that are being used for the provision of the following services to visiting members of the public:

- Hair and beauty services (such as: hair dressers, nail bars, beauty salons, tanning shops, etc);
- Shoe repairs/ key cutting;
- Travel agents;
- Ticket offices e.g. for theatre;
- Dry cleaners;
- Launderettes;
- PC/ TV/ domestic appliance repair;
- Funeral directors;
- Photo processing;
- Tool hire; and
- Car hire.

iii. Hereditaments that are being used for the sale of food and/ or drink to visiting members of the public:

- Restaurants;
- Takeaways;
- Sandwich shops;
- Coffee shops;
- Pubs; and
- Bars.

J.7 To qualify for the relief the hereditament should be wholly or mainly being used as a shop, restaurant, cafe or drinking establishment. In a similar way to other reliefs (such as charity relief), this is a test on use rather than occupation. Therefore, hereditaments which are occupied but not wholly or mainly used for the qualifying purpose will not qualify for the relief.

Hereditaments that are not likely to receive relief under the scheme

J.8 The list below sets out the types of uses that the Government does **not** consider to be retail use for the purpose of this relief. Again, it is for local authorities to determine for themselves whether particular properties are broadly similar in nature to those below and, if so, to consider them not eligible for the relief under their local scheme.

i. Hereditaments that are being used for the provision of the following services to visiting members of the public:

- Financial services (e.g. banks, building societies, cash points, bureaux de change, payday lenders, betting shops, pawn brokers);
- Other services (e.g. estate agents, letting agents, employment agencies);
- Medical services (e.g. vets, dentists, doctors, osteopaths, chiropractors);
- Professional services (e.g. solicitors, accountants, insurance agents/ financial advisers, tutors); and
- Post office sorting offices

ii. Hereditaments that are not reasonably accessible to visiting members of the public

- Generally speaking, Government also does not consider other assembly or leisure uses beyond those listed to be retail uses for the purpose of the discount. For example, cinemas, theatres and museums are outside the scope of the scheme, as are nightclubs and music venues. Hereditaments used for sport or physical recreation (e.g. gyms) are also outside the scope of the discount. Where there is doubt, the Council will exercise discretion.

How much relief will be available?

J.9 The eligibility for the relief and the relief itself will be assessed and calculated on a daily basis. The following formula should be used to determine the amount of relief to be granted for a chargeable day for particular hereditament in the financial year 2019-20:

J.10 Amount of relief to be granted = $V / 3$ where V is the daily charge for the hereditament for the chargeable day **after** the application of any mandatory relief and any other discretionary reliefs.

Retail Discount - the Council's policy for granting discretionary relief.

J.11 The Council has decided to grant relief strictly in accordance with Central Government guidelines

Appendix K

Section 49 - Hardship Relief

Section 49 - Hardship Relief

General explanation

- K.1 The Council is able to exercise its discretion under Section 49 of the Local Government Finance Act 1988 to provide either partial or full relief for non-domestic rate payments in cases of hardship where it would be reasonable to do so having due regard to the interests of council tax payers in general.

Section 49 Hardship Relief - the Council's Policy

- K.2 The Council will consider applications for hardship relief from individuals and organisations based on their own merits on a case-by-case basis. The Executive Director, or an officer nominated by them, will consider applications.

- K.3 In making decisions on whether to award the relief the Council takes into account the following criteria (not listed in any priority):

- Any reduction or remission of rates on the grounds of hardship should be the exception rather than the rule;
- Any reduction of the rates must be shown to be significant to the future viability of the business;
- The business must continue to trade;
- Cash flow forecasts for a minimum of the next twelve months must be provided together with a comprehensive Business Plan incorporating a brief history of the business;
- The test of "hardship" is not strictly confined to financial hardship and that this, in itself, is not a deciding factor;
- The loss of the business would reduce amenities of an area if it is the sole provider of a service in the area;
- Details of any state aid, grants or subsidies either from central or local government over the previous three years;
- The loss of the business would worsen the employment prospects in the area;
- The interests of the Council Tax payers of the area would be best served by awarding the relief;
- The business must demonstrate how it is beneficial to the local community and why it is currently suffering financial hardship;
- The business provides employment to local residents in an area where employment opportunities are limited;
- Independent advice given by banks or financial advisors should be sought to demonstrate the future viability of the business;
- Applications will only be considered where signed by the ratepayer, or, where an organisation is the ratepayer, an appropriately authorised representative of the organisation; and
- The ratepayer will provide additional information as deemed necessary by the Council to be essential in order for a fair evaluation of the application.

