Enfield Council

Business rate base 2015/16.

Appendix E to Agenda Item 9: Council Tax Support Scheme & Council and Business Rate Taxbase 2015/16 – 28th January 2015

1. Introduction

The Local Government Finance Act 2012 introduced the business rates retention scheme (BRRS) in 2013 and the local council tax reduction scheme (the replacement for Council Tax Benefit). This BRRS scheme sees the move away from the central pooling of business rates to the sharing of risk and reward between central and local Government.

2. Recommendation

2.1 The Council agrees the non- domestic rating income estimate for 2015/16, excluding collection fund adjustments at the end of 2014-15, of £105,410,381 in accordance with the calculation in the NNDR1 return shown. Enfield’s rate retention share will be £31,865,846.

2.2 It is recommended that Council agrees the amendment to the Discretionary Rate Relief Policy to incorporate the increase from £1,000 to £1,500 for the Government’s Rate Retail Relief scheme for 2015/16 as set out in section 5.2.1.

2.3 It is recommended that the Council agrees to extend in effect the existing transitional relief scheme for two years for properties with a rateable value up to and including £50,000 in accordance with the guidance as set out in paragraph 5.2.4 and appendix 2.

3. NNDR 1 Government Return

The NNDR1 return is used to report the estimate of Enfield’s business rate base to Department of Communities and Local Government (DCLG). The NNDR1 form will set the business rate base for 2015/16 with any variation between estimate and actual being dealt with through the surplus/deficit on the collection fund. The 2015-16 NNDR1 allows the council to forecast the *non-domestic rating income* as required by Regulation 3 of the Non-Domestic Rating (Rates Retention) Regulations 2013 (SI 2013/452); and calculate the *surplus or deficit on the collection fund*, as required by Regulation 13.

4. Background

4.1 2015-16 will be the third year of the rates retention scheme. The scheme provides for non-domestic rates collected by a billing authority to be shared between it, its major precepting authorities and central government. It also provides that certain sums are to be treated as being outside the scheme. These sums are retained in their entirety by the Enfield (or by Enfield and the GLA).

4.2 The statutory framework effectively requires a billing authority, before the beginning of a financial year, to forecast the amount of business rates that it will collect during the course of the year and, from this, to make a number of *allowable deductions* in order to arrive at a figure for its *non-domestic rating income.* It is the *non-domestic rating income* that is shared between the parties to the scheme. The framework also sets out how the billing authority is to treat *allowable deductions* – requiring that either they are paid to major precepting authorities, or transferred to the authority's General Fund.

4.3 The calculations that authorities make before the start of the financial year determine how much they must pay to central government and their major precepting authorities during the course of the year. Since these payments are fixed at the outset of the year, it follows that any difference between forecast amounts and final outturns will result in a surplus, or deficit on the billing authority's Collection Fund. Any such surplus or deficit is shared between the parties to the Pool.

4.4 2014-15 was the first year for which authorities were required, in accordance with Regulation 13 of the Non-Domestic Rating (Rates Retention) Regulations 2013 (SI 2013/452), to estimate the likely non-domestic rating surplus, or deficit on the Collection Fund. Regulation 13 effectively requires an estimate of the surplus/deficit that the authority believes will exist at 31 March 2013, on the basis of a statutory calculation set out in Schedule 4 to the Regulations. The estimated amount will be shared between Enfield, the GLA and central Government and will be added (or subtracted) from each party's share of 2014-15 non-domestic rating income.

4.5 The 2015-16 NNDR1 enables (in Part 4) Enfield to provide its estimate of the Collection Fund surplus/deficit. Part 1B of the form automatically calculates the sums due to billing authorities, major precepting authorities and central Government in respect of:

i. non-domestic rating income due under the rates retention scheme;

ii. the Collection Fund surplus/deficit; and

iii. business rates income due to authorities outside the scheme (*allowable deductions*).

5. Business Rates announcements in Autumn Statement

5.1 The 2014 Autumn Statement contained a number of announcements affecting future Business rates. Some of these have previously been announced. In summary, these announcements were:

5.1.1 Business rates support of £2.7 billion for 5 years from April 2014 Business rates review - A review of the structure of business rates with the aim of helping small businesses and high streets to compete with online retailers.

