



Cabinet
20 January 2016

Report from Director of Customer Services

For Action

Wards affected:
ALL

National Non-Domestic Rates – Applications for Discretionary Rate Relief and extension of the London Living Wage Discretionary Discount

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 (NNDR) liability in whole or in part on the grounds of hardship. The award of discretionary rate relief is based on policy and criteria agreed by the Executive in September 2013. New applications for relief have to be approved by the Cabinet.
- 1.2 The report details new applications for relief received since the Cabinet last considered such applications on 21 September 2015.
- 1.3 Cabinet agreed at its meeting on 26 January 2015 to award a Business Rates discount to companies who agreed to pay its employees the London Living Wage and who became accredited with the Living Wage Foundation. The level of discount was 5 times the costs of accreditation, 30% of the cost of the discount is borne by the council. This scheme was introduced for 12 months, from 1 April 2015 to 31 March 2016, it was agreed a review would be carried out once the scheme had been operational for 12 months.
- 1.4 This report seeks a 6 month extension to the scheme, i.e., to 30 September 2016, in order that a review can be carried out and reported back to Cabinet in June

2.0 Recommendations

- 2.1 That the applications for discretionary rate relief detailed in Appendices 2 and 3 to this report be approved.
- 2.2 That Cabinet approves the discretionary discount scheme for businesses accredited to the London Living Wage Foundation be extended for a further 6 months, from 1 April 2016 to 30 September 2016 on the basis that the Business Rates discount will continue to be five times the cost of accreditation and will be awarded to businesses in Brent which become accredited with the Living Wage Foundation and who meet the criteria detailed in Appendix 4. The Cabinet notes that the approval of this scheme is pursuant to the Council's powers under section 47 of the Local Government Finance Act 1988 and that the Cabinet is satisfied that that this proposal is reasonable having regard to the interests of those persons who are liable to pay council tax in the borough of Brent. The scheme will be reviewed in May/June when a further report will be submitted.

3.0 Detail

Discretionary Rate Relief

- 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 (4 and 5).
- 3.2 Appendix 1 sets out the criteria and factors to consider for applications for NNDR relief from Charities and non-profit making organisations. This was agreed by the Executive in September 2013.
- 3.3 Appendix 2 lists new applications from local and non local charities that meet the criteria. These receive 80% mandatory relief, where they meet the criteria the council will award local charities up to 100% discretionary relief in respect of the remaining 20% balance and will award non local charities 25% relief in respect of the remaining 20% balance. It also shows the cost to the Council if discretionary relief is awarded.
- 3.4 Appendix 3 list new applications from non profit making organisations that meet the criteria for awarding relief. As these organisations are not registered charities they do not receive 80% mandatory relief. The Council's usual policy is to award 25% relief to organisations that meet the criteria. It also shows the cost to the Council if discretionary relief is awarded.
- 3.5 The criteria for awarding discretionary rate relief focuses on ensuring that the arrangements are consistent with corporate policies and relief is directed to those organisations providing a recognised valued service to the residents of Brent, particularly the vulnerable and those less able to look after themselves. Further detail is set out in Appendix 1. Should relief be granted entitlement will remain until 31 March 2017 unless there are any changes to the organisation. During 2016/17 it has been agreed that the council will review its criteria for awarding relief.

- 3.6 Charities and registered community amateur sports clubs are entitled to 80% mandatory rate relief and the council has discretion to grant additional relief up to the 100% maximum
- 3.7 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. However the council's policy limits relief for these to 25%

