


Agenda Item No:	5	
Committee:	CABINET	
Date:	4 NOVEMBER 2019	
Report Title:	LOCAL DISCRETIONARY BUSINESS RATE RELIEF POLICY	

1 Purpose / Summary

- The purpose of this report is to request that Cabinet Members consider the Local Discretionary Business Rate Relief Policy (LDBRR) and if they agree, Cabinet is requested to recommend adoption of the Policy to Full Council. The policy, application guidance and application form are provided within Appendix 1 of the report.

2 Key issues

- One of the Council's key priorities within the adopted Business Plan 2019/20, is the 'Economy' priority, which aims to "Attract new businesses, jobs and opportunities whilst supporting our existing businesses in Fenland".
- Supporting business growth and location into Fenland is recognised as essential to driving economic prosperity, which creates new & exciting opportunities and leads to improvements in the quality of life for our residents and businesses.
- Economic Growth is stimulated by exercising a series of well-coordinated & inter-related actions that create the right environment for business growth and job creation.
- It is proposed that the Council adopts a Local Discretionary Business Rate Relief (LDBRR) policy that recognises the value of inward investment into the District and supports the aspirations of FDC and its partners.
- The policy is aimed at providing business rate discounts for new Inward Investment businesses locating into Fenland who positively contribute to the wellbeing and prosperity of the District and its residents.
- An organisation or other entity taking over a pre-existing business within the geographic billing area of Fenland District Council does not qualify as a new business for the purposes of this scheme.
- This report explains the eligibility criteria and how the application process will operate; it also discusses other considerations such as issues relating to State Aid and the financial implications of implementing the policy.
- If this policy is adopted, Officers will continue to monitor the effectiveness to ensure it meets its intended objectives and delivers the anticipated benefits.

3 Recommendations

- It is requested that Cabinet endorse and recommend that Council adopts the proposed Local Discretionary Business Rate Relief policy, guidance & application form and notes the proposed application and assessment process.

Wards Affected	All
Forward Plan Reference No.(if applicable)	
Portfolio Holder(s)	Cllr Chris Boden – Leader & Finance Portfolio Holder Cllr Ian Benney –Portfolio Holder for Economic Growth
Report Originator	Justin Wingfield – Head of Economic Growth & Assets
Contact Officer(s)	Peter Catchpole - Corporate Director and S151 Officer (Finance) Gary Garford – Corporate Director (Growth & Infrastructure) Justin Wingfield – Head of Economic Growth & Assets
Background Paper(s)	

1. Background/Introduction

- 1.1. One of the Council's key priorities within the adopted Business Plan 2019/20 is the 'Economy' priority, which aims to "*Attract new businesses, jobs and opportunities whilst supporting our existing businesses in Fenland*". Supporting business growth and location into Fenland is recognised as being an essential factor to drive economic prosperity of our District and in turn, that prosperity will improve the quality of life and create new & exciting opportunities for our residents and businesses.
- 1.2. Following a review of the Economic Development service by the Overview & Scrutiny Panel in April 2019, Cabinet chose to adopt a new approach, moving from a more traditional Local Government Economic Development function to a proactive Economic Growth service which aims to capitalise on the renewed focus on the Fens from the Cambridgeshire & Peterborough Combined Authority. This focus is driven by the CPIER and recently adopted Local Industrial Strategy for Cambridgeshire & Peterborough which recognised that the Fens has an extremely important role to play in supporting the growth of Cambridgeshire. The O&S Review led to the Council restructuring and shaping a new Economic Growth service that was able to respond the future demands and the ever-changing economic environment.
- 1.3. In recognising that Economic Growth is not an individual activity, but a series of well-coordinated & inter-related actions that create the right environment for business growth and job creation, it is proposed that the Council adopts a Local Discretionary Business Rate Relief (LDBRR) policy that recognises the value of inward investment into the District and supports the aspirations of FDC and its partners.

