



Executive
10th April 2006

**Report from the Director of
Finance and Corporate Resources**

For Action

Wards Affected:
ALL

National Non-Domestic Rate Relief & Hardship Relief

Forward Plan Ref: F&CR-05/06-36

Not for publication

Appendix 5 of this report is not for publication as it contains the following category of exempt information as specified in paragraph 3 of schedule 12A of the Local Government Act 1972: "information relating to the finances or business affairs of any particular person (including the authority holding that information)".

1.0 Summary

- 1.1 The Council has the discretion to award rate relief to charities or non-profit making bodies. It also has the discretion to remit an individual National Non-Domestic Rate liability in whole or in part on the grounds of hardship.
- 1.2 This report includes all the applications received from 1st November 2006.

2.0 Recommendations

- 2.1 Members are requested to consider these applications and decide how much, if any, discretionary or hardship relief is to be granted in 2005/06.

3.0 Details

- 3.1 Details of the Council's discretion to grant rate relief to Charities, registered community amateur sports clubs and Non-profit making organisations are contained in the Financial and Legal Implications sections.
- 3.2 Appendix 1 shows the Council's eligibility criteria for discretionary relief.
- 3.3 Appendix 2 lists the Council's categorisations of organisations and charities.

- 3.4 There are seven applications from charities and the details are shown in Appendix 3.
- 3.5 There are two applications from non-profit making organisations and the details of these shown in Appendix 4.
- 3.6 There are four applications for hardship relief and these are shown at Appendix 5.
- 3.7 When considering applications under section 49 of the Local Government Act 1988 for relief on the grounds of hardship, 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.
- 3.8 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.
- 3.9 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 taxpayer who is a private individual.
- 3.10 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.
- 3.11 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.
- 3.12 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.

4.0 Financial Implications

4.1 Discretionary Rate Relief

4.1.1 Charities and registered community amateur sports clubs receive 80% mandatory relief, for which there is no cost to the Council. The Council has the discretion to grant additional relief up to the 100% maximum, but has to bear 75% of the cost of this.

4.1.2 Non-profit making organisations do not receive any mandatory relief, but the Council has the discretion to grant rate relief up to the 100% maximum. The Council has to bear 25% of the cost of any relief granted.

4.1.3 The budget available for this discretionary spending for 2005/06 is £130,000

4.1.4 For the last 7 years, the Council has followed a general guideline of granting 100% of the discretionary element to local charities and 25% of the discretionary element to non-local charities. It has also granted 25% of the whole amount requested (which is entirely discretionary) to non-profit making organisations. If the same guideline is followed in respect of the applications contained within this report, the amount of discretionary spend would be £6,664.37, which will bring expenditure for the year to approximately £128,000. There are not likely to be any further applications for Discretionary relief made during the course of the year. Any applications for relief granted under the Hardship provisions would also be required to be contained within this budget.

4.2 Hardship Rate Relief

4.2.1 The Council bears 25% of the cost of any hardship relief granted. The remaining 75% is offset against the National Pool.

4.2.2 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 charity relief within the Local Taxation budget. In the past, hardship applications have generally been rejected, to avoid encouraging non-payers submitted applications as a means of delaying or avoiding payment (see para 6.3. below).

5.0 Staffing Implications

5.1 None

6.0 Legal Implications

6.1 Discretionary Rate Relief

6.1.1 Under the Local Government Finance Act 1988, charities are only liable to pay one fifth of the NNDR that would otherwise be payable where property is used wholly or mainly for charitable purposes. This amounts to a mandatory relief of 80%. For the purposes of the Act, a charity is an organisation or trust

established for charitable purposes, whether or not it is registered with the Charity Commission. Under the Local Government Act 2003, registered Community Amateur Sports Clubs also now qualify for mandatory relief of 80%.

