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# A Review of Business Rates and Discretionary Relief

by a Working Group of  
the Overview and Scrutiny Commission



January 2015

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## Acknowledgements

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Paul Briggs	Chief Executive, Thames Valley Chamber of Commerce
Matthew Harrington	Commercial Director, Oxford Innovation Ltd
David Knowles Leak	Regional Chairman, Thames Valley Federation of Small Businesses

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Councillor McCracken	Executive Member for Culture, Corporate Services and Public Protection
Councillor Ward	Executive Member for Transformation and Finance
Alison Sanders	Director of Corporate Services
Bobby Mulheir	Chief Officer, Customer Services
Victor Nicholls	Assistant Chief Executive

Alan Nash  
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Robert Jolley  
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Borough Treasurer  
Head of Overview and Scrutiny  
Team Manager, Business and Enterprise Service  
Revenue Services Manager

## **1. Foreword by the Lead Member**

- 1.1 I hope that you will find this an interesting document to read. It has certainly been an interesting review to be involved with. It has taken eight months to come to the conclusions and recommendations offered in the report.
- 1.2 There have been many people and organisations involved. I would like to record my thanks to them all for the time, effort and enthusiasm with which they have approached the subject.
- 1.3 The Overview and Scrutiny Commission Councillors started in May 2014 to look at gaining an in depth understanding of existing Business Rates and avoidance schemes; to scrutinise the Council's performance in collecting the rates coupled with appeal cases; finally to explore how the Council can be innovative and support economic development by helping to reduce unoccupied buildings.
- 1.4 The report succeeds in achieving the working group's objectives. On behalf of my fellow members I do hope that the recommendations can be agreed with and become a small assistance to a big problem.
- 1.5 Although the Chancellor of the Exchequer in his Autumn Statement was not party to our group, he clearly received a leak of what we were thinking by including the subject in his announcements on 3<sup>rd</sup> December 2014.

**Councillor Robert Angell  
Lead Member**

## 2. Executive Summary

2.1 This report summarises the review by an Overview and Scrutiny (O&S) Working Group (the Group) of Business Rates (BR) in Bracknell Forest, which took place between May and November 2014

2.2 The report is organised in the following sections:

Part 3 Gives background information in respect of Business Rates, and summarises how we set about our review.

Part 4 Summarises the information and evidence gathered by the Working Group.

Part 5 Contains the conclusions we have reached following our review, on which we have based a number of recommendations to the Council's Executive.

At the end of our report is a glossary of terms used and appendices containing detailed supporting information.

2.3 Our overall conclusions are that:

- a) The Council is performing very well in its collection of Business Rates;
- b) There is a growing problem nationally of BR avoidance schemes, which is beyond the Council's control, and which is serving to significantly reduce BR income for this Council and others;
- c) There is a strong case to introduce a discretionary BR relief scheme, which we are confident will give enhanced income in the longer term, and which will directly help to develop our local economy. To be effective, it is essential that this forms part of a wider package of support to business, and that it is delivered in partnership with other organisations.

2.4 Our recommendations to the Executive are in section 5 of this report:

5.4 Efforts are made to ascertain the rate of take up of Small Business Rates relief in Bracknell Forest, and if similarly low to the national average, to publicise the availability of this valuable relief scheme more widely.

5.8 The Executive looks for opportunities – perhaps through the Local Government Association, and possibly directly to Government Ministers – to stress to central government the significance of Business Rates avoidance, and the need for early resolution.

5.11 The draft discretionary Business Rates relief scheme at Appendix 2, along with further considerations and details at Appendix 3, are put forward by the Executive for consideration as part of the forthcoming 2015-16 budget proposals to Council.

5.12 The Executive Members for Culture, Corporate Services and Public Protection; and Economic Development and Regeneration should ensure there is effective promotion of the proposed discretionary BR scheme.

2.5 Members of the Working Group hope that this report will be well received and we look forward to receiving responses to its recommendations.

2.6 The Working Group comprised:

Councillor Angell (Lead Member)  
Councillor Heydon  
Councillor Leake  
Councillor Virgo

### **3. Background**

#### The National Context For Business Rates

- 3.1 Business Rates (BR) are a property tax paid by occupants of non-domestic properties. The basic rates bill of a property (a 'hereditament') is determined by multiplying its rateable value by the 'multiplier'. In England, a property's rateable value is set by the Valuation Office Agency at regular intervals (the next revaluation is due in 2017). The rateable value broadly represents the yearly rent the property could have been let for on the open market on a particular date, last set at 1 April 2008. The valuation officer may alter the value if circumstances change. There are two multipliers: the standard non-domestic rating multiplier and the small business non-domestic rating multiplier. The multipliers are set by central government and expressed in pence per pound of rateable value. Between revaluations, the multipliers change each year in line with inflation and to take account of the cost of small business rate relief.
- 3.2 In England, district and unitary councils ('billing authorities') collect BR: In England, the rates are partly pooled at central government level and redistributed on a needs basis, and retained in part by billing authorities. In the Council's case, from 1 April 2013, Central Government take a 50% share, the Council takes 49%, and Royal Berkshire Fire and Rescue Authority take 1%. This is further complicated, in that the Government sets a baseline 'tariff' (to be reviewed in 2020); if the Council's BR income exceeds that baseline tariff, 42% of the 'excess' BR income is paid over to the Government. Conversely, if the Council's BR income falls short of the baseline a 'top up' is received from Central Government – this has never occurred in Bracknell Forest's case.
- 3.3 Various reliefs are available from full business rates liability, both mandatory (set in legislation) and at the discretion of billing authorities. These include small business rate relief; mandatory relief for charities; and relief for small shops, pubs and petrol stations in rural settlements. These reliefs do not affect the rateable value of the property, and the business rates due may change if occupancy changes. Property that is empty only attracts relief for a short period of time after it becomes empty: it is then subject to the full business rate. A number of BR avoidance schemes are operating in that respect. Councils have no involvement in setting the base charge nor any discretion over the mandatory reliefs and exemptions.
- 3.4 The Group was informed that the government was likely to extend the enhanced small business rate relief scheme from its current end-date of March 2015, but this was not certain.
- 3.5 The 'localisation' of BR on 1 April 2013 did not change the levels of Mandatory and Discretionary relief available however all costs were henceforth shared with Central Government on a 50/50 basis. Section 69 of the Localism Act 2011 provided a new discretionary power for billing authorities in England and Wales to reduce the business rates of any local ratepayer. The new power to grant discounts gives billing authorities complete discretion allowing them to give no discounts at all, through to the extreme of providing a 100% BR relief to all businesses. The new power applied from 1 April 2012. Councils do have to ensure that the reliefs they allow do not transgress state aid rules.
- 3.6 Any discretionary relief/'discounts' are provided wholly at the council's expense as opposed to all other reliefs where the cost is shared on a 50/50 basis with Central Government. The Government's objective for discretionary BR relief/discounts is to

provide greater opportunity for local authorities to use innovative approaches in delivering a wide range of policy objectives through use of this new power. The policy aim is that through lowering the tax burden on local business there will be greater cash available for more investment, retained or higher employment which in turn will deliver improved economic performance. It would also help to reduce the scope for BR avoidance schemes; this is an important issue which we return to in paragraph 5.10 and Appendix 2 below.

- 3.7 The new powers available under the Localism Act allow council scope to determine their own scheme of discretionary relief to match their priorities. A common theme among the schemes which have been introduced thus far is to use BR discretionary relief to support the regeneration of town centres. At this relatively early stage, the majority of councils have not made use of the new discretionary relief powers, and evidence of outcomes nationally was unclear.

#### The Bracknell Forest Context

- 3.8 Bracknell Forest currently has some 2,400 business premises on which business rates are charged. Business Rates are a very major source of income to the Council (£74 million was collected in 2013/14), funding the delivery of many vital public services. In 2014/15 mandatory reliefs and exemptions totalled some £5 million, and discretionary reliefs amounted to some £150,000. There is a quarterly report to the Executive (published on the Council's website) seeking Executive Member approval to discretionary BR reliefs. The Revenue Services team in the Council's Customer Services division collect BR, also collect Council Tax, and it operates the cashiers function for the whole Council.
- 3.9 The practical consequence of the Government's baseline mechanism (see paragraph 3.2 above) for the Council was that it received only 30% of the substantial additional BR paid by a major telecommunication company in 2014/15. The Government has said the formula baseline is due to be reviewed next in 2020. Consequently, in the event the Council's BR base was lower in the run –up to 2020 (for example by granting discretionary BR reliefs), that could be of financial benefit to the Council after 2020.
- 3.10 The Council has a good collection history, achieving 98.8% collection in 2013/14 and 96.6% in 2012/13. The Council is usually in the top quartile for performance in collecting BR. Over £1 million in arrears was collected in 2013-14. Public Houses were a particular feature of the arrears position. Nationally, there has been an increasing use of innovative BR avoidance schemes, which exploited the legislation concerning empty buildings and put income levels at risk, and at the time of our review the Council had around £1 million arrears in respect of BR avoidance schemes.
- 3.11 Bracknell Forest has a large amount of empty office space, with many properties receiving reductions in Rateable Value in 2014 due to reduced rental levels; and the Council has no right of appeal. Other local features are that some new premises cannot be brought into rating as in law they remain incomplete; and the Council has made provision in its accounts for around £4million for losses on appeals by ratepayers.
- 3.12 The amount charged for BR is reported to be a significant factor for businesses deciding where to locate their operations. Bracknell Forest has many unoccupied business premises and in recent years the Council has applied a fresh emphasis on promoting economic development. This raises the question whether the Council



should explore the scope for using the new legal powers for councils to operate discretionary BR reliefs to encourage business to occupy premises, thus increasing BR income in the longer term and supporting economic development in Bracknell Forest. Any scheme of discretionary BR reliefs could be reviewed and amended as frequently as the Council wished.