London Living Wage Discretionary Discount

- 3.8 The Localism Act gave local authorities a discretionary power to award discounts to any NNDR (also known as Business Rates) payer who meet criteria set by the council. As around 30% of local residents of working age are thought to be paid less than the London Living Wage, (LLW), any incentive that may encourage more businesses to pay this must be considered, the council's Cabinet therefore agreed in January 2015 to offer employers a discount on their business rates when becoming accredited with the Living Wage Foundation ("LWF").
- 3.9 It was agreed that the scheme would be reviewed after 12 months, however if the discount is to continue to be awarded to any organisation that becomes accredited after 1 April the scheme needs to be extended pending the review being completed. Any company that becomes accredited between 1 April 2016 and 30 September will be entitled to a Business Rates discount of 5 times the costs of accreditation assuming they meet the criteria detailed in Appendix 4.
- 3.10 As set out in paragraph 5.7 below, it is a requirement under section 47 of the Local Government Act 1988 that the Cabinet will need to consider whether the proposal regarding the discount in business rates as set out in the recommendation in paragraph 2.2 of this report is reasonable having regard to the interests of the council tax payers in the borough of Brent. The Cabinet can only approve the recommendation in paragraph 2.2 of this report if it is satisfied that it is reasonable to do so having regard to the interests of the council tax payers in the borough of Brent. This scheme will support improve the income of some of Brent's most disadvantaged residents, allowing them to have more disposable income to spend in the local economy. The costs implication in awarding the discount comes from existing employment and enterprise budget and will not impact on a reduction on frontline or other services provided by the Council. This proposal will not impact on the level of council tax levied on council tax payers

4.0 Financial Implications

Discretionary Rate Relief

- 4.1 Charities and registered community amateur sports clubs receive 80% mandatory rate relief. The Council has the discretion to grant additional relief up to the 100% maximum. Prior to 1 April 2013 75% of the cost of this would have been met by the council, however from 1 April 2013 30% is met by the council with 50% being met by central government and 20% by the GLA.

- 4.2 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. Prior to 1 April 2013 the Council met 25% of the cost of any relief granted, however this has also changed with 30% being met by the council with 50% being met by central government and 20% by the GLA.
- 4.3 The Council, where it has decided to grant relief, 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. Any additional awards of relief will reduce income to the Council by 30%.
- 4.4 In respect of non profit making organisations the council has agreed where the organisation meets the criteria to award 25% discretionary rate relief. The cost to the council of awarding this relief is 30% of the amounts granted.
- 4.5 The costs therefore of awarding relief to the charitable organisations detailed in Appendix 2 is £396.02. The costs of awarding relief to the non profit making organisation detailed in Appendix 3 is £641.05. This will in effect reduce the council's projected income from Business Rates Retention in 2015/16.

Discretionary Discount Schemes

- 4.6 The costs of awarding a local discount is shared between the council (30%), central government (50%) and the Greater London Authority (20%). If discounts totalling £100,000 are awarded during a financial year then the cost to Brent will be £30,000 which will be reflected in the resulting reduction in Business Rate income. Should 100 companies become accredited and they all employ more than 500 persons then the total amount of discount awarded would be £500,000, of which £150,000 would be met by Brent. Costs (in terms of reduction in income) will be met from the existing employment and skills budget and therefore will not impact any other services, particularly front-line services.
- 4.7 There are some additional administrative costs borne by the council in implementing and administering this scheme, however these have been minimal and have been absorbed within the current budget.

5.0 Legal Implications

Discretionary Rate relief

- 5.1 Under the Local Government Finance Act 1988, charities are only liable to pay 20% of the NNDR that would otherwise be payable where a property is used wholly or mainly for charitable purposes. This award amounts to 80% mandatory relief of the full amount due. For the purposes of the Act, a charity is an organisation or trust established for charitable purposes, registration with the Charity Commission is conclusive evidence of this. Under the Local Government Act 2003, registered Community Amateur Sports Clubs also qualify for 80% mandatory relief.
- 5.2 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. Details of the Council's current policy are contained in Appendix 1

5.3 The Non-Domestic Rating (Discretionary Relief) Regulations 1989 allow Brent to grant the relief for a fixed period. One year's notice is required of any decision to revoke or vary the amount of relief granted, if in the case of a variation, it would result in the amount of rates increasing. The notice must take effect at the end of the financial year.