5.1.2 The review of Business rates is not expected to affect overall tax revenues . The review will be fiscally neutral and “consistent with the government’s agreed financing of local authorities”. The terms of reference will be published “in due course”. Interim findings of the review will be published in Dec 2015 but the overall results and recommendations of the review are not due to be reported until the 2016 Budget.

5.2 Business rates will be reduced and capped in certain circumstances, with extra Help for High Street premises:

5.2.1 The ‘high street discount’ for shops, pubs, cafes and restaurants with a rateable value of £50,000 or below, will go up from £1,000 to £1,500 for 1 year from 1 April 2015, up to the state aid limit. The rate retail relief scheme was agreed by the Council last year within the February 2014 budget report as an amendment to the Business Rate Discretionary Rate Relief Policy. In order for local businesses to benefit from this fully funded increase in relief it is recommended that the Council further amends the Discretionary rate relief policy to include the increased amount of £1,500 for 2015/16. The estimated cost of this is included within the NNDR 1 costs estimate and will be fully met by the Government.

5.2.2 Doubling of Small Business Rate Relief for a further year (for 2015-16).

5.2.3 Continue with the 2% cap on the annual RPI increase in the business rates multiplier for a further year from April 2015 to April 2016

5.2.4 To extend in effect the existing transitional relief scheme for two years for properties with a rateable value up to and including £50,000. As a result of this measure, small properties (with a rateable value of less than £25,500 that would otherwise face bill increases above 15% and medium sized properties (with a rateable value of £50,000 or less) that would otherwise face bill increases above 25% will benefit. This will be calculated in accordance with Department for Communities and Local Government guidance shown shortly. This measure will not affect those ratepayers in transition to lower bills whose scheme will end on 31 March 2015;

5.2.5 Alterations to rateable values can only be backdated to the period between 1 April 2010 and 1 April 2015 for Valuation Office Agency (VOA) alterations made before 1 April 2016 and ratepayers’ appeals made before 1 April 2015.

5.3 Other business rates relevant issues

5.3.1 Research and development tax credit increased for small and medium sized firms

5.3.2 A new children's TV tax relief will be introduced from April 2015. Eligible companies will be able to claim 25% of qualifying production spending back through the relief.

5.3.3 The government will also consult on introducing a new orchestra tax relief in April 2016.

6. Completing the NNDR1

6.1 Each billing authority needs to estimate the business rate income it expects to collect in the next financial year. This is done by completing a revised NNDR1 using as it's starting point the rateable value on local lists as at 31st December 2014.

6.2 From the gross yield figure a series of deductions must be made

1. The amount of small business rate relief
2. The total of all mandatory and discretionary reliefs
3. Cost of collection (provided by the DCLG)
4. Losses on collection
    - Bad debt provision (indicative figures provided by DCLG adjusted on locally held information)
    - Future appeal provision

6.3 Then the following additions must be made

1. Additional yield generated to small business rate relief
2. Additional rates collected as a result of rates deferred

6.4 This results in the Net Rating Income which is the figure that central government will use to estimate the central share and shares to preceptors. This figure also determines the safety net and levy payments.

7. Timetable

The NNDR1 form must be completed by the 31st January 2015. The NNDR3 return, which reports the actual out turn, will be completed by end of June 2015 and includes results in the gross collectable rates income. The NNDR3 determines the actual surplus and deficit on the collection fund and this is used to calculate the difference between the forecast surplus and deficient on the collection fund for the year before that immediately preceding the relevant financial year and the actual as determined in the NNDR3

8. The Role of NNDR1/3 in the schedule of payments

The NNDR1 estimates the net rating income and 50 % is paid to central government. Of payments to preceptors the calculation follows the same use of NNDR1 but the figure is 20% to the GLA as set out in regulation.

9. Approval

The approval of the NNDR 1 return is delegated in line with usual governance practices to the Audit committee. For this year the decision will be exercised by the full council as the return was not received until early January and the system reports to produce the data were not available prior to the 8th January.

10. NNDR 1

Based on the calculation at Appendix 1 the amount to be retained by Enfield under the rate retention scheme will be £31,865,846, excluding Collection fund adjustments at the end of 2014-15.