#### Why Did We carry out This Review?

3.13 The Overview and Scrutiny (O&S) Commission decided to review Business Rates because:

- We had not reviewed the Council's performance in this very important function previously
- We wanted to raise awareness of Business Rates and build members understanding of the topic
- We wanted to seek assurance that the government's part-localisation of BR had not disadvantaged Bracknell Forest.
- We wanted to explore whether the Council should take the opportunity of exercising its new statutory powers to grant discretionary relief for BR.

#### Purpose And Approach Of The Working Group

3.14 The Working Group saw its broad purpose as building understanding of BR in the Bracknell Forest context including BR avoidance schemes, exploring how the Council might make innovative use of BR to bring unoccupied buildings into use and to stimulate economic development, and to scrutinise the Council's performance. The approach we took to our work was to meet a range of people inside and outside the Council with relevant knowledge and experience of the issue, and we supplemented this with research and analysis of our own, supported by Council officers. This was all set out in the standard scoping document for O&S reviews, at Appendix 1.

## 4. Investigation, Information Gathering and Analysis

This section of the report is based mainly on the meetings which we held. Alan Nash (Borough Treasurer) was our Link Officer throughout the review and he, Richard Beaumont (Head of Overview and Scrutiny), and Sarah Kingston (Revenue Services Manager), attended all of our meetings.

### Introductory Review Work

- 4.1 The Working Group ('the Group') met for the first time on **19 May 2014** to elect a Lead Member (Councillor Angell); to receive an introductory briefing about Business Rates (BR) from officers; and to discuss the approach to be taken by the Working Group, with **Alison Sanders** (Director of Corporate Services), **Alan Nash** (Borough Treasurer), **Bobby Mulheir** (Chief Officer, Customer Services), **Sarah Kingston** (Revenue Services Manager, and **Richard Beaumont** (Head of Overview and Scrutiny).
- 4.2 The Group received written material in advance and a presentation, the content of which is summarised in the section 3 of this report
- 4.3 The Group subsequently formalised the approach to its review in the standard scoping document for Overview and Scrutiny reviews, attached at Appendix 1.
- 4.4 Other key matters arising from members' questions and in discussion were:
  - a) The substantial additional BR income from a major telecommunications company was a windfall unplanned by the Council and central government. There were risks applying to that income, for example the company had the option of paying its BR directly to central government.
  - b) Community amateur sports clubs only qualify for BR relief if they are registered with HM Revenue and Customs.
  - c) The government's retail relief scheme had seen unusually low take-up in the Borough, so officers were issuing more and simpler guidance on that.
  - d) Agricultural holdings are exempt from BR.
  - e) Two large, vacant office buildings could not be rated as they were not deemed to be 'complete' by reference to the regulations, which were rather indistinct on the term. There had been numerous court cases on this aspect, and it seemed that Tribunals often tended to agree with the ratepayers' position.
  - f) The Revenue Services Manager is IRRV (Institute of Revenues, Rating and Valuation (IRRV) qualified, as are some Revenue Services team members.

### Views of Executive Members

- 4.5 On **17 June 2014**, the Group met **Councillor McCracken** (Executive Member for Corporate Services); and **Councillor Brunel-Walker**, Executive Member for Economic Development and Regeneration. The Group had a later meeting on 21 July with **Councillor Ward**, Executive Member for Transformation and Finance. At both meetings, we sought views on the Executive's plans regarding Business Rates, and in what ways the O&S review might be most helpful to Bracknell Forest Council (BFC, 'The Council').

How can our review be of most help to the Executive?

- 4.6 Councillor McCracken (IM) summarised the respective roles of the three Executive Members in relation to BR: his main responsibility being in the collection of BR; Cllr Brunel-Walker's (MB-W) being in relation to economic development and regeneration; and Cllr Ward's being in regard to Council finance. IM said it would be helpful if the Group would explore how much room for change there was in the current framework, with reference to discretionary BR relief schemes operated by other councils, and whether change was applicable to BFC's circumstances, for example whether the Group felt there was a business benefit to be had from revising current arrangements and how long other similar local authorities had been running their schemes and with what success. IM also posed the question of whether a discretionary scheme would be of benefit to the Council given the collection rate it was achieving and the delicate balance which needed to be struck not only to retain current businesses while at the same time seeking new businesses to the regenerated town centre of Bracknell.
- 4.7 IM added that it would be useful for the Group to explore the BR avoidance schemes encountered by other councils, and how they had reacted to those schemes, and he would welcome the Group's thoughts and recommendations on how the Council might combat and 'get ahead of the game' on the avoidance loopholes. The Group was informed that to date, the Council had not challenged any avoidance schemes through the courts, though it had worked with the LGA in challenging the legitimacy of BR avoidance tactics. The Council was monitoring emerging case law, and it kept an open mind over prospective joint legal action with other rating authorities to combat avoidance. The Council was not lobbying the Borough's MPs to tackle the national loopholes in BR. The Executive had decided to 'tighten up' BR collection, but to date had not considered individual avoidance schemes in detail.
- 4.8 Bobby Mulheir (BM) commented that some business frequently failed to pay their BR on time, and the sums were pursued rigorously. Separately, some businesses had chosen to take advantage of the Government's scheme for deferred BR payments. Arrears cases were pursued appropriately and rigorously, including use of bailiffs. IM said there would be no point in pursuing arrears where the business had gone into liquidation, and efforts should arguably be targeted at the more high value arrears cases. BM commented that BFC frequently obtained settlements of arrears without needing to embark on formal action, and she cautioned against a 'one size fits all' approach. The WG asked for a list of arrears cases and two case studies, which it subsequently reviewed at its next meeting in July.
- 4.9 The Group was told that the Council paid over to central government its share of the BR collected, not the BR which was due. Some 98-99% was collected out of the c. £70 million due, leaving around £0.5M uncollected. Alan Nash (AN) explained that the £4million provision for possibly lost appeal cases was in its first year, having previously been a liability for central government. It was too early to know whether the provision would be actually used, and the worst case would be that the Council would have to use the full amount, which would be shared approximately 50/50 with central government. MB-W expressed the view that BFC needs to be seen to be being helpful to businesses, whilst also being firm on collecting BR.
- 4.10 Councillor Ward (AW) said it would be helpful if the Group could explore how a discretionary BR relief scheme could assist the regeneration of Bracknell Town centre. He stressed the need to have a cautious approach to forgoing income, which equated to higher expenditure. However, in the context of discretionary BR relief, it would be of no concern if the relief was given in respect of a building which would otherwise remain empty/produce no BR income stream to the Council. The Council

also needed to take account of the interest of central government, particularly in relation to BFC having to pay over to central government their 'share' of the BR forgone. AN explained that the pay-over to central government was also influenced by other factors, including whether the amount of BR collected exceeded the amount generated by the DCLG formula for the amount of BR they deem to be 'needed' by each council. AW said it would be important to attract business occupants into Bracknell town centre, and that would yield a BR income flow. AW cautioned about the windfall BR income from a major telecommunications company becoming over-subscribed, saying that the £5 million gain would not be retained by BFC after 2020, and possibly sooner.

- 4.11 AW stressed the need to protect the Council's financial position and a balanced revenue budget over the long term, and said that the risks pertaining to a discretionary relief scheme would have to be recognised in any business case for its introduction. He saw the justification for relief being stronger to support the regeneration of Bracknell town centre. It could possibly be used to attract inward investment or expansions elsewhere in the Borough, though this was unlikely to be of sufficient benefit to the Borough to justify the cost. One Member expressed the view that it should be possible to quantify the risks with a high level of certainty, and to limit them, such that the risk could be covered by a budgetary provision. AW agreed that the financial risk could be quantified more than – for example - the risk that central government might choose to cease the discretionary power, or further change the BR redistribution regime.

*What is the Executive's general approach to 'spend to save' measures, i.e. in this case deliberately forgoing Business Rates income under a discretionary relief scheme, in the hope that it will stimulate occupation of premises and result in greater rates income in the fullness of time?*

- 4.12 Councillor Brunel-Walker said that BFC's new Business and Enterprise Service (BES) team was already working actively on this. Three officers were in post, and the current priority was to create a two year plan for BES, which should be presented to the Portfolio Review Group, and subsequently the Executive in July. Discretionary BR relief would serve to 'sweeten the deal' for prospective business development in Bracknell town centre, but any scheme needed to cover more than Bracknell town centre, and should aim to encourage growth in particular sectors or aimed at companies which employ former NEET (Not in Employment, Education or Training) people, for example. Members asked which businesses had been approached about this. MB-W said that BFC had spoken to the Economic and Skills Development Partnership; there had been a survey of business attitudes in support of the work plan; and there would be further discussions with businesses. On being asked about the targeting of particular sectors, perhaps with particular reference to manufacturing, MB-W said that the Borough was known for technology but less on manufacturing; identification was in progress, and a wide range of sectors was to be considered. MB-W added that (as part of the Thames Valley Berkshire City Deal) BFC was being granted an additional £0.7m by central government to reduce NEETS.
- 4.13 The Group observed that the Borough had a predominance of company Head Offices, and asked whether a survey of them had been carried out. MB-W said no survey had been carried out, but engagement with business would be an important part of the BES work plan. One Member expressed the view that the Borough suffered from a lack of variety of job opportunities, particularly in manufacturing; the Education sector should be encouraged to offer educational facilities to address that need.