2. Proposal

- 2.1. Fenland District Council recognises that it must be able to respond flexibly to the needs of business taxpayers within the District if it wants to support strong and sustainable local communities and attract new businesses to locate in Fenland, bringing with it, new job opportunities for our residents.
- 2.2. This report proposes that FDC should introduce and adopt a new business rate relief policy known as the Local Discretionary Business Rate Relief (LDBRR). Section 47 of the Local Government Finance Act 1988 (as amended by Section 69 of the Localism Act 2011) permits local authorities to determine and reduce the business rates of any local ratepayer provided it is in the interest of the Council tax payer.

- 2.3. LDBRR will provide FDC with the ability to award a business rate relief to businesses in a very specific set of circumstances, which meets with the requirements to ensure such relief is in the interest of the Council tax payer and critically is based on locally determined criteria which support local economic growth objectives. The Local Discretionary Business Rate Relief policy, guidance and application form are included at **Appendix 1**.
- 2.4. The policy is aimed at providing discounts for new Inward Investment businesses locating to Fenland that have a positive benefit on the District and its community. To be eligible, the definition of an 'Inward Investment business' for the purposes of this policy is one that has not been based in or occupied premises within the District and has not been liable to pay NNDR to Fenland District Council in the preceding 5 years.
- 2.5. It is expected that any business applying for LDBRR support will positively contribute to the wellbeing and prosperity of the District and its residents. The benefits to the community must include creating new employment opportunities for residents, particularly where it creates higher skilled/paid job opportunities, provides additional apprenticeship or workforce training opportunities and positively contributes socially and economically to the District.

3. Eligibility Criteria

- 3.1. It is not intended to impose an upper or lower rateable value limit, however any award must comply with State Aid rules and businesses must demonstrate how they meet the following criteria in order to qualify for relief:
- The eligible premises must be newly occupied properties and the application must be submitted within 3 months from the date of occupation;
 - The business must not currently or have previously occupied any other premises within the District within the last 5 years;
 - The business must employ at least 25 Full Time Equivalent persons on a full time, permanent basis and whose job is based in Fenland.
 - 50% of those jobs must either be apprenticeships or have a salary or basic pay which exceeds the average annual salary (gross) for a full time job in the District - £25,812. This value is determined in accordance with the ONS annual survey of hours and earnings. This value will be updated annually in accordance with published data;
 - The business must create or support opportunities for education, offering annual recurring Apprenticeship opportunities or structured 'in work' training pathways;
 - The business should demonstrate how it will generally improve the quality of life for local residents.

4. Proposed LDBRR Application Process

- 4.1. The guidance notes provide a comprehensive overview of how the policy will be implemented. As part of the process the applicant will be required to submit to the Council a fully completed application form together with the following information:
- The last two years audited business accounts;
 - Business Plan with 12 month financial forecast;
 - Purpose and use of the property;
 - Details of the organisation and the services performed;

- Staffing proposals with details of salaries and training arrangements;
 - What steps have been taken to meet or mitigate the Business Rates liability (i.e. any other discounts or reductions awarded);
 - How granting the discount will benefit the district and meets the qualifying criteria contained with the LDBRR Policy & Application Guidance.
- 4.2. Applications will be assessed within 20 working days of receipt by the LDBRR Assessment Panel with reference to the above criteria. The LDBRR Assessment Panel will consist of, as a minimum; representatives from the Council's Finance, Economic Growth & NNDR Teams (ARP). The Corporate Director (Finance) & S151 Officer will be the responsible Officer for determining such awards and approvals will be confirmed in consultation with Leader & Finance Portfolio Holder, together with the Portfolio Holder for Economic Growth.
- 4.3. An LDBRR award will be made for up to 100% relief of the Rates Payable for the application property for a period of up to 2 years. The exact amount of discount and award period is subject to the decision of the LDBRR Assessment Panel.
- 4.4. The Council will notify the applicant of the outcome in writing within 5 working days from the date of the confirmed LDBRR Assessment Panel decision. Where the LDBRR award is unsuccessful or not met in full the Council will explain the reasons why.
- 4.5. LDBRR awards are administered under Section 47 of the Local Government Finance Act 1988 (As amended) and awards are not subject to a statutory appeals process. Appeals will therefore be decided by the Council within 20 working days. Decisions on appeals will be made by the LDBRR Assessment Panel. If the Council decide that the original decision should not be revised, the applicant will receive a full written explanation within 10 working days.