5.4 The operation of blanket decisions to refuse discretionary relief across the board would be susceptible to legal challenge on grounds that the Council would be fettering its discretion. The legal advice provided to officers and Members is that each case should be considered on its merits.

Discretionary Discount Schemes

5.5 Section 69 of The Localism Act 2011 amended section 47 of the Local Government Finance Act 1988 to allow authorities to grant business rate discounts. Under this provision authorities can create their own discount schemes in order for example to promote growth and jobs in its area, or in specified areas. Any such scheme needs to be approved by the Council's Cabinet.

5.6 The financing of discounts awarded under a local scheme is the same as that for any other reliefs, i.e., 30% is met by the council, with 50% being met by central government and 20% by the Greater London Authority.

5.7 Section 47 of the Local Government Finance Act 1988, as amended by section 69 of the Localism Act 2011, gives local authorities the power to grant discretionary business rate relief subject to the condition that the local authority (in this case, the Cabinet) may only grant the relief if it is satisfied that it would be reasonable to do so having regard to the interests of council tax payers in its area. Therefore, the Cabinet will need to consider whether the proposal in relation to the business rate relief as set out in the recommendation in paragraph 2.1 of this report is reasonable having regard to the interests of those persons who are liable to pay council tax that is set by Brent Council.

5.8 Entitlement to a local discount in business rates under section 47 of the Local Government Finance Act 1988 is subject to State Aid de minimis limits. State Aid law is the means by which the European Union regulates state funded support to businesses. Providing discretionary relief to ratepayers is likely to amount to State Aid. However any local discount scheme will not breach the rules regarding State Aid where it is provided in accordance with the De Minimis Regulations (as set out in EU Commission Regulation 1407/2013).

- 5.9 The De Minimis Regulations allow an “undertaking” (in this case, a business) to receive up to €200,000 of De Minimis aid in a three year period (consisting of the current financial year and the two previous financial years). Officers will need to familiarise themselves with the terms of this State Aid exemption when considering whether to award a discount, in particular the types of undertaking that are excluded from receiving De Minimis aid (Article 1 of EU Commission Regulation 1407/2013), the relevant definition of undertaking (Article 2(2) of EU Commission Regulation 1407/2013) and the requirement to convert the aid into Euros.
- 5.10 To administer the De Minimis exemption, it is necessary for the local authority to establish that the award of aid will not result in the undertaking having received more than €200,000 of state aid under the De Minimis Regulations. It should be added that the threshold only relates to aid provided under the De Minimis Regulations (aid under other exemptions or outside the scope of State Aid is not relevant to the De Minimis calculation).

6.0 Diversity Implications

Discretionary Rate Relief

- 6.1 Applications have been received from a wide variety of diverse charities and organisations, and an Impact Needs Analysis Requirement Assessment (INRA) was carried out in 2008 when the criteria were originally agreed. As there were no changes made to the criteria in September 2013 an Equality Impact assessment was not required. All ratepayers receive information with the annual rate bill informing them of the availability of discretionary and hardship rate relief.

LWF Discretionary Discount Scheme

- 6.2 An Equality Impact Assessment was done which showed no adverse impacts on any of the protected groups. This policy will help the lowest paid workers in Brent - 30% of Brent residents of working age are thought to be paid less than the LLW and the borough has one of the lowest household incomes in London. Any policy that may result in an increase in household incomes will benefit all groups within Brent, either directly through increased income or indirectly through the council having to provide less financial support.
- 6.3 Whilst businesses who adopt the living wage will incur additional staff costs this can be offset by increased productivity and quality of work, higher staff morale, better recruitment and retention, lower absence rates and a greater ethical awareness.

