



Executive
14 December 2009

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

Wards Affected:
ALL

National Non-Domestic Rate Relief and Hardship Relief

Forward Plan Ref: F&CR -09/10-7

Not for publication

Appendix 3 of this report is not for publication as it contains the following category of exempt information as specified in paragraph 3 of schedule 12A of the Local Government Act 1972: “information relating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 (NNDR) liability in whole or in part on the grounds of hardship.
- 1.2 This report includes applications received since the Executive Committee in July 2009.

2.0 Recommendations

- 2.1 Members are requested to agree the discretionary rate relief applications in appendices 2 and to reject the hardship applications in appendix 3.

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 (4 and 6).
- 3.2 Appendix 1 sets out the criteria and issues to consider for applications for NNDR relief from Charities and non-profit making organisations. This was agreed by the Executive in February 2008.
- 3.3 Appendix 2 lists new applications from local charities that meet the criteria. It also shows the cost to the Council if 100% discretionary relief is awarded, which is the Council’s normal policy.

- 3.4 Appendix 3 lists applications for hardship relief
- 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. Further detail is set out in Appendix 1. Any relief granted in 2009/10 will be for a three-year period.
- 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.

Hardship Relief

- 3.8 When considering applications under section 49 of the Local Government Finance 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 they will be funding 25% of any relief granted.
- 3.9 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.
- 3.10 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.
- 3.11 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

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 from the Discretionary Relief Budget.
- 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 Council, where it has decided to grant relief, has followed a general guideline of granting 100% of the discretionary element to local charities and

4.1.4 It has also granted 25% of the whole amount requested (which is entirely discretionary) to non-profit making organisations. This general policy was endorsed for continuation by the Executive in February 2008.

4.1.4 The total 2009/10 budget available for discretionary spending is £91k. £82.7k of the budget has already been spent in respect of applications approved for 2009-10. If Members agree relief as set out in Appendices 2, it would result in a further spend of £7.1k for 2009/10 and the total amount of relief awarded from the 2009/10 discretionary budget would be £87.2k. In addition, there would be a further 2008-09 of £2.2k if the retrospective applications are supported.

4.2 Financial Implications – 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 for hardship relief. The cost of any relief granted would have to be met by local Council Tax payers and from the budget for discretionary charity relief. In the past, hardship applications have generally been rejected.

5.0 Staffing Implications

5.1 None

6.0 Legal Implications - Discretionary Rate Relief

6.1.1 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, 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 80% mandatory relief.

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. Further details of the Brent policy are shown in Appendix 1.

6.1.3 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.

6.1.4 The legal advice is that the operation of blanket decisions to refuse relief across the board might be ultra vires and that each case should be considered on its merits.

6.2 Legal Implications - 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, however, 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 organisations, and an Impact Needs Analysis Requirement Assessment (INRA) has been carried out on the eligibility criteria.

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 Report to Executive 11th February 2008 – National Non-Domestic Relief and Hardship Relief

9.0 Contact Officers

9.1 Paula Buckley, Head of Client Team - Brent House, Tel. 020 8937 1532

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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.

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, including rate arrears. 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 current policy awards relief for one year only and the applicant has to reapply on an annual basis.

The new policy will award relief for a period of two years if the application is made in 2008/09 and for three years if made in 2009/10. However, a confirmation will be required from the successful applicants that 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	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 Local Charities

Financial year: 2009-10

	100% Relief to be awarded	2009-10	Bill net of statutory relief	Cost to Brent at 75%
	<u>New Applications</u>			
32855594	Uganda Community Relief Association	2061.25	412.25	309.19
32864095	Brent Samaritans	5570.86	1114.17	835.62
3057239X	Brent Centre for Young People	11276.25	2255.25	1691.44
32862764	Middlesex Itec	2912.39	582.48	436.86
32868589	The Minster Centre	23426.16	4685.23	3513.92
32866238	Safe Start Foundation	2352.25	470.45	352.84
Total			9519.83	7139.87

Financial year: 2008-09

	100% Relief to be awarded	2008-09	Bill net of statutory relief	Cost to Brent at 75%
	<u>New Applications</u>			
32855594	Uganda Community Relief Association	1963.5	392.70	294.53
3057239X	Brent Centre for Young People	10741.5	2148.3	1611.22
32866238	Safe Start Foundation	2240.7	448.14	336.10
Total			2989.14	2241.85