5. State Aid Considerations

- 5.1. The EU State Aid rules generally prohibit government subsidies to businesses. In some cases the provision of discretionary NNDR relief to ratepayers can be deemed to be State Aid. There is a general exception to the State Aid rules where the aid is below a 'de-minimis' level. Regulations currently allow a business to currently receive up to €200,000 of de-minimis aid (€100,000 in the road freight transport sector) in a rolling three year period, of course Officers dependent on the outcome of Brexit, it may be necessary to revisit the provisions concerning State Aid.
- 5.2. The Council will need to ensure compliance with the legal requirements and any permitted exemptions by considering each case based on the applicants individual circumstances. The applicant will be obliged to inform the Council if they are or will be in receipt of other State Aid, in the form of financial subsidies, payments, etc. In the event of the applicant failing to declare the receipt of other forms of State Aid when LDBRR is awarded, the Council will be permitted to recover such sums from the applicant for any LDBRR granted

6. Financial Considerations

- 6.1. It is very difficult to model the potential financial cost of the LDBRR policy on FDC. To a large extent the demand is reliant upon not only how well the scheme is publicised prior to an inward investment business opting to locate to Fenland, but also that the business meets the qualifying criteria.
- 6.2. The incentive provided by the LDBRR discount will lead to many indirect financial benefits, connected with new inward investment businesses moving into the District, the creation of higher skilled jobs which will provide increased spending power for our

residents, investment into training the workforce and potentially additional trade within the existing business supply chain already located in Fenland.

- 6.3. Revenue Implications – The awarding of LDBRR in part or full will have a short term impact on business rates receipts, however in the medium to longer term it is anticipated that the business rates base will grow through the attraction of additional business investment within the district. If the LDBRR policy is not adopted it is possible that a number of potential inward investment businesses may not consider locating into Fenland and as a result, may opt to locate to other areas where similar LDBRR or other attractive financial incentives are offered.
- 6.4. The LDBRR Assessment Panel includes both the Corporate Director (Finance) & S151 Officer and the confirmatory oversight of the Leader & Finance Portfolio Holder, who will be able to monitor the number of applications and uptake. This will enable accurate forecasting and in-year budget amendments to be made to ensure that the policy balances the anticipated benefits of the policy with the Council's own budget management processes.
- 6.5. Capital Implications – There are no capital finance implications as a result of the adoption of the LDBRR policy.

7. Benefits

- 7.1. Adopting this policy will support the Council's Business Plan priority 'Economy' by providing an incentive for new inward investment enquiries to choose Fenland as a location for their business. Inward investment businesses will bring new job opportunities and this policy seeks to offer rate relief to address Fenland-specific issues, such as increasing the basic salary levels, offering recurring training opportunities and higher skilled jobs. In addition, after the initial rate relief period the Council can continue to grow its business rates tax base.
- 7.2. Applicants will be expected to demonstrate how their business creates or supports opportunities for education, including offering annual Apprenticeship opportunities or structured 'in work' training pathways and how their business will benefit local people and generally improve the quality of life for local residents.
- 7.3. Having a pro-inward investment policy enables FDC to tailor its approach and provide package of further tools and incentives to begin to compete with other areas and attract businesses into Fenland. The adoption of the LDBRR will enable Officers to promote a valuable financial incentive to new businesses, alongside other services, such as account managing new enquiries and coordinating meetings with other services, such as Planning, offering and supporting development opportunities on expansion land sites across the District.
- 7.4. If this policy is adopted, Officers will continue to monitor the effectiveness to ensure it meets its intended objectives and delivers the anticipated benefits.

8. Conclusion

- 8.1. The adoption of the LDBRR policy is one part of a much larger set of coordinated actions which aims to drive economic prosperity, job creation and training opportunities. It is purposely targeted at a very specific set of eligibility criteria in order to secure its intended outcomes. It is a tool to further promote the opportunities that Fenland can offer to new businesses and enables the Council to offer a tailored incentive to compete with other areas.

APPENDIX 1

Local Discretionary Business Rate Relief Policy Supporting Inward Investment activity in Fenland

Version 4 – November 2019

Policy Context

Fenland District Council recognises that it must be able to respond flexibly to the needs of business taxpayers within the District if it wants to support strong and sustainable local communities and encourage new businesses to locate in Fenland and create new job opportunities for our residents.