APPENDIX 1

NNDR 1 RETURN SUMMARY FOR 2015/16

1. Rateable Value at 31st December 2014	258,207,337
2. Small business rating multiplier for 2015-16 (pence) 48.00	
3. Gross rates 2015-16 - (RV x multiplier)	**123,939,522**
4. Estimated growth/decline in gross rates	-874,092
5. Forecast gross rates payable in 2015-16	**123,065,430**
6. Net cost of transitional arrangements	N/A
7. Total forecast mandatory reliefs to be provided in 2015-16	-6,665,784
8. Total forecast unoccupied property 'relief' to be provided in 2015-16	-2,522,329
9. Total forecast discretionary relief to be provided in 2015-16	-486,631
10. Total forecast of discretionary reliefs funded through S31 grant to be provided in 2015-16	-3,090,000
11. Forecast of net rates payable by rate payers after taking account of transitional adjustments, unoccupied property relief, mandatory and discretionary reliefs	**110,300,686**
12. Estimated bad debts in respect of 2015-16 rates payable	-2,217,894
13. Estimated repayments in respect of 2015-16 rates payable	-2,672,411
14. Net Rates payable less losses	**105,410,381**
15. Cost of collection formula	-346,759
NON-DOMESTIC RATING INCOME	**105,063,622**

NON-DOMESTIC RATING INCOME FROM RATES RETENTION SCHEME

Central Government	Enfield	Greater London Authority	Total

£	**£**	**£**	**£**
52,531,811	**31,865,846**	**21,012,724**	**105,410,381**

APPENDIX 2

EXTENSION OF TRANSITIONAL RELIEF FOR SMALL AND MEDIUM PROPERTIES GUIDANCE

1. About this guidance

This guidance is intended to support local authorities in administering the extension of transitional relief for small and medium properties announced in the Autumn Statement on 3 December 2014. This Guidance applies to England only.

This guidance sets out the detailed criteria which central government will use to determine funding relief for properties falling out of transition to higher bills in 2015/16. The Guidance does not replace existing legislation on any other relief. Enquiries on this measure should be addressed to:
ndr@communities.gsi.gov.uk

2. Introduction

The transitional relief scheme was introduced in 2010 to help those ratepayers who were faced with higher bills. The scheme ends on 31 March 2015 and as a result a small number of ratepayers will face a jump to their full rates bill from 1 April 2015.

The government announced in the Autumn Statement on 3 December 2014 that it will extend to March 2017 the current transitional relief scheme for properties with a rateable value up to and including £50,000.

This document provides guidance to authorities about the operation and delivery of the policy. The number of ratepayers affected in each local authority is very small (typically below 100) and the government recognises that authorities may choose to explore manual solutions to calculate the relief. If as a result authorities are unable to include the award of relief in bills for the beginning of 2015/16 then they are encouraged to inform the ratepayers affected that relief is available.

3. How will the relief be provided?

As this is a measure for 2015-16 and 2016-17, the government is not changing the legislation around transitional relief. Instead the government will, in line with the eligibility criteria set out in this guidance, reimburse local authorities that use their discretionary relief powers, under section 47 of the Local Government Finance Act 1988, as amended[1], to grant relief. It will be for individual local billing authorities to adopt a local scheme and decide in each individual case when to grant relief under section 47. Central government will fully reimburse local authorities for the local share of the discretionary relief (using a grant under section 31 of the Local Government Act 2003). In view of the fact that such expenditure can be reimbursed, the government expects local government to grant discretionary relief to qualifying ratepayers.

Central government will reimburse billing authorities and those major precepting authorities within the rates retention system for the actual cost to them under the rates retention scheme of the relief that falls within the definitions in this guidance.

4. Which properties will benefit from relief?

Properties that will benefit are those with a rateable value up to and including £50,000 who would have received transitional relief in 2015/16 or 2016/17 had the existing transitional relief scheme continued in its current format. In line with the existing thresholds in the transitional relief scheme, the £50,000 rateable value threshold should be based on the rateable value shown for 1/4/10 or the substituted day in the cases of splits and mergers. This policy applies to transitional relief only (i.e. those moving to higher bills).