- 4.14 The Group queried whether a Business Park elsewhere in Berkshire was attracting resources or taking initiatives beyond those of BFC. MB-W said the co-location at the Business Park was an attractive aspect, and the Park had spent millions of pounds in encouraging businesses to locate there.
- 4.15 IM said that the Executive had not set any precedents on 'spend to save', but were flexible on the matter. 'Spend to save' decisions were extremely important, though the timing needed to be right. This was something of a balancing act between attending to existing businesses and attracting inward investment. MB-W drew attention to the competition with other areas for inward investment.

*How pro-active do you think the Council should be in combating rates avoidance schemes?*

- 4.16 IM suggested that the Group should enquire about the types of avoidance schemes, how long they had operated, and what success there had been in combating them. Similarly, the Group might usefully look into the types of discretionary relief schemes, how long they have been running, and how effective they have been. MB-W suggested that the Group should build understanding and look at whether there is more the Council should do to combat avoidance schemes. The Group observed that BR avoidance schemes were mainly national issues where resolution depended on case law precedent.

*How significant would a discretionary relief scheme be to company decision making on locating in Bracknell Forrest?*

- 4.17 MB-W told the Group that BR was not in the top five issues for companies when they decided where to locate. He saw BR as being probably somewhere between 5 and 10 on a list from business of important things to consider. Local schemes might act as a 'sweetener' but BR would not be a major material consideration when choosing between, for example, Bracknell and another nearby town. In the case of a large company recently choosing to locate in Bracknell, it had no bearing on their decision, and in the case of another company choosing to relocate away from Bracknell it likewise had zero bearing on their decision to leave. BM observed that this might have a stronger influence on smaller companies and start-ups.
- 4.18 Other matters arising from members' questions and in discussion were:
- a) BFC's general approach, when faced with BR avoidance schemes, is to keep invoicing unless it was clearly unsustainable to do so.
  - b) In the event of the Council losing a BR appeal to the courts, the loss was shared equally between the government and BFC. Recently, there had been a number of appeals over rateable values, some of which had been lodged by Rating Agents years previously.
  - c) One major company paid its BR through a Rating Agent.
  - d) The Council is not permitted to charge interest on overdue BR.
  - e) It was noted that a House of Commons Committee had recommended changes to BR.
  - f) A business analyst was being recruited, funded by 'City Deal'.
  - g) Some local authorities had used pension fund monies to provide venture capital to stimulate start-ups.
  - h) MB-W commented that more incubator units were coming into being.
  - i) MB-W said that both Councillors Heydon and Wade, as Business Champions, would be involved in the BES work around BR. MB-W was keen to have a joint focus on this, without overlapping activity with the O&S Group.

- j) AW concurred with MB-W's view that BR was not a critical factor for large businesses' decisions on whether to locate in Bracknell Forest, though it would be part of their overall consideration.
  - k) On timing of any discretionary scheme, AW saw no reason for delay, particularly if it could be used to assist in completing the town centre regeneration, which he saw to be of over-riding importance. Nevertheless, it remained essential to recognise the attendant risks.
  - l) AN said that the Council responded to government consultations on proposed changes to the BR policy and arrangements, but it had to be recognised that some other councils might express opposing views to BFC.
  - m) There might be justification in a discretionary relief scheme applying beyond the town centre, though retail units outside the town centre were mainly occupied.
- 4.19 The Group recognised that BR formed part of a wider economic development picture, and decided not to adopt a wider focus in its review; for example, the O&S Commission's work programme included a separate piece of work in making an input to the review of the Council's Economic Development Strategy. Members considered that the main value of its work would be to seek assurance that the income secured from BR was at the optimum level, and secondly to recommend to the Executive the case for and broad form of a discretionary BR relief scheme.

### **The Business and Enterprise Service**

- 4.20 On **21 July 2014** the Group also met **Victor Nicholls** (VN, Assistant Chief Executive) and **Robert Jolley** (RJ, Team Manager, Business and Enterprise Service), to discuss how the Council might make innovative use of BR to bring unoccupied buildings into use, and to stimulate economic development; with particular reference to the regeneration of Bracknell town centre.

*From your contact with the business world, what would be most helpful to them?  
Have you surveyed the views of businesses?*

- 4.21 VN said the Council had not assumed it knew what businesses' view was on this, consequently two surveys had been carried out. 700 businesses had been surveyed by the Chamber of Commerce, also in the summer of 2012 MORI had surveyed major companies. The results of the MORI survey supported Cllr Brunel-Walker's comments about major companies, whose top factors for location decisions were: a suitably skilled workforce; good transport; and overall cost/value for money (which included BR but mainly constituted property costs). The responses to the Chamber's survey of Small and Medium size Enterprises (SME) were that: 34% did not need any particular help from BFC; 18% said lower business rates would be helpful; and 15% said that transport was their key factor. It was notable that the SMEs included a significant number of home-based sole traders, for whom BR would not be an issue.
- 4.22 RJ described two major surveys planned to take place. One would be a wide ranging survey on infrastructure, to include BR, later in 2014. The survey questions had not yet been designed, but might replicate some of those used in the MORI survey. The other survey would be on skills issues. RJ explained the role of the Economic and Skills Development Partnership's sub-group on infrastructure as being primarily on physical issues, such as air travel links and buildings availability. Businesses' needs were changing, for example many businesses wanted to occupy smaller buildings. There would be professional campaigns for both surveys, and it would be important to manage expectations.

Other matters arising from members' questions and in discussion were:

- a) VN's view was that a discretionary BR relief scheme would not make any difference to the investment/location decision of a major company. However, there could be potential value in such relief being used to support indigenous business growth – for example in the transition from home-based working to separate premises.
- b) It was noted that the legal team would be providing the Working Group with legal advice on state aid issues and other considerations.
- c) The Business and Enterprise Service's focus was on engendering indigenous businesses, particularly technology businesses with high growth potential.

### **Views Of The Business Community**

- 4.23 On **27 August 2014** the Group visited Oxford Innovation Ltd.'s site at Lily Hill House, Bracknell, meeting **Matthew Harrington** (MH, Commercial Director Oxford Innovation Ltd, OI), and **David Knowles Leak** (DKL, Regional Chairman, Thames Valley Federation of Small Businesses, FSB), who had been invited to give their views on the case for and possible scope of a discretionary Business Rates relief scheme in Bracknell Forest. RA said that the Working Group (WG) was in the process of gathering views and information, including a visit to Croydon Council, which operated a discretionary relief scheme. Once that was complete, the WG would decide whether to make recommendations to the Council's Executive over a prospective Business Rates (BR) discretionary relief scheme for Bracknell Forest.
- 4.24 MH summarised OI's business. OI manage a UK network of 20 Business & Innovation Centres, including Lily Hill House, that provide an environment for start-ups and Small and Medium Size businesses (SMEs) to grow. The centres are managed on behalf of public and private sector building owners who require a financial return, whilst contributing to economic growth locally. MH suggested that a BR discretionary relief scheme should be targeted at those areas which derive the most benefit, such as helping small business to grow, and in stimulating economic development.
- 4.25 MH drew attention to the Small Business Rate Relief\* (SBRR) scheme, saying that it is a significant consideration for small companies' investment decisions. MH commented that it would be valuable to have more certainty over its continuation beyond March 2015, as its removal would be harmful. OI make use of the SBRR, also the three months relief for voids, to good effect in helping small businesses' viability. MH stressed the value of any relief to alleviate the initial set-up costs of an innovation centre, where the up-front capital costs in particular are significant. MH illustrated this by reference to the Solent Enterprise Zone at Daedalus, South Hampshire, which qualifies for 100% BR relief as it is an Enterprise Zone. Such relief makes a major difference to an innovation centre and small business's viability in the early stages, thus gearing relief towards mitigating early stage costs would be valuable. MH also described OI's involvement in managing part of Ocean House in Bracknell for a fee from the owners of the building. Two floors are now filled with tenant businesses, but

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\* Small business rate relief applies until 31 March 2015 to businesses which only use one property, and the rateable value is less than £12,000. Such companies get 100% relief (doubled from the usual rate of 50%) for properties with a rateable value of £6,000 or less. The rate of relief will gradually decrease from 100% to 0% for properties with a rateable value between £6,001 and £12,000.

a decision whether OI should take on another floor inevitably means fit out costs and a short term loss until the space can be rented out; relief from BR for around 6-9 months would make the OI business case more viable. MH observed that there is a degree of acceptance of BR in the business community, as with other taxes, but that should not be interpreted as business not seeing BR to be significant. For example, the reduction in empty property relief in 2007 caused widespread protests to central government. Other matters arising from members' questions and in discussion were:

- a) Due to differences in individual business's circumstances, there is no single 'break point' where BR relief would change from being a critical factor and become a 'nice to have' factor. MH said that BR costs are relevant to investors contemplating making new investments, and additional BR relief might enable OI to consider applying lower rental charges for tenants.
- b) OI was unaware of other councils operating discretionary BR relief schemes to stimulate economic activity. OI had, however seen other forms of public assistance – such as European Regional Development Fund funding to regenerate the Barnsley local economy.
- c) OI's public sector commissioned operations tended to have a higher proportion of workshops than their private sector commissioned operations (which tended to be more on office space).
- d) MH said the key period for the businesses they work with is the first two years of operation.