This policy documents Fenland District Council's approach to applications for Local Discretionary Business Rate Relief (LDBRR) from Inward Investment businesses. For the purpose of this Policy an 'Inward Investment business' is a business that in the 5 years prior to its application has not been based in or occupied premises within the District and has not been liable to pay NNDR to Fenland District Council during that time.

An organisation or other entity taking over a pre-existing business within the geographic billing area of Fenland District Council does not qualify as a new business for the purposes of this scheme.

This policy relates only to the geographic billing area of Fenland District Council and represents an independently adopted local discretionary business rate relief policy and does not include any other Government supported discretionary business rate scheme.

Policy Factors

Section 47 of the Local Government Finance Act 1988 (as amended by Section 69 of the Localism Act 2011) permits local authorities to determine and reduce the business rates of any local ratepayer provided it is the interest of the Council Tax payer. This document sets out Fenland District Council's Local Discretionary Business Rate Relief Policy related to inward investment opportunities that have a positive benefit on the District and its community.

Fenland District Council will consider a Section 47 award to applicants who meet the qualifying criteria, as specified in this policy. All applications will be assessed by the Council's LDBRR Assessment Panel and considered against the eligibility criteria and upon their individual merits. The LDBRR is a discretionary relief and Fenland District Council are not obliged to award LDBRR and the applicant is not obliged to receive an LDBRR award.

The features of the Fenland District Council LDBRR scheme are that:

- Any award is discretionary;
- The funding allocation in any financial year is discretionary and applications will be considered in order of receipt;
- The total value of the award will not exceed the annual rates payable of the eligible business;
- Current Stage Aid regulations allow a business to currently receive up to 200,000 Euros of de-minimis aid (100,00 Euros in the road freight transport sector) in a rolling three year period (consisting of the current financial year and two previous financial years);
- The Council may choose to vary the way in which funds are allocated according to needs and available funds;
- An applicant does not have a statutory right to payment and appeals will be considered in accordance with the Application Guidance determined by the LDBRR Assessment Panel.

A LDBRR award of up to 100% of the Rates Payable for the application property will be available to eligible businesses moving into the District for a period of up to 2 years. The exact amount of discount and award period is subject to further assessment and will be determined by the LDBRR panel.

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Benefit to the Community

It is expected that any business applying for LDBRR support will positively contribute to the wellbeing and prosperity of the District and its residents. The benefits to the community must include creating new employment opportunities for residents, particularly where it creates higher skilled/paid job opportunities, provides additional apprenticeship or workforce training opportunities and positively contributes socially and economically to the District.

Data Processing & Retention

Fenland District Council is committed to protecting the privacy of our customers and the security of their personal data. Under the General Data Protection Regulations and Data Protection Act 2018, the lawful basis for the processing of data in these circumstances arises 'Consent', whereby the applicant has given clear consent for Fenland District Council to process their personal data for a specific purpose.

Please read Fenland District Council's [privacy statement](#) and that of Anglia Revenues Partnership [privacy statement](#) to find out more about how we do this.

Further Guidance

The Council has produced a document: 'LDBRR Application Guidance' which explains the information that we require in order to consider an application for Local Discretionary Business Rate Relief.

APPENDIX 1

Local Discretionary Business Rate Relief – Application Guidance Supporting Inward Investment activity in Fenland

Version 4 – November 2019

Introduction

This Application Guidance should be read in conjunction with Fenland District Council's Local Discretionary Business Rate Relief Policy (LDBRR).