As the grant of the relief is discretionary, authorities may choose not to grant the relief if they consider that appropriate, for example where granting the relief would go against the authority's wider objectives for the local area. We would encourage councillors to be consulted on the final scheme that the local authority adopts, so there is a clear line of accountability.

[1] Section 47 was amended by the Localism Act 2011

5. How much relief will be available?

The government will fund Localism Act discounts to ensure eligible properties receive the same level of protection they would have received had the transitional relief scheme extended into 2015/16 and 2016/17. The transitional relief scheme should be assumed to remain as it is in the current statutory scheme[2] except that:

- the cap on increases for small properties (with a rateable value of less than £18,000/£25,500 in London) in both 2015/16 & 2016/17 should be assumed to be 15% (before the increase for the change in the multiplier)[3], and

- the cap on increases for other properties (up to and including £50,000 rateable value) in both 2015/16 and 2016/17 should be assumed to be 25% (before the increase for the change in the multiplier) [4].

As explained above, the scheme applies only to properties up to and including £50,000 rateable value based on the value shown for 1/4/10 or the substituted day in the cases of splits and mergers. Changes in rateable value which take effect from a later date should be calculated using the normal rules in the transitional relief scheme[5]. For the avoidance of doubt, properties whose rateable value is £50,000 or less on 1 April 2010 (or the day of merger) but increase above £50,000 from a later date will still be eligible for the relief.

Where necessary the Valuation Office Agency will continue to issue certificates for the value at 31 March 2010[6] or 1 April 2010[7]. The relief should be calculated on a daily basis.

A detailed explanation and illustration of how the relief (and the associated section 31 grant) should be calculated is at Annex A.

6. Recalculations of relief

As with the current transitional relief scheme, the amount of relief awarded should be recalculated in the event of a change of circumstances. This could include, for example, a backdated change to the rateable value or the hereditament. This change of circumstances could arise during the year in question or during a later year.

The Non-Domestic Rating (Discretionery Relief) Regulations 1989 (S.I. 1989/1059)[8] require authorities to provide ratepayers with at least one year's notice in writing before any decision to revoke or vary a decision so as to increase the amount the ratepayer has to pay takes effect. Such a revocation or variation of a decision can only take effect at the end of a financial year. But within these regulations, local authorities may still make decisions which are conditional upon eligibily crtieria or rules for calculating relief which allow the amount of relief to be amended within the year to reflect changing circumstances.

2 As prescribed in the Non-Domestic Rating (Chargeable Amounts) (England) Regulations 2009 No. 3343.
3 Specifically, X in regulation 8(3) for the years commencing 1 April 2015 and 1 April 2016 should be assumed to be 115. Q should be assumed to be 1.019.
4 Specifically X in regulation 8(2) for years commencing 1 April 2015 and 2016 should be assumed to be 125. Q should be assumed to be 1.019.
5 i.e. "N over J" for reductions or "N minus J" for increases.
6 Regulations 15 or 16, SI 2009 No. 3342.
7 Regulation 14 SI 2009 No.3343.
8 The Non-Domestic Rating (Discretionery Relief) Regulations 1989 No. 1059.

Therefore, when making an award for the extension of transitional relief, local authorities should ensure in the conditions of the award that the relief can be recalculated in the event of a change to the rating list for the property concerned (retrospective or otherwise). This is so that the relief can be re-calculated if the rateable value changes.

7. State Aid

State Aid law is the means by which the European Union regulates state funded support to businesses. Providing discretionary relief to ratepayers is likely to amount to State Aid. However the extension of transitional relief will be State Aid compliant where it is provided in accordance with the De Minimis Regulations (1407/2013)[9].

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). Local authorities should familiarise themselves with the terms of this State Aid exemption, in particular the types of undertaking that are excluded from receiving De Minimis aid (Article 1), the relevant definition of undertaking (Article 2(2)[10]) and the requirement to convert the aid into Euros[11].

To administer De Minimis it is necessary for the local authority to establish that the award of aid will not result in the undertaking having received more than €200,000 of De Minimis aid. Note that the threshold only relates to aid provided under the De Minimis Regulations (aid under other exemptions or outside the scope of State Aid is not relevant to the De Minimis calculation). Where local authorities have further questions about De Minimis or other aspects of State Aid law, they should seek advice from their legal department in the first instance[12].