4.26 DKL summarised the role of the FSB, as the largest business organisation in Europe, also his role on the Local Enterprise Partnership (LEP), and welcomed the opportunity to give the FSB's views on BR to the Council. Bracknell Forest's profile of businesses was broadly similar to the national profile. DKL described the failure rate and developmental journey of business's growth. Small businesses' viability and prospects for success could be assisted in various ways, such as fairer leases, support for skills development and incubator premises. DKL drew a distinction between taxes on profits, which were easier to bear and seen to be more equitable than taxes such as BR which applied regardless of activity, profitability or ability to pay. DKL also drew attention to small businesses rarely using their full capacity, such that there is a lot of untapped capacity there.

4.27 DKL said that the FSB believed that total reform of BR was required: it was unfair and bore no relationship to the ability to pay, and for many businesses it was the most significant cost after rent and employee costs. The FSB had campaigned for an SBRR scheme, and it was of concern that the take-up rate was low, at some 50 - 60% nationally. DKL drew attention to statistics produced by the FSB, which illustrated the huge significance of SMEs to the UK economy. For example, at the start of 2013, SMEs accounted for 99.9% of the estimated 4.9 million businesses in the UK, employing 14.4 million people and with a turnover of £1,600 Billion. DKL said that SMEs have massive potential.

4.28 DKL encouraged the Council to target BR incentives around business start-ups, particularly as they have a direct effect on fixed costs. A BR relief scheme needed to be selective if it was to be effective. Examples might be: helping the transition from home working to renting premises; or capitalising on the unique advantages of the Bracknell Forest locality. Any relief scheme also needed to be easy to access, with support available. An effective relief scheme should also connect well with Thames Valley LEP initiatives, and take account of local socio-economic factors.



- 4.29 DKL and MH encouraged the Council to publicise examples of how its prospective relief scheme had benefitted particular businesses, to encourage greater take-up. Other matters arising from members' questions and in discussion were:
- a) Neither MH nor DKL saw much scope for debating change to the national BR regime.
  - b) Alan Nash (AN) explained the BR retention rules, with reference to what happens if BR income exceeds the threshold set by central government, and the wide freedom councils have in deciding what, if any, discretionary BR relief scheme to have. AN added that the Council is keen to understand the perspective of the business community on the various factors that might feature in a prospective discretionary relief scheme.
  - c) Members commented that criteria for a relief scheme might possibly include: assisting the regeneration of Bracknell town centre; supporting apprenticeships in manual trades; and small business units. DKL expressed the view that incubator units were well worth supporting, but cautioned against confining relief to the town centre, as many businesses were located elsewhere. The town centre has a high proportion of retail businesses, which had experienced challenging conditions.
  - d) MH commented that car park charges can have a powerful effect on footfall in town centres.
  - e) Businesses' decisions on location tended to be more critical as their employee numbers grew, also if the nature of the business was location-specific. MH quoted an example of an old office building in Witney, which had achieved 82% occupancy. The tenants needed good broadband connection and other facilities, but most were flexible on location.
  - f) BR is a less significant factor in premises which have high rent charges.
  - g) As to whether a BR relief scheme might attract businesses to Bracknell Forest, MH observed that location decisions were based on many factors, such as transport links, and the proximity of other businesses with trading potential. Some conventional concepts, such as large faceless buildings isolated from others were now outmoded. Small business tended to think differently than larger businesses, for example on individual lifestyle choice and workspace.
  - h) DKL commented on the need for a 'ladder' to help businesses through the successive stages of their growth and development. Confidence and pride in the local community was also an important factor.
  - i) On the prospective 'tapering off' of BR relief, MH stressed the value which businesses attached to having certainty over their finances, particularly as many small business were constantly searching for a more viable business model. MH acknowledged that at some point, small businesses needed to become self-sufficient, and the answer was to withdraw the relief at the appropriate time – ideally linked to their ability to pay BR – rather than have a fixed time for ending the relief.
  - j) MH complimented the Council for giving thought, in an open-minded way, to supporting businesses through a prospective BR relief scheme.
- 4.30 On **30 September 2014**, the Group met **Paul Briggs (PB)**, Chief Executive, Thames Valley Chamber of Commerce, to hear the Chamber's views on the case for and possible scope of a discretionary BR relief scheme in Bracknell Forest. PB said that BR were not a major consideration for most large companies, conversely BR were an important issue for many start-up and small businesses. PB encouraged the Council to see a discretionary BR relief scheme as an investment for the future, rather than as income forgone. The Chamber welcomed the prospective BR relief scheme. PB advised that it would be important for the scheme to be protected from abuse, and be well publicised.

- 4.31 PB described how the TV Chamber had been based in Slough as a tenant of Slough Estates (with smaller offices elsewhere across TV) for some 50 years, and the Chamber would have struggled to be based there without discretionary assistance from Slough Borough Council. The Chamber currently received 60-70% relief from Slough BC, and there was no guarantee over future relief. The Slough area benefitted from the Chamber's assistance on matters of value to the local authority and the community, such as attracting inward investment and mentoring schemes. PB said that some voluntary and not-for-profit organisations would struggle if they were burdened with full commercial costs; yet they were able to assist local authorities with various services of value to councils' wider objectives, for example in assisting the long-term unemployed to find work. Consequently, the Chamber would be supportive of a BR relief scheme aimed at smaller businesses (which would also like to see the recognition which partnership with a council would bring) and the not-for-profit sector.
- 4.32 The TV Chamber is a not-for-profit organisation, delivering some 200 events each year, and a regular newsletter, for example. It receives no public funding, and its income comprises membership fees, charges for processing export documentation, and income from providing a wide range of consultancy services.
- 4.33 PB considered that Bracknell Forest has a phenomenal opportunity arising from the regeneration of Bracknell town centre, and the Chamber is willing to help promote the area. In a similar way, the opening of The Oracle centre had transformed the image of Reading. Bracknell Forest needs a 'hook' to hang its future image on, for example being Business Friendly (supported by case studies). PB said that the Council was welcome to put such material on the Chamber website, also in their magazine. Other organisations such as the CBI and IOD might also be able to similarly help.

Other matters arising from members' questions and in discussion were:

- a) PB considered that a BR relief scheme should be time-limited, perhaps tapering off over 2-3 years, and it would be important for businesses to know where they stood on that.
- b) PB said that the prospective relief scheme should be designed to show that support is genuinely needed, also that the Council receives something back in return for the relief.
- c) The Chamber saw most start-up businesses comprising around 1-10 employees, with corporate organisations having around 40-50 employees. There were exceptions, for example some companies with higher sales turnover had few employees and occupied little space.
- d) The Chamber did not think that location had been as important to business as it had been previously. Small companies saw an advantage in co-locating near other small businesses in the same sector.
- e) Serviced offices are one means of helping home workers to progress towards having their own premises. PB said that a growing number of businesses operated from people's homes, but this business model was not universal.
- f) PB agreed that a BR relief scheme in isolation would not be as effective as one delivered alongside other business support measures, for example having a small business centre or advice line on Human Resources issues. PB added that the Chamber could help to set up a hub or deliver a series of seminars, for example.
- g) The difficulty in getting companies to take up offers of assistance was recognised.

- h) The 'trigger point' for home-based businesses to move into business premises was usually when they won a larger contract. They often started by using serviced offices, then subsequently to premises of their own.
- i) It would be important to demonstrate that any relief scheme is fair. Efforts should not just be aimed at attracting new businesses; retaining existing businesses is very important, and it is also important to understand the client base.

### **The London Borough Of Croydon**

- 4.34 The Group decided to visit Croydon, to learn about their experience as one of the first councils to have introduced a discretionary BR relief scheme. On **28 August 2014** we met **Councillor Toni Letts** (Cabinet Member for Economic Development), **Councillor Wayne Lawlor**, **Lisa McCance** (Head Of Economic Development), **Jivko Hristov** (Economic Strategy Manager), and **Ose Akpom** (Senior Project Officer).
- 4.35 Councillor Letts (TL) described Croydon's local economy. There are 13,000 businesses employing 141,000 people. There are a number of 'tired' older office blocks, and new offices are being built. Croydon has a major retail centre, and the Council is keen to develop district centres. The Council (LBC) has a number of measures to support economic development, including a discretionary BR relief scheme, which makes a real difference, and which had recently been extended to 2016. TL gave an example of a recent case to illustrate LBC's support for small local traders, where she had been advised that a retail unit was at risk of closing. It was in a prominent location and closure would have had a negative impact. Applying discretionary BR relief had enabled the shop to remain open, safeguarding the jobs of the six people working there.
- 4.36 Unemployment in Croydon is around 6%, and there had been a 32% reduction in the number of people receiving Job Seeker's allowance in recent years. There is a small manufacturing sector in Croydon, with more prominence in the knowledge-based and retail sectors. There would not be sufficient land available for new industry given the need for housing land and other demands.
- 4.37 LBC officers delivered a presentation on LBC's BR relief scheme, with reference to its origins following the civil disturbances of 2011, £5 million funding from the Greater London Authority (GLA) for supporting Croydon's businesses (of which £1.1 million was allocated to the discretionary BR relief scheme), its commencement in January 2013, eligibility criteria, the rationale and scope of the scheme (confined to the Croydon new town 'opportunity area'), target outputs, the changes introduced to the scheme, marketing, and the scheme's achievements with reference to three named businesses. The riots had caused footfall in Croydon to be much reduced, but three years later the position was greatly improved, which was partly attributable to BR relief.
- 4.38 We were informed that LBC aspires to be a European city, and has clarity on the growth sectors to apply its energies to, for example IT and tech-based businesses. LBC has a strong offering for supporting micro businesses and start-ups. They had identified a gap for property-related support to less-small businesses. BR relief forms part of a wider programme of support to businesses, for example they advise on supply chains, they assist in introductions and identification of potential contracts, and they have a broadband 'voucher' scheme for SME's to spend up to £3,000 on broadband cabling. A further initiative had been to work with landlords of five refurbished buildings to help to let the space, and all but one of those had been

successfully let out. LBC also has a £2 million loan fund which had been very successful. It charges competitive interest rates and was close to being self-sustaining. It is run by a commercial company which makes use of credit rating, etc. Loans were coupled with business support advice. LBC had become aware that there was significant empty office space in Croydon, a lot of which was being converted to residential dwellings using permitted development rights. TL commented that BR relief could be used to tackle a problem as well accelerating an opportunity. Matters arising from the presentation and discussion were:

- a) £1 million had been granted by the GLA to LBC for the scheme, consequently there was no additional cost to LBC. The main benefits of the scheme were: more and better buildings; increased employment; and improved business confidence.
- b) LBC had underestimated the time delay between launching the scheme and in signing up individual businesses.
- c) The low level of take-up had led LBC to decide to revisit the scheme's parameters and commission a specialist media company. This had led LBC to simplify the scheme to deliver 100% relief in the first year ('Free for a year' being the headline message). That slogan arose from the media company encouraging LBC to keep the message simple. In hindsight, it would have been better to have engaged marketing help earlier.
- d) The targets were set by reference to the budget amount and the profiling of 'cohorts' of businesses expected to participate. This required some educated guesswork, and targets were re-profiled in the light of ensuing practical experience.
- e) The scheme – in concert with other LBC support mechanisms, such as broadband, advice on training and rent relief - had served to 'tip' some businesses to locate in Croydon. Such companies rarely showed signs of wanting to leave the borough afterwards, possibly because the costs of relocation would be significant for them. IT companies had chosen to re-locate to Croydon for various reasons in addition to BR relief, including ease of travel to East London, also Croydon's talent pool of young people. An example was given of a web design business which had started in a room over a restaurant in Croydon, and now had offices world-wide, whilst retaining its presence in Croydon.
- f) LBC monitor progress by BR relief businesses quarterly, with reference to the number of apprenticeships or other outputs set in their application forms. LBC also actively account-managed those businesses. LBC has some 14 staff engaged in economic development roles.
- g) In retrospect, LBC would have liked more time to have researched the business base at the outset, so as to target the scheme's parameters in the most effective way.
- h) LBC supports an independent organisation which runs incubator units; they also have an active FSB presence.
- i) The BR relief scheme would probably not have had as much success if it had been a stand-alone support mechanism, rather than one of a number of alternative and additional support measures – this strengthened its effectiveness.
- j) On the basis of LBC's experience, officers advised that a BR relief scheme should: not be over-prescriptive; not have too many targets; and have clear messages supported by good communications and marketing.
- k) LBC officers intended seeking member approval for a continuation of the BR relief scheme beyond 2016 when the GLA funding was due to end. Croydon anticipates further regeneration taking place, making on-going support for

economic development valuable. Further developments might include using BR as a form of lending tool.

- l) LBC's performance in collecting rates is high, at around 98%.
- m) Businesses had assured LBC that BR relief had been a deciding factor in making their investment.

### **Review of Information**

- 4.39 In addition to meeting various people inside and outside the Council, the Group also gathered and analysed information from a variety of sources, as set out below.

#### **Business Rates Avoidance Schemes**

- 4.40 At its meeting on 21 July, the Group reviewed information provided by the Revenue Services Manager on schemes in use by those wanting to avoid paying BR. We were told that there are several different business rates avoidance schemes in operation in every local authority's area across the country. These types of schemes have evolved over the last 7 years and are becoming more and more elaborate and difficult for local authorities to prevent.
- 4.41 Prior to 2007 business rates on empty premises were charged at 50% after the initial period of exemption had expired. With effect from 1 April 2007 empty rates became chargeable at 100% after the initial exemption period in a bid by the government to bring empty business premises back into use. This change saw the beginning of the empty rate avoidance schemes. There are two main tactics that are used in order to avoid business rates on empty premises:
- The first scheme involves very minimal occupation of the premises for 6 weeks at a time and then vacating again for three months. At the point at which a property becomes unoccupied, an exemption from business rates can be applied for a maximum period of three months, after which 100% rates are payable.
  - The second type of scheme involves leasing the premises to a charity. If a charity is registered with the charity commission and uses the premises in question 'wholly or mainly' for charitable purposes then they are only liable to pay 20% business rates. The charity generally takes a lease on premises (usually large premises) for a minimal or peppercorn rent and uses the property sporadically for activities that are claimed to be charitable.
- 4.42 At the present time avoidance schemes are a national issue and we were advised that many will probably continue to succeed unless the legislation is amended to close the scope for avoidance. The reality is that councils can do very little to prevent business rates avoidance as many of these schemes are found to be legal, and unfortunately these schemes are becoming more and more popular as landlords look to reduce their rates liability.
- 4.43 The largest avoidance schemes in operation in our area and across the country involve charities, and we were told that the government has asked the Charity Commission to look into this. Officers also advised that the Department of Communities and Local Government (DCLG) was aware of the BR avoidance schemes, but there was no sign of the government making any changes for the next 2-3 years, perhaps because local authorities now share the 'lost income' arising from avoidance. In reality, there is very little BFC can do to combat avoidance schemes. It was confirmed that this does not affect the collection rate, as BFC does not raise BR invoices where the charitable relief, etc., is legitimate. We were also advised that BFC

often grants empty property relief, and only part of that arises from avoidance schemes. We were given details of a forthcoming exhibition by a registered charity which temporarily uses buildings for displaying art.

#### The Council's Performance in Collecting Business Rates

- 4.44 At its meeting on 28 October, the Group reviewed the outcome of one of our Member's analysis of the effectiveness of collection of BR. The analysis showed that BR are collected efficiently and effectively with little practical room for any improvement. Arrears are being managed assiduously with the one area of significant concern being the huge loss to avoidance schemes.
- 4.45 The analysis showed that the total Rateable Value of Bracknell Forest's rateable premises is £169m. With a 2014 Standard Multiplier of 48.2 pence in the pound this equates to £81.5m due. Allowing for reliefs and exemptions this figure falls to some £77m. If the collection is 98.79% this leaves uncollected rates for the year of £930k.
- 4.46 Overall, the Council has an unusually good rate collection, both for Council Tax and business. This is supported by a separate publication by the Chartered Institute of Public Finance and Accountancy (CIPFA), the NNDR Benchmarking Club report for 2013. This compared the Council's performance against around 50 other councils on a variety of aspects of performance, such as the collection rate, the amount written off, the costs of collection and the grading of staff deployed. The CIPFA analysis places BFC well with an average collection rate in the high 96+%. This is further strengthened as BFC have one of the lowest net balances outstanding and amounts written off across the UK Unitary Authorities. The Business Rate collection is even better with a current collection rate of 98.79%. The Member was also impressed by the depth of knowledge shown by revenue officers of individual situations and the ability to provide proof behind the figures.
- 4.47 Our attention was drawn to concerns over the extent of and future risks posed by BR avoidance, and consideration was being given to including this issue in the corporate risk register. We were informed by officers that other measures to combat BR avoidance were under consideration, taking legal advice on whether the Council could deny relief in some cases. Members expressed their concern at the growing, national problem on BR avoidance, and the need for central government to act upon it.

#### Appeals Cases and the Collection of BR Arrears

- 4.48 At its meeting on 21 July, the Group reviewed information provided by the Revenue Services Manager on appeals cases and the Council's performance on the collection of BR arrears, with reference to case studies. We discussed with officers the action being taken on each. Some actions had been progressed to bailiffs, etc., and we were satisfied that the action being taken on each case was appropriate and robust. We observed that there are a large number of appeals pending, involving properties with rateable values totalling some £23 million, and some appeals had been running for four or more years. We were informed that the appeals are between the ratepayer and the Valuation Office Agency regarding the rateable value of the premises, the Council having no involvement in these appeals apart from creating a provision for the potential loss that these may cause. In order to calculate the appeals provision, with the help of a third party, the Council uses the list of those that are outstanding and calculates an anticipated loss on each appeal based on the success of other similar appeals, type of premises etc. We were encouraged to learn that during

quarter one of 2014/15, the number of appeals outstanding dropped by 78 demonstrating that the number is decreasing.