7.0 Staffing/Accommodation Implications (if appropriate)

- 7.1 None

Background Papers

Report to Executive 16 September 2013 – National Non-Domestic Relief – Review of Discretionary Rate Relief Policy

Report to Cabinet 26 January 2015 - National Non-Domestic Rates –
Discretionary Discount Scheme for Businesses accredited to Living Wage
Foundation

Contact Officer

Richard Vallis, Revenues & IT Client Manager – Civic Centre, Tel 020 8937
1503

richard.vallis@brent.gov.uk

Director of Customer Services

Appendix 1

ELIGIBILITY CRITERIA FOR APPLICATIONS FOR NNDR DISCRETIONARY RELIEF FOR CHARITIES & FROM NON PROFIT MAKING ORGANISATIONS

Introduction

The following details the criteria against which the Local Authority will consider applications from non profit making organisations. In each case the individual merits of the case will be considered.

- (a) Eligibility criteria**
- (b) Factors to be taken into account**
- (c) Parts of the process.**

(a) Eligibility Criteria

- The applicant must be a charity or exempt from registration as a charity, a non-profit making organisation or registered community amateur sports club (CASC).
- All or part of the property must be occupied for the purpose of one or more institutions or other organisations which are not established or conducted for profit and whose main objects are charitable or otherwise philanthropic or religious or concerned with education, social welfare, science, literature or the fine arts; or
- The property must be wholly or mainly used for the purposes of recreation, and all or part of it is occupied for the purposes of a club, society or other organisation not established or conducted for profit.

(b) Factors to be taken into account

The London Borough of Brent is keen to ensure that any relief awarded is justified and directed to those organisations making a valuable contribution to the well-being of local residents. The following factors will therefore be considered:

- a. 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
- b. The organisation should provide training or education for its members, with schemes for particular groups to develop skills
- c. It should have facilities 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
- d. The organisation should be able to demonstrate a major local contribution.

- e. The organisation should have a clear policy on equal opportunity.
- f. There should be policies on freedom of access and membership.
- g. It should be clear as to which members of the community benefit from the work of the organisation.
- h. Membership should be open to all sections of the community and the majority of members should be Brent residents
- i. If there is a licensed bar as part of the premises, this must not be the principle activity undertaken and should be a minor function in relation to the services provided by the organisation.
- j. The organisation must be properly run and be able to produce a copy of their constitution and fully audited accounts.
- k. The organisation must not have any unauthorised indebtedness to the London Borough of Brent. Rates are due and payable until a claim for discretionary rate relief is heard

(c) Parts of the process

No Right of Appeal

Once the application has been processed, the ratepayer will be notified in writing of the decision. As this is a discretionary power there is no formal appeal process against the Council's decision. However, we will re-consider our decision in the light of any additional points made. If the application is successful and the organisation is awarded discretionary rate relief, it will be applied to the account and an amended bill will be issued.

Notification of Change of Circumstances

Rate payers are required to notify any change of circumstances which may have an impact on the award of discretionary rate relief.

Duration of award

The new policy will award relief to 31 March 2017. Prior to the end of this period applications will be sent inviting recipients to re-apply, this will ensure the conditions on which relief was previously awarded still apply to their organisation. This will help ensure that the Council's rate records remain accurate.

Withdrawal of relief

One years notice has to be given by the Council for the withdrawal of relief

Unlawful activities

Should an applicant in receipt of discretionary rate relief be found guilty of unlawful activities for whatever reason, entitlement will be forfeited from the date of conviction.