8. How will the relief work in Enterprise Zones?

Where an eligible property is also eligible for Enterprise Zone relief, then Enterprise Zone relief should be granted and this will be funded under the rates retention scheme by a deduction from the central share. Local authorities should not claim funding for the extension of transitional relief on properties which would otherwise qualify for Enterprise Zone government funded relief.

If a property in an Enterprise Zone is not eligible for Enterprise Zone relief, or that relief has ended, the extension of transitional relief may be granted in the normal way, and this would be reimbursed by grant under section 31 of the Local Government Act 2003.

9 http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2013:352:0001:0008:EN:PDF
10 The 'New SME Definition user guide and model declaration' provides further guidance: http://ec.europa.eu/enterprise/policies/sme/files/sme_definition/sme_user_guide_en.pdf
11 http://ec.europa.eu/budget/contracts_grants/info_contracts/inforeuro/inforeuro_en.cfm
12 Detailed State Aid guidance can also be found at: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/15277/National_State_Aid_Law_Requirements.pdf

9. Calculating the extension of transitional relief where other reliefs apply

Under the existing statutory transition scheme which ends on 31 March 2015, transitional relief is measured before all other reliefs. But the extension of transitional relief into 2015/16 and 2016/17 will be delivered via section 47 of the Local Government Finance Act 1988 (as amended by the Localism Act) which is measured after other reliefs (including other Localism Act delivered reliefs such as retail relief).

Therefore, for the purposes of awarding relief and claiming section 31 grant, authorities should measure the extension of transitional relief after all other reliefs. To do this authorities will need to:

Step 1: identify those eligible properties which would have qualified for transitional relief in 2015/16, Step 2: calculate the actual rates bill for those properties in 2015/16 after all other reliefs assuming transitional relief has ended,

Step 3: calculate the rates bill for those properties in 2015/16 after all other reliefs assuming transitional relief continued (in line with the assumptions in this guidance), and

Step 4: calculate the difference between stage 2 and 3 and award a Localism Act discount to that value.

Authorities will be asked to report the cost of extending the transitional relief scheme using this methodology from which the associated section 31 grant will be calculated (using the appropriate local share).

Example

If a ratepayer would have been eligible for transitional relief of 25% caps in 2015/16 then their bill is calculated as follows (ignoring inflation):

	Step 1	Step 2	Step 3	Step 4
	2014/15	2015/16	2015/16	2015/16
Bill before any reliefs	10,000	10,000	10,000	10,000
Transitional relief (had the original scheme continued)	-4,000	n/a	-2,500	n/a
Net bill before Localism Act discount	6,000	10,000	7,500	10,000
Localism Act discount (to give effect to transitional relief)	n/a	n/a	n/a	**-2,500**
Net rates bill	6,000	10,000	7,500	7,500

For illustration we have assumed the multiplier does not change between years.

This is the simple case. The value of the transitional relief had the scheme continued is £2,500. In practice extending transitional relief will be achieved by awarding a Localism Act discount which is calculated at the end of the bill. But because there are no other reliefs the value of the discount to ensure in practice transitional relief continues is also £2,500.

But if, for example, the same ratepayer would otherwise have fallen out of transitional relief in 2015/16 also receives 80% charitable mandatory relief then their bill is calculated as follows (ignoring inflation):

	Step 1	Step 2	Step 3	Step 4
	2014/15	2015/16	2015/16	2015/16
Bill before any reliefs	10,000	10,000	10,000	10,000
Transitional relief (had the original scheme continued)	-4,000	n/a	-2,500	0
Net bill before Charitable relief or Localism Act discount	6,000	n/a	7,500	10,000
Charitable Relief	-4,800	-8,000	-6,000	-8,000

Localism Act discount (to give effect to transitional relief)	0	0	0	-**500**
Net rates bill	1,200	2,000	1,500	1,500

For illustration we have assumed the multiplier does not change between years.

In the above example, whilst the reported cost of transitional relief in 2015/16 would still have been £2,500 had the scheme continued in its current form, this is measured before all other reliefs. In practice extending transitional relief will be achieved by awarding a Localism Act discount which is calculated after all other reliefs. So the value of the discount to ensure in practice transitional relief continues is £500.