

RECORD OF DECISION MADE UNDER DELEGATED AUTHORITY

PART 1 – PUBLIC DOCUMENT

Any interest to declare/ or conflict and any dispensation granted [*if applicable*]

SERVICE DIRECTORATE: CUSTOMERS

1. DECISION TAKEN

- 1.1 That the scheme at Appendix 1 is approved as the Council's Covid Additional Relief Fund (CARF)
- 1.2 That any technical amendments as well as determining the level of awards under this scheme are delegated to the Service Director – Customers in consultation with the Executive Member for Finance & IT.

2. DECISION TAKER

- 2.1 Anthony Roche, Managing Director

3. DATE DECISION TAKEN:

- 3.1 10 February 2022

4. REASON FOR DECISION

- 4.1 To ensure that the qualifying businesses receive the additional business rate relief as quickly as possible. The relief is only applicable to the financial year 2021/2022.

5. ALTERNATIVE OPTIONS CONSIDERED

- 5.1 To follow normal procedures, which would require a decision by Cabinet as per the Constitution terms of reference (5.6.17) This would clearly not be possible given the period for which the relief must be applied and administered.
- 5.2 The responsibility for administering this CARF funding has been passed to Local Authorities and must be applied in respect of the current financial year

6. CONSULTATION (INCLUDING THE EFFECT ON STAKEHOLDERS, PARTNERS AND THE PUBLIC)

- 6.1 The Executive and Deputy Executive Members for Finance & IT have been consulted and are in support of these proposals.
- 6.2 The Chair of Overview and Scrutiny has been consulted due to the urgency of the decision being taken.

7. FORWARD PLAN

7.1 This decision is not a key decision and has therefore not been referred to in the Forward Plan.

8. BACKGROUND/ RELEVANT CONSIDERATIONS

8.1 The Valuation Office Agency (VOA) deals with setting the rateable value of non-domestic properties, similar to the banding of council tax for domestic properties. The VOA has provisions to achieve reductions in the rateable value of properties between valuation dates, this provision is the Material Change of Circumstances (MCC).

8.2 It was anticipated that the impact of Covid19 on businesses would be dealt with under the MCC provisions, however in December 2021 primary legislation was passed that matters attributable to Covid19 may not be taken into account for the purposes of non-domestic rating.

8.3 Government announced £1.5bn relief fund for businesses impacted by Covid19 but ineligible for existing support linked to business rates. This relief is to be administered by Local Authorities using discretionary relief powers under section 47 of the Local Government Finance Act 1988. Relief under this scheme will only be available to reduce chargeable amounts in respect of the 2021/22 financial year.

8.4 The relief is discretionary and North Herts Council has been provided with £2.6m to distribute.

8.5 In developing and implementing their schemes the DLUHC have stated that local authorities must:

- a) **not** award relief to ratepayers who for the same period are or would have been eligible for the Expanded Retail Discount, the Nursery Discount or the Airport and Ground Operations Support Scheme.
- b) **not** award relief to a hereditament for a period when it is unoccupied (other than temporarily closed due to the government's advice on Covid19) and
- c) direct their support towards ratepayers who have been adversely affected by the pandemic and have been unable to adequately adapt to that impact

8.6 In line with section 47(8) of the Local Government Finance Act 1988, the Council must not grant any relief to itself or to either local or major precepting authorities.

8.7 The Council has decided that where a ratepayer meets **all** of the relevant criteria, relief will be applied up to a maximum of 25% of the 2021/22 liability **after** any other reliefs and reductions have been applied.

8.8 The criteria for the Covid19 Additional relief Fund are:

- a) the ratepayer is not eligible for the Expanded Retail Discount, the Nursery Discount or the Airport and Ground Operations Support Scheme.
- b) the ratepayer is not entitled to either small business rate relief or rural rate relief granted at 100%
- c) the ratepayer is not entitled to mandatory relief (80%) and discretionary (top up) of 20% which is funded through business rates retention.
- d) the hereditament is treated as occupied
- e) the ratepayer confirms that they have been adversely affected by the pandemic and have been unable to adapt to that impact.
- f) The ratepayer is not subject to Subsidy Control (as set out in section 9)
- g) The hereditament is not excluded under the list of exclusions included in the policy.

8.8 All relief must be applied in respect of the financial year 2021/22, however as this is a s.47 Relief under the Local Government Finance Act 1988 regulations state that business will have a period of 6 months from the end of the 2021/22 Financial year to apply and therefore it is important that the Council retains some funding to allow for this.