	Type of Charitable/Non-Profit Making Organisation	Current Policy
		Discretionary Relief Limited to
1	Local charities meeting required conditions (80% mandatory relief will apply)	20% (100% of remaining liability)
2	Local Non-profit-making organisations (not entitled to mandatory relief)	25%
3	Premises occupied by a Community Amateur Sports Club registered with HM Revenue & Customs. (80% mandatory relief will apply)	20% (100% of remaining liability)
4	Non-Local charities (80% mandatory relief will apply)	25% (of remaining liability)
5	Voluntary Aided Schools (80% mandatory relief will apply)	20% (100% of remaining liability)
6	Foundation Schools (80% mandatory relief will apply)	20% (100% of remaining liability)
7	All empty properties	NIL
8	Offices and Shops occupied by national charities	NIL
9	An organisation which is considered by officers to be improperly run, for what ever reason, including unauthorised indebtedness.	NIL
10	The organisation or facility does not primarily benefit residents of Brent.	NIL
11	Registered Social Landlords (as defined and registered by the Housing Corporation). This includes Abbeyfield, Almshouse, Co-operative, Co-ownership, Hostel, Letting / Hostel, or YMCA.	Nil
12	Organisations in receipt of 80% mandatory relief where local exceptional circumstances are deemed to apply.	Up to 20% (100% of remaining liability)

Appendix 2

New Applications for Discretionary Rate Relief – Local Charities

		Charge	Bill net of statutory relief	Cost to Brent at 30%
	<u>Organisation</u>		Relief = 100%	
33043756	Preston Community Library Carlton Valet, Wembley HA9 8PL 15/4/2015 – 28/8/2015	£2,954.97	£590.99	£177.30
33041011	Afghan Islamic Cultural Centre 222 Church Road NW10 9NP 15/06/2015 – 31/03/2016	£3,645.37	£729.07	£218.72
Total		£6,600.34	£1,320.06	£396.02

Appendix 3

New Applications for Discretionary Rate Relief – Non Profit Making Organisations

	25% Relief to be awarded	Charge	Amount of relief (25%)	Cost to Brent at 30%
	<u>Organisation</u>			
33025378	London Fashion Co-Operative Ltd 1st Floor, 69-71 Kilburn High Road NW6 6HY 01/04/2015 – 31/03/2016 09/09/2014 – 31/03/2015	£5,520.00 £3,027.30	£1,380.00 £756.83	£414.00 £227.05
	Total	£8,547.30	£2,136.83	£641.05

Appendix 4

Criteria for Awarding NNDR Discount to Businesses Accredited with Living Wage Foundation

1. The scheme will apply to all employers who occupy a non domestic property within Brent Council's area and are liable for the payment of Business Rates.
2. A business must become accredited with the Living Wage Foundation (LWF) i.e., has a signed accreditation licence agreement with the LWF. Confirmation of accreditation with the LWF will be conclusive proof. A business must become accredited by 31 March 2017. If the accreditation licence is for a phased implementation, entitlement is confirmed when the licence is signed.
3. The LWF monitors organisations and should any business break the agreement within 2 years of signing it then any discount awarded will be re-claimed.
4. A discount equivalent to 5 times the accreditation cost quoted by the LWF at the time of becoming accredited will be credited to the organisation's NNDR account. The cost of accreditation is based on the number of employees and whether the organisation is a private or public body, and set by LWF. The accreditation fee charged by the LWF will be evidence of the size of the organisation.
5. The discount is a one-off award to the NNDR account. Where the organisation occupies more than 1 property in Brent only 1 award will be made, the organisation can elect which account the discount should be applied to.
6. Entitlement to the discount is subject to State Aid de minimis limits whereby a business must not have received state aid exceeding 200,000 euros in the last 3 years (current year plus preceding 2). State aid includes reliefs, grants, interest rate and tax relief, subsidies, guarantees, etc. The business will be required to sign a declaration confirming this. This may preclude many of the large national retail chains that have shops in many town centres from receiving this relief
7. If a qualifying business moves out of the council's area within 2 years of becoming accredited the discount will be re-claimed. However if the ratepayer moves within the area the discount will remain.
8. National/multi-national companies - these will be entitled to apply if they are accredited with the LWF, however if they are liable for more than 1 property in the council's area they will only be entitled to one discount. The State Aid rules may preclude them from relief.

9. Some small organisations or charities may not have any Business Rates to pay as they may be entitled to other reliefs. Should an organisation become accredited and they have no rates liability as they are receiving other reliefs then the discount will be credited to the account and refunded.