



Cabinet
15 November 2016

**Report from the Strategic Director
Resources**

Wards affected: ALL

**National Non-Domestic Rates – Review of Discretionary
Rate Relief Scheme and Applications for Discretionary
Rate Relief**

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 relief is based on policy and criteria last agreed by Cabinet on 16 September 2013, this taking effect from 1 April 2014. It was agreed at the meeting to review the scheme every 3 years, it is therefore necessary to undertake a review.
- 1.2 Business Rates retention is presently planned to be introduced in 2020/21. This will result in the council retaining, based on current shares, 80% of rates income (the GLA will have the remaining 20% share), however this has still to be confirmed. This in effect will mean that the cost to Brent of awarding discretionary rate relief will increase considerably so it may be prudent to wait and not review the scheme until Business Rates Retention takes effect and more is known about how it will impact on Brent financially.
- 1.3 The report also details new applications for relief received since the Cabinet last considered such applications on 20 January 2016.

2.0 Recommendations

- 2.1 That there be no change to the existing policy and criteria for determining entitlement to discretionary rate relief in respect of National Non-Domestic Rates (policy detailed in Appendix 1). The policy will be reviewed in September 2019 or when Business Rates Retention is introduced whichever is the earlier.
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2.2 That the application for discretionary rate relief detailed in Appendix 2 of this report be approved.

3.0 Review of Scheme

3.1 The criteria for awarding discretionary rate relief focuses on ensuring that the arrangements are consistent with corporate policies and that 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. The current policy and criteria is set out in Appendix 1.

3.2 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.

3.3 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 current policy limits relief for these to 25%.

3.4 Legislation requires that 1 years' notice be given to organisations advising that relief will be terminated if the termination is due to a change in the council's policy. Letters were in March 2016 sent to all organisations who currently receive relief advising them that relief will cease on 31 March 2017, this will enable the council to review the current policy. Applications will then be sent out at the end of November 2016 inviting them to re-apply, entitlement will be based on the new policy and the circumstances of the organisation.

3.5 The policy to be reviewed is the criteria for determining entitlement and the amount of relief to be awarded to charities (local and non-local) and non-profit making organisations.

3.6 The current criteria have proved to be robust and flexible, with 101 organisations currently receiving relief. The table below gives a breakdown between the different types of organisation and amount of relief awarded. This excludes foundation and voluntary aided schools and Meanwhile Space use as costs in awarding relief borne by the council are met by these organisations.

Type of Organisation	Number receiving relief	Amount of Relief	Cost to Brent (30%)
Local Charities	83	£225,100	£67,530
Non Local Charities	11	£3,739	£1,121
Non-profit making	7	£13,850	£4,155
	101	£242,689	£72,806

3.7 Some of the options for consideration are:

- Does the council want to reduce the amount it spends on awarding relief?
 - Should all or some organisations have to pay a small proportion of their non-domestic rates?
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- Should there be a cap on the amount of relief awarded?
- Should those organisations with access to fund raising, or able to make charges for their services have their relief restricted?
- Should those organisations with sufficient funds have to pay a proportion of their Business Rates (or is this penalising those that are run efficiently)?

3.8 The council currently funds 30% of discretionary relief awarded. There are 83 charities receiving the full 20% relief, the amount of relief being £225,100. Brent funds 30% of this, the cost being £67,530. When Business Rates retention is introduced Brent, based on the current Brent/GLA split will likely meet 80% of the cost, i.e., £180,080, an increase of £112,550. If the council decides not to make any changes to the current scheme it may want to reconsider this when Business Rates retention is introduced.

3.9 In view of the changes in the cost of awarding relief that will take effect from 1 April 2020 it may be sensible to leave the criteria as it is and not look for further reductions. Any cuts in this area may detrimentally affect the ability of these organisations to continue to provide these facilities to the residents of Brent during the next 3 years which may put added pressure on services provided by the council. A further review should then be carried out in 3 years' time when more information on Business Rates Retention will be known as well as any additional services that may become the responsibility of the council and which may influence policy in this area. At that point members may want to give consideration to some of the suggestions in paragraph 3.7.

3.10 The amount of relief to be awarded to local and non-local charities should also remain unchanged, the difference being in recognition of the valuable work that local charities do. Local charities are awarded 20% discretionary rate relief where they meet the criteria whereas non local charities are awarded 5% relief. There are currently 11 non local charities entitled to relief, the amount of relief totalling £3,739, the cost of awarding this relief to Brent being £1,121.00. It should be noted that national charities who occupy offices and shops are excluded from relief as these are used for either administrative purposes or for fund raising capabilities. In addition they are generally in a far better position financially to pay the 20% balance.

3.11 With regards to non-profit making organisations the current award is limited to 25%. This should remain but with the proviso that in exceptional circumstances this can be increased. There are 7 non-profit making organisations receiving relief totalling £13,850.00, the cost to Brent of awarding this is £4,155.00. Those classes of property currently excluded from relief should remain.

4.0 **Applications for Relief**

4.1 Appendix 2 lists new applications from local charities that meet the criteria. These receive 80% mandatory relief, where they meet the criteria the council will award them up to 100% discretionary relief in respect of the remaining 20% balance. It also shows the cost to the Council if discretionary relief is awarded.

5.0 Financial Implications

5.1 This report proposes to maintain the existing discretionary relief policy. As such, the current cost of the scheme is unlikely to change significantly, although to some extent this will depend on applications received. As set out in paragraph 3.6 the current cost is around £73,000. The implications of business rates devolution are not yet known, but as the report has indicated a review of the scheme at that time is proposed

5.2 The cost of awarding relief to the charitable organisations detailed in Appendix 2 is £200.60. This will in effect reduce the council's projected income from Business Rates Retention in 2016/17.

6.0 Legal Implications

6.1 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.

6.2 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 current policy are contained in Appendix 1

6.3 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.

6.4 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.

7.0 Diversity Implications

7.1 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.

8.0 Staffing/Accommodation Implications (if appropriate)

8.1 None

Background Papers

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

Contact Officers

Richard Vallis
Revenues & IT Client Manager – Civic Centre,
Tel 020 8937 1503
Email richard.vallis@brent.gov.uk

ALTHEA LODERICK
Strategic Director Resources

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.
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- 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
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		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%	
33058142	Friends of Barham Park Library Unit 4 Barham Park 660 Harrow Road HA0 2HB 01/4/2016 – 31/3/2017 07/03/2016– 31/03/2016	£3,131.10 £212.15	£626.22 £42.43	£187.87 £12.73
Total		£3,343.25	£668.65	£200.60