- 6.1.2 The Council has discretion to grant relief of up to 100% of the amount otherwise due to charities, Community Amateur Sports Clubs, and non-profit making organisations meeting criteria set out in the legislation. These criteria cover those whose objects are concerned with philanthropy, religion, education, social welfare, science, literature, the fine arts, or recreation. Guidance has been issued in respect of the exercise of this discretion and authorities are advised to have readily understood policies for deciding whether or not to grant relief and for determining the amount of relief.

6.2 Hardship Rate Relief

- 6.2.1 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 Tax payers are affected by decisions under this section because 25% of the cost of exercising this power has to be funded by the Council.
- 6.2.2 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.
- 6.2.3 Government guidance indicates that exercise of 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 applicants should be considered on their merits, rules may be adopted for the consideration of hardship issues.

7.0 **Diversity Implications**

- 7.1 Applications have been received from a wide variety of diverse charities and organizations, so there is likely to be diversity implications. An Impact Needs Analysis Requirement Assessment (INRA) has recently been carried out. All ratepayers receive information with the annual rate bill informing them of the availability of discretionary and hardship rate relief. Ratepayers who have previously applied for relief are sent annual discretionary application forms. Details of all the applicants are shown in the Appendices.

8.0 **Background Information**

- 8.1 As attached

9.0 Contact Officers

Patrick Hall ,Revenues Client Manager, Revenues & Benefits, Brent House,
349-357 High Road, Wembley HA9 6BZ. Telephone 020 8937 1503

DUNCAN McLEOD
Director of Finance and Corporate Resources

CRITERIA AND ISSUES TO CONSIDER FOR APPLICATIONS FOR NNDR DISCRETIONARY RELIEF FROM NON –PROFIT MAKING ORGANISATIONS

These criteria and issues to consider are taken into account in so far as they are relevant to the organisation under consideration.

1. Access to Clubs

- 1.1. Membership should be open to all sections of the community. In general, membership should not be exclusive or restrictive.
- 1.2. Membership rates should not be set at such a high level as to exclude the general community. In general, the club or organisation needs to show that the criteria by which it considers applications for membership are consistent with the principle of open access.
- 1.3. The organisation should actively encourage membership from groups in the community which are under represented in the field covered by the organisation or are disadvantaged e.g. young people, women, older age groups, persons with disability, ethnic minorities.

2. Provision of Facilities

- 2.1. The organisation should provide training or education for its members. There should be schemes for particular groups to develop their skills.
- 2.2. Have the facilities been provided by self-help or grant aid? Use of self-help and / or grant aid is an indicator that the club is more deserving of relief.
- 2.3. Does the organisation run a bar? The existence of a bar is not in itself a reason for not granting relief, but is an indicator as to whether the main purpose of the club is sporting or social activities.
- 2.4. The organisation should provide facilities that indirectly relieve the authority of the need to do so, or enhance or supplement those that it does provide.
- 2.5. The facilities should be made available to people other than members e.g. schools, casual public sessions.

3. Other Considerations

- 3.1 The organisation should be affiliated to local or national organisations.
- 3.2 Membership should be drawn mainly from Brent residents.
- 3.3 Members (e.g. players) should not be paid to participate.

- 3.4 The extent to which the activities of the organisation contribute to a local or regional community strategy is to be taken into account.
- 3.5 The contribution an organisation makes towards Brent's Corporate Strategy is to be taken into account.
- 3.6 The charity / organisation should not have any rate arrears from previous year(s) before relief is awarded.
- 3.7 Applications should be received by 30th June in respect of the financial year to which they relate, unless the ratepayer begins to occupy the property after 1st April, or there is a delay in issuing their bill.