4.49 Other matters arising from members' questions and in discussion were:

- a) A major ratepayer's rating agent had disagreed with the rating assessment.
- b) Businesses have the option to pay BR in 10 or 12 instalments over the year.
- c) The Revenue team commence 'chasing' action soon after a BR payment becomes overdue. Pursuing BR debts can sometimes put a business into insolvency, after which it is very unlikely that any payment would be received, so that requires a judicious approach. Public Houses are a particular problem area for BR.
- d) BR appeals were a dispute between a business and the Valuation Office Agency. Consequently they are outside the Council's control, and the Council has to await the outcome of the appeals process, which can be lengthy. BR is still due pending the outcome of an appeal.
- e) The Revenue Services team has 15 staff, of which two concentrate on BR.

#### Sharing of Business Rates Income

4.50 The Council is permitted under legislation and government rules to keep only part of the rates paid by businesses in Bracknell Forest, hence the government's 'Localisation' of BR would be more accurately described as a part-localisation. The Group reviewed a note by the Borough Treasurer (AN) showing how the BR income had been shared out in 2013/14. AN explained that the Government decides how much grant and BR income the Council needs to deliver council services. As BFC received a higher amount than the government's formula amount, the government applies a tariff; and the tariffed amounts are pooled by the Government and re-distributed to those councils which received less income than their formula amounts. AN advised that the cost of any BR relief scheme would be a budget pressure.

#### European Union State Aid Restrictions

4.51 The Group sought and reviewed legal advice on EU state aids restrictions applying to rates relief. We were told that the Government had not issued guidance in respect of how Section 69 of the Localism Act 2011 (which provides the new discretionary BR power) might be used, but the Council would have to ensure that the reliefs it allows do not transgress the European Union (EU) state aid rules. Relief from taxes, including non-domestic rates, can constitute state aid under EU legislation. There are block exemptions from the state aid rules where the aid is below a de minimis (i.e. small) level. The de minimis level applies to all de minimis aid received, including other Government subsidies or grants, in addition to any rate relief given as de minimis aid. This is €200,000 over a three year period below which any aid is allowable. This does not apply in certain sectors including transport, agriculture, fisheries, coal and steel where any amount of relief is state aid. Billing authorities should bear this in mind when granting discretionary rate reliefs. Any relief exceeding the de minimis threshold, or of any amount for businesses in the sectors where the threshold does not apply, may need to be notified to the European Commission. Legal Officers also advised us that it would be acceptable to rely on a declaration from a business concerning state aids they had received, and there was no obligation on the Council to verify those details.

#### Information on the extent of unoccupied office/retail/industrial space

- 4.52 The Group requested and subsequently reviewed a listing of empty commercial properties in Bracknell Forest. This totalled almost 3 million square feet, presenting plenty of suitable space for small businesses.

#### Other councils' discretionary Business Rates relief schemes

- 4.53 We carried out internet research on nine other councils' discretionary Business Rates relief schemes, analysing the characteristics of each scheme. We noted that one nearby Council's scheme had failed to attract any applicants. The Group observed that all the schemes were different, with each council tailoring its scheme to match its own objectives. The Group considered the research helped in identifying the criteria which needed to be addressed in designing a BR relief scheme for Bracknell Forest, which was of use to us when formulating our proposals for a discretionary BR relief scheme.
- 4.54 Having discussed the key objectives and principles of BR discretionary relief at its meeting on 30 September, the Group met on **28 October 2014** to consider officers' worked-up proposals for a discretionary BR relief scheme. We decided to seek comments on the practicability of our proposals from the representatives of the business community the Group had met, without raising expectations unduly.

#### Production of the Working Group's Report

- 4.55 On 28 October, the Group had a discussion on our emerging conclusions and recommendations, to inform the production of the draft report of the Group's review. The Group met for the last time on **24 November**, when – in consultation with Executive Members and officers - it considered and agreed its draft report, for presentation to the O&S Commission.



## 5. Conclusions and Recommendations

From its investigations, the Working Group (the Group) has drawn the following conclusions, on which we have based a number of recommendations to the Executive. As our recommendations spread across the portfolios of three Executive Members, we are addressing the report in its entirety to the Leader of the Council.

### General

- 5.1 This has been an interesting review. In addition to reviewing the Council's performance in a very important function for the first time, our main reason for having the review was initially to seek assurance that the government's part-localisation of Business Rates (BR) had not disadvantaged Bracknell Forest. However, as it was soon apparent that the changeover had been uneventful, our attention switched mainly to whether the Council should take the opportunity of exercising its new statutory powers to grant discretionary relief for BR.
- 5.2 Our overall conclusions are that:
- a) The Council is performing very well in its collection of Business Rates;
  - b) There is a growing problem nationally of BR avoidance schemes, which is beyond the Council's control, and which is serving to significantly reduce BR income for this Council and others;
  - c) There is a strong case to introduce a discretionary BR relief scheme, which we are confident will give enhanced income in the longer term, and which will directly help to develop our local economy. To be effective, it is essential that this forms part of a wider package of support to business.

### The Importance of The Business Sector

- 5.3 Bracknell Forest benefits from - and is very much dependent on - large businesses paying rates. The top 20 ratepayers alone effectively finance a significant part of the Council's public services, besides providing employment for many residents and creating the wealth which the nation needs. We warmly welcome the greatly enhanced attention being given to this important stakeholder group by the Council, through its Business and Enterprise Service.

### Small Business Rate Relief

- 5.4 The Small Business Rate Relief (SBRR) scheme is of very clear benefit to small businesses, and the cost of such relief is borne by central government, not the Council. We were concerned to hear that the take-up rate was low, at some 50-60% nationally. **We recommend that efforts are made to ascertain the rate of take up of Small Business Rates relief in Bracknell Forest, and if similarly low to the national average, to publicise the availability of this valuable relief scheme more widely.**
- 5.5 The Group was concerned that the SBRR scheme was currently due to end in April 2015, though the expectation was that the government will extend it again. As its removal would be harmful to small businesses, we would have suggested this be pursued with central Government. However, that will not now be necessary as in the December 2014 Autumn statement the Chancellor announced a continuation of the relief arrangements.

### Appeals Against Business Rates

- 5.6 The value of BR income at stake in pending appeals cases is substantial and therefore of some concern. However, there is nothing the Council can do about these appeals, as they are between businesses and the Valuation Office Agency over the rateable value of properties. Furthermore, the BR remains payable during the course of the appeal process, which can be very drawn out.

### The Council's Performance on Business Rates

- 5.7 The evidence we have seen, including comparator information with other councils leads us to conclude that the Council is collecting BR efficiently and effectively with little practical room for any improvement. Arrears are being managed assiduously. The only area of concern is the huge loss of income arising from avoidance schemes.

### Business Rates Avoidance Schemes

- 5.8 The Group was concerned about the increased proliferation of BR avoidance schemes beyond the Council's control. This is a national problem, and is serving to prevent the Council charging BR on a growing number of empty commercial properties, therefore adding to the financial pressures facing the Council. As this seems to arise from inadequacies in the legislation around BR, **we recommend that the Executive looks for opportunities – perhaps through the Local Government Association, and possibly directly to Government Ministers – to stress to central government the significance of Business Rates avoidance, and the need for early resolution.**
- 5.9 One particular means of avoidance is when organisations deliberately delay the completion or redevelopment of a building. This can result in either the Valuation Office Agency applying a zero rateable value, or the Council deciding it would not be appropriate to include the property on the BR rating list, on the grounds that the building is not deemed to be sufficiently fit for occupation. The effect of this is that no BR can be levied on the property. We took legal advice on whether the Council would be able to use its planning powers to set (in planning conditions) completion dates for business premises' building construction and renovation schemes where possible, to guard against BR avoidance. We were disappointed to learn that this would not be permissible, for two reasons. Firstly, the Department of Communities and Local Government do not allow such conditions to be imposed. Secondly, it would be an improper purpose for the exercise of planning powers (and therefore it would be unlawful) to be used in order to maximise the payment of Business Rates; Planning powers can only be used for Planning purposes.

### Discretionary Business Rates Relief scheme

- 5.10 Due to new statutory powers, the Council has the opportunity to have a discretionary BR relief scheme. A large part of the Working Group's time was spent on gathering information and views on whether a discretionary BR relief scheme would be worthwhile in Bracknell Forest, and in designing a suitable scheme. We have concluded that a suitably designed scheme would be a wise investment yielding a clear and enduring return in the longer term. The scheme would increase the Council's income from Business rates in the medium to long term, as well as immediately benefitting the local economy and increasing employment opportunities in the Borough.

- 5.11 As with all 'spend to save' measures, discretionary BR relief would require possibly<sup>\*</sup> forgoing BR income in the early stages, but we consider the prospective benefits – in terms of economic development, reducing the extensive empty commercial building space, and long term financial gains - make this a very worthwhile prospect. Based on our research and consultations, **we recommend that the draft scheme at Appendix 2, along with further considerations and details at Appendix 3, are put forward by the Executive for consideration as part of the forthcoming 2015-16 budget proposals to Council.** The success of the discretionary relief scheme will require effective partnership working, with external partner organisations (such as the FSB and Chamber of Commerce), with commercial organisations (such as letting agents), and between Council departments (particularly the Business and Enterprise Service in the Chief Executive's Office, and the Revenue Services team in the Corporate Services department).