Qualifying Criteria

There is no upper or lower rateable value limit, however any award must comply with State Aid rules and businesses must meet the following criteria in order to qualify for relief:

- The eligible premises must be newly occupied properties (application submitted within 3 months of the date of eligible occupation);
- The business must not have currently or have previously occupied any other premises within the District within the last 5 years;
- The business must employ at least 25 FTE persons on a full time, permanent basis and whose job is based in Fenland;
- 25% of those jobs must have a salary or basic pay which exceeds the average annual salary (gross) for a full time job in the District - £25,812 (2018 NOMIS - ONS annual survey of hours and earnings). This value will be updated annually in accordance with published data;
- The business must create or support opportunities for education, offering annual recurring Apprenticeship opportunities or structured 'in work' training pathways;
- The business should demonstrate how it will generally improve the quality of life for local residents

Applying for Local Discretionary Business Rate Relief

In order for an application to be considered the LDBRR application form should be completed in full and submitted to Economic Growth, Fenland District Council marked Private and Confidential. Each application shall include all of the following information, failure to provide such information may result in a delay or the rejection of an application:

1. The last two years audited business accounts;
2. Business Plan with 12 month financial forecast;
3. Purpose and use of the property;
4. Details of the organisation and the services performed;
5. Staffing proposals with details of salaries and training arrangements;
6. What steps have been taken to meet or mitigate the Business Rates liability (i.e. any other discounts or reductions awarded);
7. How granting the discount will benefit the district and meets the qualifying criteria contained with the LDBRR Policy & Application Guidance.

The Council recognises that there will be occasions when an applicant does not satisfy the above criteria. These criteria are not restrictive and nothing in them shall be taken as restricting the Council's ability to depart from its general guidelines as to the granting of relief if it sees fit to do so bearing in mind the facts of each case.

Each application will be considered on its individual merits, taking into consideration the information provided by the applicant. It is therefore important that all sections of the LDBRR application form are completed fully and with as much detail as possible, including details of any business rate relief received or already applying against the same property.

Award Determination

All applications will be assessed by the LDBRR Assessment Panel, which will comprise representatives from the Council's Financial, Economic Growth & NNDR Teams. In deciding whether to make an award of a

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LDBRR the Council will have regard to the applicant's circumstances. In order to do this each applicant may be asked to supply reasonable supporting evidence to substantiate the answers that they give to the questions above. This may include, but is not limited to:

- Growth or downsizing plans;
- Any sources of credit or available finance;
- Any help which is or is likely to be available to the applicant from other sources;
- Any other special circumstance which the Council should be aware.

The Council, through its LDBRR Assessment Panel, will decide how much to award based on all of the applicants' circumstances.

Payment of LDBRR

All awards will be made by crediting the award value to the business rate account to which it applies.

If by crediting the award, the account moves to an overall credit balance, a refund of that balance will be considered in the normal manner.

Notification

The Council will notify the applicant of the outcome in writing within 5 working days from the date of the LDBRR Assessment Panel decision. Where the LDBRR award is unsuccessful or not met in full the Council will explain the reasons why.

The Right to Appeal

LDBRR awards are administered under Section 47 of the Local Government Finance Act 1988 (As amended) and awards are not subject to a statutory appeals process. Appeals will therefore be decided by the Council.

The Council will operate the following policy for dealing with appeals:

- An applicant who disagrees with a decision may appeal the decision (Appeals can only be made once per application).
- Any appeal must be made in writing within one calendar month of the original decision.
- Where possible the Council will resolve the matter and provide reasons of the decision to the applicant either verbally or in writing.

Decisions on appeals will be made by the panel.

If the Council decide that the original decision should not be revised, we will provide full written reasons to the applicant within 14 working days.

State Aid Considerations

European Union State Aid rules generally prohibit government subsidies to businesses, providing discretionary NNDR relief to ratepayers can in some cases be deemed to be State Aid. There is however a general exception to the State Aid rule where the aid is below a 'de-minimis' level. Regulations allow a business to currently receive up to €200,000 of de-minimis aid (€100,000 in the road freight transport sector) in a rolling three year period (consisting of the current financial year and 2 previous financial years).

Fenland District Council will ensure compliance with the legal requirements and any permitted exemptions by considering each case based on the applicants individual circumstances in full consideration of State Aid rules. The applicant has an obligation to inform the Council if they are or will be in receipt of other State Aid. In the event of the applicant failing to declare this when LDBRR is awarded, the Council will recover such sums from the applicant for any LDBRR granted.

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Overpayments

If the Council becomes aware that the information contained in an application for LDBRR discount was incorrect or that relevant information was not declared, either intentionally or otherwise, the Council may seek to recover the value of any award made as a result of that application. The award will be removed from the relevant business rates account and any resulting balance will be subject to the normal methods of collection and recovery applicable to such accounts.