9. LEGAL IMPLICATIONS

9.1 Section 14.6.5 of the Council's Constitution details the delegation of authority to the Managing Director. 14.6.5 (a) lists the functions delegated to the Managing Director and at 14.6.5 (a) (iv) it states: *In cases of emergency or urgency (where possible in consultation with the Leader of the Council) to carry out any Council or Executive function, power or duty.*

9.2 This decision is considered urgent to ensure that the Council can start receiving applications and awarding financial support to eligible businesses.

9.3 The EU State aid rules no longer apply to subsidies granted in the UK following the end of the transition period, which ended on 31 December 2020. The United Kingdom remains bound by its international commitments, including subsidy obligations set out in the Trade and Cooperation Agreement (TCA) with the EU.

9.4 To the extent that a Local Authority is seeking to provide relief that falls within the Small Amounts of Financial Assistance Allowance, Article 364 of the TCA allows an economic actor to receive up to a maximum level of subsidy without engaging Chapter 3 of the TCA. This allowance is up to £325,000 Special Drawing Rights, to a single economic actor over a rolling period of three fiscal years.

9.5 To administer a subsidy under the Small Amounts of Financial Assistance Allowance it is necessary for the Local Authority to establish that the award of subsidy will not result in the economic actor having received more than £343,000 (as 19 December 2021) of subsidy under the Small Amounts of Financial Assistance Allowance.

9.6 Local Authorities must ensure the remaining applicable provisions of the subsidies chapter of the TCA are complied with. In particular, the transparency obligations under Article 369.

9.7 Officers have been advised of the need to comply with the Government's guidance at all times (including any updated guidance) when allocating funds/providing support.

10. FINANCIAL IMPLICATIONS

10.1 All relief must be applied in respect of the financial year 2021/22, however as this is a s.47 relief under the Local Government Finance Act 1988, regulations state that business will have a period of 6 months from the end of the 2021/22 Financial year to apply and therefore it is important that the Council retains some funding to allow for this.

10.2 The DLUHC will fully reimburse local authorities via a s.31 grant. Within the billing year the DLUHC will provide payments "on account" that will cover the full amount of the £2.6m to ensure cash flow is not affected. At the end of the financial year the actual cost of the of providing the relief will be accounted for on the NNDR 3 for 2022/23.

- 10.3 Whilst the Council has calculated approximately how many businesses are likely to be eligible, there is a risk that the number of applicants may exceed those calculations resulting in insufficient funding to award up to the maximum level of 25%. To mitigate against this the Council will have a window of applications to assess against the available funding, with some residual funding withheld for any later applications received.

11. RISK IMPLICATIONS

- 11.1 Whilst there is no specific date set to make this live, the CARF relief must be applied in respect of this current financial year. Seeking a formal Cabinet decision in this regard will build in unnecessary delay and businesses will continue to suffer financially.
- 11.2 There could be significant reputational risk to the Council if it is seen to be slow in implementing this business rate relief for local businesses.

12. EQUALITIES IMPLICATIONS

- 12.1 In line with the Public Sector Equality Duty, public bodies must, in the exercise of their functions, give due regard to the need to eliminate discrimination, harassment, victimisation, to advance equality of opportunity and foster good relations between those who share a protected characteristic and those who do not.
- 12.2 The Council is implementing Government policy designed to provide financial support to businesses that have been financially impacted due to the COVID-19 pandemic.

13. SOCIAL VALUE IMPLICATIONS

- 13.1 *The Social Value Act and “go local” policy do not apply to this decision.*

14. ENVIRONMENTAL IMPLICATIONS

- 14.1. There are no known Environmental impacts or requirements that apply to this report.

15. HUMAN RESOURCE IMPLICATIONS

- 15.1 There are no Human Resources implications in this report.

16. BACKGROUND PAPERS

- 16.1 N/A

17. APPENDICES

- 17.1 Appendix 1 – Covid Additional Relief Fund (CARF) Policy

NOTIFICATION DATE

11 February 2022

Signature of Executive Member Consulted

A handwritten signature in black ink, appearing to be 'Ian Albert', written over a dotted horizontal line.

(Cllr Ian Albert, Executive Member for Finance and IT)

Date 08/02/2022

Signature of Decision Taker

A handwritten signature in black ink, appearing to be 'Anthony Roche', written in a cursive style.

Anthony Roche, Managing Director

Please Note: that *unless urgency provisions apply* EXECUTIVE decisions cannot be implemented until 5 clear working days have elapsed after the decision has been taken to allow for scrutiny call-in.