### Marketing and Promotion of the Discretionary Scheme

- 5.12 The Working Group recognises that the take up of the proposed BR scheme by businesses might be slow and difficult to achieve, hence the importance of good marketing. However, as the overall budget for the scheme is likely to be modest, it is hoped to achieve adequate marketing without purchasing bought-in marketing support or campaigns. **We recommend to the Executive Members for Culture, Corporate Services and Public Protection; and Economic Development and Regeneration that there should be effective promotion of the proposed discretionary BR scheme.** We consider that the marketing of the scheme should be coordinated by the BES team, which should promote this scheme through their mainstream promotional activity of business support, including the Local Business Partnership (LBP). This could be supplemented, for example by:

- further publicity from the Thames Valley Chamber of Commerce and the Federation of Small Businesses, both of whom were very supportive of the prospective BR relief scheme when the Working Group met their representatives;
- targeted marketing to innovation centres, letting agents, and other 'conduits' to small businesses;
- assistance and advice from the Council's Communications and Marketing team, for example on the Council's website and in 'Town and Country';
- publicity in the annual mailing of business rates demands.

In the event that take-up does not occur at a sufficient level, further consideration can be given to a professional marketing campaign.

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<sup>\*</sup> It would not definitely forgo income, as the scheme seeks a declaration from applicants that they would not occupy the vacant premises without the discretionary rate relief (and there are limitations on the councils' powers to levy rates on vacant properties).

## 6. Glossary

BES	Business and Enterprise Service
BFC / 'The Council'	Bracknell Forest Council
BR	Business Rates
CIPFA	Chartered Institute of Public Finance and Accountancy
DCLG	Department of Communities and Local Government
EU	European Union
FSB	Federation of Small Businesses
GLA	Greater London Authority
IRRV	The Institute of Revenues, Rating and Valuation
LBC	London Borough Of Croydon
LBP	Local Business Partnership
LEP	Local Enterprise Partnership
NEET	Not in Employment, Education or Training
OI	Oxford Innovation Ltd
O&S	Overview and Scrutiny
SBRR	Small Business Rate Relief
SME	Small and Medium size Enterprises
'The Group'	The Working Group of the Overview and Scrutiny Commission
TV	Thames Valley

**BRACKNELL FOREST COUNCIL**  
**OVERVIEW AND SCRUTINY COMMISSION**  
**MAY 2014**

**WORK PROGRAMME 2014 – 2015**

Terms of Reference for

**BUSINESS RATES OVERVIEW AND SCRUTINY WORKING GROUP**

**Purpose of this Working Group / anticipated value of its work:**

1.	To build Members' understanding of the main factors affecting income from Business Rates (BR) in Bracknell Forest, including BR avoidance schemes
2.	To scrutinise the Council's performance on appeals cases and the collection of BR arrears
3.	To explore how the Council might make innovative use of BR to bring unoccupied buildings into use, and to stimulate economic development

**Key Objectives:**

1.	To gather and review information on the nature of BR and the range of businesses it applies to, with particular reference to Bracknell town centre regeneration
2.	To learn about the BR avoidance schemes being used in the borough, and how they might be combated
3.	The success rate on BR appeals, how appeals might be reduced, and the cost of handling appeals
4.	To gather and review information on the extent of unoccupied office/retail/industrial space
5.	To research the experience of other councils on discretionary BR relief schemes, to gather the views of business representatives, and then to consider recommending a BR relief scheme which is affordable and supportive of economic development in the Borough, with reference to particular sectors and areas.

**Scope of the work:**

The Business Rates function within the Council

**Not included in the scope:**

Anything unrelated to Business Rates

**Terms of Reference prepared by:** R M Beaumont

**Terms of Reference agreed by:** The Working Group

**Working Group structure:** Councillors Angell, Heydon, Leake and Virgo

**Working Group Lead Member:** Councillor Angell

**Portfolio Holder:** Councillors Ward (re Finance), McCracken (re Corporate services) and Brunel-Walker (re Economic Development and Town Centre regeneration)

**BACKGROUND:**

1.	There has not been an Overview and Scrutiny review of Business rates (BR) previously. BR are a very major source of income to the Council (£74 million was collected in 2013/14). Nationally, there has been an increasing use of innovative BR avoidance schemes which affects income levels, and the Council's performance on collecting BR arrears is also important.
2.	The level of BR is also a significant factor for businesses deciding where to locate. Bracknell Forest has many unoccupied business premises and the Council has a new emphasis on promoting economic development. O&S could usefully explore the scope for using the new legal powers for councils to operate discretionary BR reliefs to support economic development, and to make recommendations to the Executive accordingly.

**SPECIFIC QUESTIONS FOR THE PANEL TO ADDRESS:**

Questions will be asked as necessary to address the key objectives above.
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**INFORMATION GATHERING:**

**Witnesses to be invited**

Name	Organisation/Position	Reason for Inviting
Alan Nash Sarah Kingston	Borough Treasurer Revenue Services Manager BFC	For all details on Business rates in BFC
Councillors Ward, McCracken and Brunel-Walker	Executive Members, BFC	To discuss the Executive's plans regarding BR, and in due course the Working Group's provisional conclusions and recommendations
TBC	Representatives of Chamber of Commerce, Federation of Small Businesses and Oxford Innovations	To obtain the business community's viewpoint on the scope for discretionary BR reliefs
TBC	Representative of another local authority which has introduced a BR discretionary relief scheme	To learn about the practical experience of a BR discretionary relief scheme elsewhere
Victor Nicholls Robert Jolley	Assistant Chief Executive Team Manager, Business and Enterprise BFC	To explore how the Council might make innovative use of BR to bring unoccupied buildings into use, and to stimulate economic development; with particular reference to the regeneration of Bracknell town centre

## Site Visits

Location	Purpose of visit
None	(unless the meeting with another council needs to be held at their offices)

## Key Documents / Background Data / Research

1.	Key metrics for Business rate billings, collections, arrears, and appeals
2.	Localism Act 2011 S.69 and any related DCLG guidance
3.	Details of BR avoidance schemes
4.	Other council's discretionary BR relief schemes

## TIMESCALE

Starting: May 2014

Ending: November 2014

## OUTPUTS TO BE PRODUCED

1. Building Members understanding of the main factors affecting income from Business Rates (BR) in Bracknell Forest,
2. A report with recommendations to the Council's Executive

## REPORTING ARRANGEMENTS

Body	Date
Overview and Scrutiny Commission	20 November 2014

## MONITORING / FEEDBACK ARRANGEMENTS

Body	Details	Date
Overview and Scrutiny Commission	Progress reports on Working Group's review	At each meeting of the Commission, next on 10 July

## **PROPOSED DISCRETIONARY BUSINESS RATES RELIEF SCHEME: GUIDANCE FOR APPLICANTS**

### Purpose of The Scheme

The discretionary Business Rate Relief Scheme aims to encourage expanding small businesses to occupy empty commercial buildings in Bracknell Forest and as a result

- Create job opportunities for local people
- Improve the physical image of the Borough and promote business confidence by having lower levels of vacant premises
- Through increased occupation of commercial properties, to increase Council income from business rates in the medium and long term, helping to reduce the burden on Council Tax payers

### How Long Does The Scheme Run For?

Bracknell Forest Council ('The Council') reserves the right to terminate the scheme at any time. The Council needs to see evidence that the scheme is successfully meeting its purpose before it could consider making a long-term commitment to the scheme. The Council currently intends that the scheme will run from 1 April 2015 to at least 31 March 2018, subject to annual review. Businesses can apply at any time but can only benefit from the relief up until the end of the programme.

### Which Businesses Are Eligible?

The relief scheme is not available to:

- a) businesses with outstanding debts owing to any local authority
- b) charities, community sports clubs, or non-profit making bodies
- c) betting and other gambling businesses, sex or pornography shops, nor pay day loan companies,
- d) any other business which, exceptionally, the Council considers might bring the scheme into disrepute.

Eligibility is confined to small businesses which:

- a) Are independent UK companies, i.e. not a subsidiary of a larger company
- b) Have fewer than 25 employees at the time of application (the Council welcomes an increase in employee numbers after the application)
- c) Within the last three months took , or are committed to take within the next three months, occupation of first-time or larger commercial premises with a rating account in Bracknell Forest; and
- d) The premises have a rateable value of at least £6,000 annually.

Relief will cease to be given in the event that the commercial premises occupied by the applicant at the outset of the relief are vacated.

### Are There Limits on How Much Assistance Businesses Will Receive?

In order to ensure the Council does not over-spend its available resources, the total relief offered to all eligible businesses will not be allowed to exceed £250,000 in any one financial



year. Any applications for relief which are received in excess of that amount will not be accepted but can be re-submitted after 1 April following.

In order to comply with European Union rules on State Aid, applicants must confirm that the amount of relief, when added to other public financial assistance, will not in total exceed €200,000 or £130,000 within the last three years (the State Aid 'de minimis' threshold).

The scheme is aimed at assisting small businesses with their expansion in the early stage, but not to offer a permanent subsidy. Successful applicants will receive 100% relief from business rates in the 12 months following approval of their application, reducing to 50% relief in the second year, and no relief thereafter.

The discretionary relief is in addition to mandatory reliefs, subject to the total reliefs not exceeding 100% of the business rates due on the occupied property.

#### How Will Businesses Receive the Relief?

The relief will be paid over as a credit to a business's business rate account with the Council at the time the rates are normally payable.

#### Will Businesses Be Required to Repay the Relief?

The relief will only be repayable in the event that:

- Any information provided by the applicant is found to have been materially inaccurate; or
- the commercial premises occupied by the applicant at the outset of the relief are vacated within three years from the commencement of the relief, in which case the applicant will be liable to repay the relief on a pro-rata basis relating to the unexpired part of the three year term. For example, if the premises ceased to be occupied after two years, the business would have to repay 1/3 of the relief previously given.