Fraud

The Council is committed to detecting and eliminating fraud in all its forms. Any applicant who tries to fraudulently claim LDBRR discount might have committed an offence under the Fraud Act 2006.

If the Council suspects that fraud may have occurred, the matter will be investigated as appropriate and this could lead to criminal proceedings.

Publicity

The Council will publicise the scheme and provide information to relevant agencies, stakeholders and other Council services. The Council may choose to publicise the successful award of LDBRR, such publication will be in agreement with the successful business.

Monitoring

The Council will monitor LDBRR awards to ensure that this policy has been applied fairly and consistently and that expenditure does not exceed the budget available. This monitoring will be conducted by the Economic Growth team in liaison with Anglia Revenues Partnership.



Local Discretionary Business Rate Relief Application Form

Section A - Business/Organisation and property details

Please complete this section about the property that you want relief for and the organisation that occupies it

NNDR Account reference

Current Rates Payable

Address of Property

Business/Organisation (name or title of organisation applying for relief)

What type of business is run from the premises?

Description of the property e.g. Shop, factory, office, etc.

How is the property used?

How much discount is being requested?

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Contact

Name of contact and daytime telephone number

Address for correspondence if different from property address

Do you own the property? (Please tick)

Yes

No

DRAFT

Section B - Discretionary relief

IMPORTANT

Please complete this section to apply for discretionary relief providing as much detail as possible. Please continue on a separate sheet of paper if necessary. You should refer to the LDBRR Policy and Application Guidance when completing this section.

1. How does your business benefit local people and generally improve the quality of life for local residents?

2. Please explain how your business creates or supports opportunities for education, annual Apprenticeship opportunities or structured 'in work' training pathways? Please provide details.

- 3. How many FTE, permanent staff (Full Time Equivalents – 40 hours per week) does your business employ at the premises for which you are applying for Local Discretionary Business Rate Relief?

- 4. How many of the above FTE are apprenticeships?

- 5. How many of those FTE jobs have a salary or basic pay which exceeds the average annual salary for a job in the District - £25,812 (2018 NOMIS)?

- 6. Are the premises occupied? If not, please provide timescale of when this is will happen.

- 7. Please provide detail of any other rate relief you are receiving or which you have applied for or intend to apply for?

- 8. Please provide details of any of relief, financial support or State Aid that you are receiving or which you have applied for or intend to apply for?

Section C – Privacy Statement

IMPORTANT - Privacy statement (please read)

Fenland District Council is collecting the information requested in this form, in order to perform this service or function, and if further information is needed in order to do so, you may be contacted using the details provided. Under the General Data Protection Regulations and Data Protection Act 2018, the lawful basis for the processing of data in these circumstances arises from 'Consent', whereby, you, the applicant have given clear consent for Fenland District Council to process their personal data for a specific purpose.

In performing this service, the Council may share your information with other organisations or departments, but only when it is satisfied that it is necessary to perform a public task, or to exercise its statutory duties to do so.

The Council may also share your personal information for the purposes of the prevention, investigation, detection, or prosecution of criminal offences, but will not share your personal information, or use it for any other purpose, unless provided for by law.

More detailed information about the Council's handling of your personal data can be found in our [privacy statement](#).

I have read and understand the Privacy Statement above and I hereby consent to Fenland District Council using and processing my data in accordance with the Privacy Statement for purposes as outlined (please tick box)

Section D - Checklist and documents required

Please provide copies of the following items:

- Copy of your last 2 years audited accounts
- Business Plan with 12 month financial forecast
- Any other information used to support your application

Please return completed form and supporting documents to:

business@fenland.gov.uk

Section E - Declaration

As far as I know and believe, the information I have given is correct.

Name (in capitals)

Position

Telephone number

Email address

Signature

Date

State Aid Declaration
I have read and understand the Application Guidance and I hereby confirm by signing this Application Form that my application complies with the requirements of State Aid. I acknowledge that by signing and submitting this application that if I fail to disclose income in the form of State Aid received by me/my business from other sources, I understand that Fenland District Council will use all necessary powers to recover sums paid as a result of false representation and failure to disclose.