CATEGORISATION OF ORGANISATIONS AND CHARITIES

Non Profit Making Organisations	Charitable Organisations
1. Sports Clubs offering 1 or 2 sports	16. . Support groups
2. Sports Clubs offering a range of sports	17. Advice Centres
3. Sports clubs set up for a particular disadvantaged group or a disabled group	18. Charity Shops
4. Social clubs	19. Clubs and community clubs
5. Social clubs for ethnic groups	20. (Deleted)
6. Social clubs for religious groups	21. Other charitable organisations
7. Social clubs for disabled groups	22. Former Grant maintained schools
8. Youth clubs (general)	23. Independent schools
9. Youth clubs for ethnic groups	24. Further & Higher Education colleges
10. Youth clubs for religious groups	25. Foundation Voluntary Schools(former LMS)
11. Youth organisations such as scouts/guides	
12. Youth clubs for disabled people	
13. Other recreational clubs and societies	
14. Groups or organisations working on specific projects with Brent Council	
15. Other information organisations/ services	

APPENDIX 3

LOCAL CHARITIES (100% relief)

		Rate Charge 2005/06	Bill net of Mand relief	Cost to Brent at 75%
3146426X	WAQF Al-Birr Educational Trust (new application)	£21,522.00	£4,304.40	£3,228.30
3245425X	Afghan Islamic Cultural Centre (renewal application)	£4,824.72	£964.94	£723.71
32701733	Afghan Islamic Cultural Centre (renewal application)	£2,010.97	£402.10	£301.64
31650143	Gladstone Community Centre (renewal application)	£6,875.50	£1,371.50	£1,028.63
32753033	Asian Peoples Disability Alliance (new application)	£632.44	£126.50	£94.88
32751103	Asian Peoples Disability Alliance (new application)	£2,143.21	£428.64	£321.48
31478877	Brent Mind (renewal application)	£3,587.00	£717.40	£538.05
	Grand Total			£6,236.69

APPENDIX 4

NON PROFIT ORGANISATIONS (25% relief)

		Rate Charge 2005/06	Amount of Discretionary relief at 25%	Cost to Brent at 25%
32027336	Bertie Road Resource Centre (renewal application)	£1,528.04	£382.01	£96.00
3272285X	Mahogany Community Ventures Ltd. (renewal application)	£5,306.66	£1326.67	£331.68
	Grand total			£427.68

REFER TO AGENDA FOR COPIES OF APPLICATION DETAILS

APPENDIX 5

This Appendix 5 is not for publication as it contains the following category of exempt information as specified in paragraph 3 of schedule 12A of the Local Government Act 1972: “information relating to the finances or business affairs of any particular person (including the authority holding that information)”.

HARDSHIP APPLICATIONS

		Balance due	Cost to Brent at 25%
32048372	An-Nisa Society	£10,952.38	£2,739.00
32537766	An-Nisa Society	£7,357.24	£1,839.31
32702194	Shree Vishwakarma Association	£1,610.14	£402.54
32724850	Sterling Enterprises Ltd. T/A Stonebridge Park Hotel	£11,707.00	£2,926.75
	Grand total		£7,907.60

An Nisa Society

3204837 & 3253776

Total debt outstanding: £18,309.62

This organisation has been liable at 85 Wembley Hill Road since 1st May 2000. They are not a registered charity and have only recently made application to the Charity Commission, despite advising the Council that this was being undertaken on a number of previous occasions dating back to 2000. If awarded charitable status, it is unlikely this will be back-dated prior to their application to the Commission. Their application was adjourned at the Executive Committee on 12th July 2004 as they did not supply copies of accounts. Their application has been repeatedly adjourned since 2004 as the Committee wanted to know the status of their application for charitable status. The arrears on the account date back to 1st April 2002.

Shree Vishwakarma Association

32702194

Total debt outstanding: £1,610.14

Their liability is for 366A Stag Lane, 20th August 2003 to 31st March 2004. Full discretionary rate relief has been awarded from 1st April 2004 as per the decision of the Executive Committee on 12th July 2004. An application for relief for the earlier period was not made at the time.

Sterling Enterprises Ltd. T/A Stonebridge Park Hotel

31478877

Total debt outstanding: £11,707.00

The submission states that the “business is making substantial losses due to;

“Majority of our clients are homeless, jobseekers, mental health and alcohol consumed people”

Although they do receive around £5 / 6k per month in benefit payments from Brent.