#### Is there a right to appeal?

As this is a discretionary scheme, there is no statutory right to appeal if, for example, an application for relief is turned down, or previously paid relief is recovered by the Council. However, if you have any concerns we would encourage you to contact the Business and Enterprise team, and you do have access to the Council's complaints process.

#### Where can I go For Further Information?

Please contact the Business and Enterprise team at [Business.enterpriseservice@bracknell-forest.gov.uk](mailto:Business.enterpriseservice@bracknell-forest.gov.uk) or by telephone on 01344 352000

#### How Do Businesses Apply For Discretionary Business rate Relief?

Please complete the application form, and send it with the information specified on the form to:

Business and Enterprise Manager  
Bracknell Forest Council  
Easthampstead House  
Town Square  
Bracknell RG12 1AQ  
[Business.enterpriseservice@bracknell-forest.gov.uk](mailto:Business.enterpriseservice@bracknell-forest.gov.uk)

**BRACKNELL FOREST COUNCIL – PROPOSED DISCRETIONARY BUSINESS RATES RELIEF SCHEME: APPLICATION FORM**

This form must be completed if a business wishes to apply for discretionary rate relief on a property within Bracknell Forest. A separate application form is required for each property within the Council’s area.

Please provide the following information:

1. The name of the business, contact address and telephone number of the applicant.
2. The address of the property in Bracknell Forest for which you are claiming relief (if different from 1 above), and the floor area in square feet.
3. Is the organisation registered with the Charity Commission?
4. What are the organisation’s main objectives and purposes?
5. What activities take place on the premises?
6. How many employees does the business have?
7. Business rates reference number of the premises (if known)
8. If moving to larger premises, the floor space of premises at the previous business address (sq. ft.)

Declarations

I declare that:

- I do not have any outstanding debts with any local authority
- The information given on this form is, to the best of my knowledge, accurate and complete.
- The business would not occupy/ have occupied the new premises without discretionary rate relief
- The amount of relief, when added to other public financial assistance, will not in total exceed €200,000 or £130,000 within the last three years
- I will notify the Council immediately if the business ceases to occupy the premises above
- I undertake that the business will repay any relief on a pro rata basis in the event the premises are vacated within three years of receiving the relief

Signature: .....

Capacity in which signed: .....

Date: .....

**PLEASE SEND US THE FOLLOWING INFORMATION ABOUT YOUR ORGANISATION WHEN YOU RETURN THIS FORM. YOUR APPLICATION CANNOT BE CONSIDERED WITHOUT THESE DOCUMENTS:**

1. A copy of your tenancy/leasehold agreement or other evidence of planned occupation of commercial premises

Please send your application with all information requested attached to:

Business and Enterprise Manager  
Bracknell Forest Council  
Easthampstead House  
Town Square  
Bracknell RG12 1AQ  
[Business.enterpriseservice@bracknell-forest.gov.uk](mailto:Business.enterpriseservice@bracknell-forest.gov.uk)

## Appendix 3

### BRACKNELL FOREST COUNCIL – PROPOSED DISCRETIONARY BUSINESS RATES RELIEF SCHEME: COMMENTARY

#### Background

1. Comments on the 'Guidance for Applicants' and the application form at Appendix 2, together with consideration of other issues concerning the design and operation of the scheme are below.

#### Purpose of The Scheme

2. The scheme is aimed at helping to deliver three of the Council's Medium Term Objectives:

MTO 1 *Regenerate Bracknell town centre* [by encouraging businesses to occupy empty commercial space across the Borough]

MTO 9 *Sustain the economic prosperity of the borough* [by encouraging business growth and inward investment, and the creation of new job opportunities. Reduced bills to business may potentially lead to further investment delivering increased employment.]

MTO 11 *To deliver value for money* [filling empty commercial premises will generate increased Business rates income and help to reduce the scope for BR avoidance].

#### A Simple Scheme or an Elaborate Scheme?

3. There is a balance to be struck between having an elaborate/ targeted scheme or 'keeping it simple'. A targeted scheme should deliver better results with minimal wastage, but it would be more complex and costly to administer (any administrative costs would fall upon the Council), and would be more likely to give rise to anomalies and appeals. Conversely, a simple scheme might lead to some relief being granted needlessly and achieving no net benefit for the Borough. The Working Group consider that, on balance, the scheme should be reasonably simple, to help businesses understand it and therefore increase their engagement with it. Nevertheless, the Council should endeavour to be confident the Scheme will 'make a difference', by requiring applicants to declare that without the relief, they would not take occupation of their new premises; and that declaration should be reviewed by the Business and Enterprise Service (BES) team.

4. A related issue is that, based on what we have learnt about other council's schemes, a BR relief on its own would probably be less effective than if it is part of a package of economic development support measures. The Working Group does not consider the BR relief scheme should be delayed until the full array of Bracknell Forest's Business and Enterprise support measures are in place. Instead, by having the BR relief applications addressed to the Business and Enterprise team, that team will have the opportunity of seeing what other forms of support might be relevant to the particular business's needs.

#### How Long Does The Scheme Run For?

5. The timing of the scheme needs to take into account:

- That the next BR re-basing should occur in 2020, and if the precedent set in 2013 is followed, that will be based on the business rate income in the previous three years.

Depressing the BR base in the run-up to 2020 could therefore be of financial benefit to the Council in the longer term.

- The initial duration of the scheme needs to be of sufficient length to give prospective applicants some certainty over getting BR relief.
- Until practical experience of the scheme has been gained, and so as not to over-commit future years' budgets, it would be unwise to have an open-ended commitment to the scheme's continuation.
- The likelihood that the construction activity in Bracknell town centre is likely to be at its height in 2015-17.

### Which Businesses Are Eligible?

6. The Working Group believes that the scheme would be of greatest benefit if it is aimed at small businesses. The Group was told that larger businesses do not regard BR to be a determining factor in their decisions on location or investment, furthermore the resources likely to be available for the scheme would be insufficient to 'sway' a large business; also a larger amount of assistance to an individual business would possibly exceed the EU State Aids limit. An additional consideration of aiming the scheme at small businesses is that it might encourage the occupation of large empty commercial buildings through them being turned into multi-occupancy innovation centres, possibly through direct partnership working.

7. The Working Group also considers that the eligibility should be equal across the Borough, and not be confined – for example – to Bracknell town centre. A large part of Bracknell town centre is likely to be occupied by store chain shops and restaurants, which are unlikely to be influenced by a BR relief scheme. Also, evidence given to the Group points to many small businesses not being 'location-specific'.

8. The Working Group considers that some types of business – such as pay day loan shops – would be inappropriate to support and the Council should retain the right to exceptionally decline to grant relief if there is a risk of bringing the scheme into disrepute. These exclusions might give rise to complaints.

### Are There Limits on How Much Assistance Businesses Will Receive?

9. The Working Group considers that an annual budget ceiling should be set for the scheme, as it needs to be affordable. The ceiling should be regularly reviewed in the light of take-up and increased BR income arising from businesses occupying new premises. For the scheme to make a difference, the ceiling needs to be sufficient to be meaningful, perhaps £250,000 annually. It is estimated that, depending on the type of building attracting relief, this relief would result in the occupation of some 3,500 square metres (37,700 square feet) of currently vacant commercial building space. The budget limit on the total reliefs each year might have a negative impact, in that there is risk that very worthwhile applications might be turned away solely because the ceiling had been reached, whereas less valuable applications may have been previously approved. In the long term, the increased BR income from properties that would otherwise have been empty/generating no BR should outweigh the on-going cost of reliefs, and this should be monitored by the BR team.

10. The Council has no discretion concerning the EU State Aid limits. Legal officers have advised that it will suffice to meet the EU requirement by requiring a declaration from applicants – there is no need for the Council to verify such declarations.

11. The scheme provides for BR relief to be tapered off over time, to encourage the company not to depend on the assistance – which is aimed at helping businesses cope

initially with the upsurge in fixed costs arising from occupying new/larger commercial premises.

#### Will Businesses Be Required to Repay the Relief?

12. The Working Group considers that, in order to combat abuse and to achieve value for money, a pro-rata claw-back provision should apply if a business withdraws from premises within three years of obtaining BR relief. The BR team could spot this if the company ceased paying BR on the property. In practice, enforcement is likely to be unachievable in some cases, particularly if a business has failed.

#### Governance & Administration

13. The scheme will require Council approval.

14. The operation of the scheme will require an administrative process. This will need to be as streamlined as possible but will need to include processes for application, review and approval, payment, monitoring, review, reporting, complaints handling and claw back. This will require sufficient officer capacity. The Working Group considers that responsibility for operating the scheme should be shared between the BES and BR teams; the details to be worked out if the scheme is approved.

#### Scheme Review

15. The scheme should be reviewed annually to determine how effective it has been and whether it should be amended in the light of practical experience.

For further information on the work of Overview and Scrutiny in Bracknell Forest, please visit our website on <http://www.bracknell-forest.gov.uk/scrutiny> or contact us at:

Overview and Scrutiny, Chief Executive's Office, Bracknell Forest Council, Easthampstead House, Town Square, Bracknell, Berkshire, RG12 1AQ, or email us at [overview.scrutiny@bracknell-forest.gov.uk](mailto:overview.scrutiny@bracknell-forest.gov.uk) or telephone the O&S Officer team on 01344 352283