- K.4 Whilst not restricting applications, the Council will not normally consider the following as meeting the criteria:

-
- Where the business is profitable;
 - Where the business has experienced a minor loss in trade in comparison to the annual turnover of the business;
 - Where the drawings / remuneration of the Director(s) or proprietor are above a 'reasonable' amount. 'Reasonable amount' will be determined by reference to the national minimum wage;
 - Where the business is new and hardship relief is being requested to fund the initial progression of the business;
 - Where the property is empty; and
 - Where a similar facility is already being provided within the same locality, or within a reasonable distance.

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Rother District Council

Report to	-	Council
Date	-	16 September 2019
Report of the	-	Executive Director
Subject	-	Appointments to outside bodies: East Sussex Energy, Infrastructure & Development Ltd Hastings and Bexhill Renaissance Ltd (SeaSpace)

Recommendation: It be **RESOLVED:** That Councillor K.P Dixon be appointed to East Sussex Energy, Infrastructure & Development Ltd Hastings and Bexhill Renaissance Ltd (SeaSpace) in place of Councillor Vine-Hall for the remainder of this civic year, expiring in May 2020 and that attendance thereat be designated an approved duty.

Introduction

1. Following the appointments made to outside bodies at the Annual Council meeting held on 22 May 2019 (Minute C19/17 refers) the appointments made to East Sussex Energy, Infrastructure & Development Ltd and Hastings and Bexhill Renaissance Ltd (SeaSpace) require change.
2. At the Annual Council meeting Council approved the appointment of Councillor J. Vine-Hall as this Council's representative on the East Sussex Energy, Infrastructure & Development Ltd and Hastings and Bexhill Renaissance Ltd (SeaSpace).
3. Due to other commitments Councillor Vine-Hall is now unable to take up these appointments and commit the necessary time to fulfil the obligations that these appointments entail. In consultation with the Leader of the Council it is therefore proposed that Councillor K.P. Dixon be appointed to both these outside bodies in place of Councillor Vine-Hall.

Conclusion

4. Council is therefore invited to agree the Council's appointed representative on the East Sussex Energy, Infrastructure & Development Ltd Hastings and Bexhill Renaissance Ltd (SeaSpace) for the remainder of the current civic year until 2020 be Councillor K.P. Dixon.

Malcolm Johnston
Executive Director

Risk Assessment Statement

There are no risks arising from this report.

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Rother District Council

Report to	-	Council
Date	-	16 September 2019
Report of the	-	Executive Director
Subject	-	Rother District Council Alliance – Climate Change Motion

Background

1. Humans have already caused irreversible climate change, the impacts of which are being felt around the world. Global temperatures have already increased by 1°C from pre-industrial levels. The UN Intergovernmental Panel on Climate Change 2018 report states that a global temperature rise of above 1.5°C brings greater risk to human life including:
 - extreme floods, causing damage to homes, buildings, infrastructure, crops and farmland;
 - rising sea levels particularly affecting coastal areas, potentially up to 1m in Rother's coastal communities;
 - extreme heat, bringing drought and associated health problems;
 - loss of half the world's insects vital for pollination and wild life;
 - increased food and fuel poverty for all, especially the most disadvantaged; and
 - higher energy costs.
2. In order to reduce the chance of runaway Global Warming and limit the effects of Climate Breakdown, it is imperative that we as a species reduce our CO₂eq (carbon equivalent) emissions from their current 6.5 tonnes per person per year to less than 2 tonnes as soon as possible.
3. Individuals cannot be expected to make this reduction on their own. Society needs to change its laws, taxation, infrastructure, etc., to make low carbon living easier and the new norm.
4. Carbon emissions result from both production and consumption.
5. Our current plans and actions are not enough. The world is on track to overshoot the Paris Agreement's 1.5°C limit before 2050.
6. The IPCC's Special Report on Global Warming of 1.5°C, published in October 2018, describes the enormous harm that a 2°C rise is likely to cause compared to a 1.5°C, and told us that limiting Global Warming to 1.5°C may still be possible with ambitious action from national and sub-national authorities, civil society, the private sector, indigenous peoples and local communities.
7. Local Councils around the world are responding by declaring a 'Climate Emergency' and committing resources to address this emergency.

Rother District Council believes that:

1. All governments (national, regional and local) have a duty to limit the negative impacts of Climate Breakdown. Local governments that recognise this

should not wait for their national governments to change their policies. It is important for Rother District Council and other Councils to commit to carbon neutrality as quickly as possible by 2030 at the latest.

2. Towns, Cities and Local Authorities at all tiers are uniquely placed to lead the world in reducing carbon emissions; they are well placed to help decarbonise villages and more remote areas as they have closer links with their residents.
3. Bold climate action can deliver economic benefits in terms of new jobs, economic savings and market opportunities, as well as improved personal, social and environmental well-being for people, locally and worldwide.