

# LONDON BOROUGH OF BRENT

**EXECUTIVE - 11 JULY 2005**

## REPORT FROM THE DIRECTOR OF FINANCE & CORPORATE RESOURCES

For information

Wards affected:

ALL

### NATIONAL NON DOMESTIC RATE HARDSHIP RELIEF

Forward Plan Ref: BFS-05/06-5

#### APPENDICES NOT FOR PUBLICATION

**The appendices of this report are not for publication as they contain the following category of exempt information as specified in paragraph 7 of Schedule 12A of the Local Government Act 1972: "information relating to the finances or business affairs of any particular person"**

## 1 SUMMARY

- 1.1 The Council has the discretion to remit an individual National Non Domestic Rate liability in whole or part on the grounds of hardship.
- 1.2 This report includes all the applications received since March 2005

## 2 RECOMMENDATION

- 2.1 Members are requested to consider each application and to decide if, and how much, of the rate liability is to be remitted on grounds of hardship.

## 3. DETAIL

- 3.1 When considering applications under Section 49 of the Local Government Finance Act 1988, members need to consider whether hardship will be caused if the payments due are not reduced or remitted and, if so, whether it would be reasonable to reduce or remit liability having regard to the interests of its Council Tax payers, as indirectly they will be funding 25% of any relief granted.

- 3.2 Local authorities tend to use this power very sparingly. If relief under this section was readily granted this could place an unreasonable burden on Council Tax payers and a precedent would be set which could lead to a flood of applications, many of which could be from ratepayers seeking to delay payment, rather than genuine hardship cases.
- 3.3 There is no definition of the meaning of hardship in this context. Guidance indicates that all circumstances, not just financial circumstances, should be taken into account in considering whether payment would cause hardship. So, for example, illness, injury or old age may be relevant in determining whether hardship will be suffered by a ratepayer who is a private individual.
- 3.4 Members may wish to consider a policy of only granting hardship relief in exceptional circumstances, for example severe illness, injury, old age, or other personal circumstances, rather than on financial circumstances only.
- 3.5 If rates are unpaid, the normal course of recovery is by distraint by bailiffs. If this proves unsuccessful and the ratepayer is an individual, then the Council can apply for the individual's committal to prison. At the committal hearing, the Court must hold a full means enquiry. The Court does have the power to remit the rate, and can only issue a prison sentence if non-payment is due to wilful refusal or culpable neglect.
- 3.6 At the end of each financial year, a return from the ODPM is completed to calculate the final contribution that the Council is to make to the National Pool. An element of write offs for debts that are deemed to be irrecoverable is allowed to be deducted from the overall payment, provided it is approved by the external auditor. There will be no cost to the Council in this.
- 3.7 There are 3 applications to consider and the details of each one are shown in Appendices 1 to 3.

#### **4. FINANCIAL IMPLICATIONS**

- 4.1 The Council bears 25% of the cost of any hardship relief granted. The remaining 75% is offset against the National Pool
- 4.2 There is no specific budget head for hardship relief. The cost of any relief granted would have to be met from the budget for discretionary relief within the Local Taxation budget.

#### **5. STAFFING IMPLICATIONS**

- 5.1 There are no staffing implications arising from this report

#### **6. LEGAL IMPLICATIONS**

- 6.1 Under Section 49 of the Local Government Finance Act 1988, the Council can reduce or remit any amount a person is liable to pay by way of NNDR, if it is satisfied that the ratepayer would otherwise sustain hardship and if it is

reasonable to do so having regard to the interests of Council Tax payers. Council Taxpayers are affected by decisions under this section because 25% of the cost of exercising this power has to be funded by the Council.

- 6.2 Case law relating to similar provision in earlier legislation indicates that this discretion should be exercised on the basis of adequate financial information from applicants for relief to enable the Council to assess the capacity of the ratepayer to pay the amounts due.
- 6.3 Government guidance indicates that exercise of this discretion in favour of a ratepayer should be exceptional and identifies a number of factors to be taken into consideration in exercising this discretion. The guidance also states that while it would not be proper for the authority to have a blanket policy as all applications should be considered on their merits, rules may be adopted for the consideration of hardship issues.

## **7. DIVERSITY IMPLICATIONS**

This report is about 3 individual business rate accounts, the details of which are shown in Appendices 1 to 3. If a business had to shut down because of inability to pay rates there could be some diversity implications.

## **8. BACKGROUND INFORMATION**

### **8.1 ODPM Guidance Note.**

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