

	Cabinet 20 June 2022
	Report from the Strategic Director of Customer and Digital Services
National Non-Domestic Rates – Policy Review and Applications for Discretionary Rate Relief	

Wards Affected:	All
Key or Non-Key Decision:	Key
Open or Part/Fully Exempt: <small>(If exempt, please highlight relevant paragraph of Part 1, Schedule 12A of 1972 Local Government Act)</small>	Open
No. of Appendices:	Two: Appendix 1 Eligibility Criteria for Applications for NNDR Discretionary Relief for Charities & From Non Profit Making Organisations Appendix 2 New Application for Discretionary Rate Relief – Local Charities – 20% relief
Background Papers:	None
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1.0 Purpose of the Report

- 1.1 The Council has the discretion to award rate relief to charities or non-profitmaking 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 The award of discretionary rate relief is based on policy and criteria agreed by Cabinet on 15 November 2016 following a review. The previous policy and criteria were agreed by the then Executive in September 2013 and came into effect in April 2014. New applications for relief are currently required to be considered by the Cabinet pursuant to the Council's existing policy and criteria for determining entitlement to discretionary rate relief in respect of NNDR. Given the time, for which the existing policy has been in place, this report details a proposal to revise the policy. In particular, the report considers the potential

delays experienced as decisions for discretionary relief regarding NNDR liability are usually referred bi-annually to Cabinet. It seeks to improve the speed and effectiveness of decision making by delegating this to officers, in consultation with the relevant cabinet member, as set out in section 2 of this report and by using an annual report to Cabinet detailing the awards of discretionary relief made. In addition, regarding hardship awards, the Council has no approved approach or policy and therefore the report proposes a policy statement setting out its approach. It is also proposed that The Head of Revenue and Debt submits to Cabinet an annual report detailing discretionary relief in respect of NNDR liability for awards made by the Head of Revenues and Debt in consultation with the Director of Finance and relevant cabinet member. Hardship relief in respect of NNDR liability for awards made by the Strategic Director, Customer and Digital Services in consultation with the Director of Finance and relevant cabinet member will also be included.

1.3 The report details:

- i. A review of the existing policy regarding discretionary relief regarding NNDR liability with a recommended revised policy, Appendix 1;
- ii. A policy statement relating to hardship relief regarding NNDR liability;
- iii. Information regarding the provision of hardship relief regarding NNDR liability;
- iv. Proposals for future delegations of decisions regarding discretionary relief and hardship relief awards in relation to NNDR liability;
- v. All new applications for relief received since Cabinet last considered such applications in June 2021 as Appendix 2.

2.0 Recommendation(s)

2.1 That Cabinet approves the following recommendations:

- i. the revised discretionary rate relief policy in respect of national non-domestic rate liability as set out in Appendix 1 of this report.
- ii. for discretionary rate relief in respect of national non-domestic rate liability as set out and detailed in Appendix 2 to this report.
- iii. the Council's policy relating to hardship relief in respect of national non-domestic rate liability as set out in paragraph 3.6 of this report and in compliance with section 49 of the Local Government Finance Act 1988.
- iv. delegate authority to make decisions in respect of future applications for discretionary rate relief in relation to non-domestic rate liability in accordance with the revised Discretionary Rate Relief Policy and criteria to the Head of Revenue and Debt in consultation with the Director of Finance and Cabinet Member for Jobs, Economy & Citizen Experience.
- v. delegate authority to the Strategic Director of Customer and Digital Services in consultation with the Director of Finance and Cabinet Member for Jobs, Economy & Citizen Experience to make decisions relating to applications

for hardship relief in respect of national non-domestic rates for awards up to £100,000 per annum.

- vi. authorise officers to submit a report to Cabinet on an annual basis after the end of each financial year providing details of the awards of discretionary rate relief and the details of the awards of hardship relief in respect of national non-domestic rates for awards up to £100,000 per annum that have been granted.

3.0 Detail

NNDR Discretionary relief for charities and non-profit making organisations

- 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 of this report respectively.
- 3.2 Appendix 1 sets out the criteria and factors to consider for applications for NNDR relief from Charities and non-profit making organisations. Cabinet previously agreed this at its meeting on 15 November 2016. That report stated a review of the policy would take place but the review was delayed by other work priorities arising from the pandemic.
- 3.3 The review of the policy concludes that the existing policy remains fit for purpose and the changes in the revised proposed policy are restricted to tidying up the wording.
- 3.4 Discretionary relief in respect of NNDR liability is covered by sections 47 and 48 of the Local Government Finance Act 1988.

Hardship Relief

- 3.5 The council may reduce business rates where a ratepayer will otherwise sustain hardship, and where it would be in the interests of the whole community, i.e. council taxpayers to do so. In requesting hardship relief, the ratepayer is required to demonstrate both hardship and the value to the local community of the services provided.
- 3.6 It is the case that the following statement has been published on the Council's website for some time. It is now proposed that the Council formally adopts the following approach in respect of its hardship policy relating to national non-domestic rates and complying with section 49 of the Local Government Finance Section 1988 (though in the content below in this paragraph, the word "you" is replaced with "the Applicant/s" and "they" and the word "we" is replaced with "the Council"):
 - i. The Council may reduce business rates where the Applicant would otherwise sustain hardship, and where it would be in the interests of the

- community to do so. Applicants must demonstrate both hardship, and the value to the local community of the services they provide
- ii. Applicants are required to submit a copy of their latest audited accounts so that the Council can establish whether or not business rates represent a significant proportion of the running expenses of the Applicant's business
 - iii. Applicants may also be required to submit estimates of the current trading position and indebtedness of their business so that the Council can look into the total debts of the business that are outstanding
 - iv. Full details of why the business is experiencing hardship are required together with plans as to how the business can improve its position. Applicants will not be able to use 'the impact of the economic downturn' as a reason to apply for hardship relief. Relief is also unlikely to be given unless there are clear indications that the granting of relief will ensure the long-term future of the business. Any relief awarded will be for a maximum of one year only.
- 3.7 Hardship awards depend on the individual circumstances of the ratepayer concerned. Crucially, the Council must take into account the impact on council taxpayers as the financial burden falls on them. It is therefore proposed that approval of hardship awards is delegated to the Strategic Director of Customer and Digital Services and Director of Finance in consultation with relevant Cabinet for awards up to £100,000, with Cabinet continuing to consider awards above that level.
- 3.8 Hardship relief in relation to national non-domestic rates is covered by section 49 Local Government Finance Act 1988 ("LGFA 1988"). Section 49(2) of the LGFA 1988 states that a local authority may not act under that section unless it is satisfied that (i) the ratepayer would sustain hardship if local authority did not do so, and (b) it is reasonable for the local authority to do so, having regard to the interests of persons liable to pay council tax set by the council.

Proposals for future delegations of decisions regarding discretionary relief awards

- 3.9 The current position is that applications regarding discretionary relief in respect of NNDR liability are referred to cabinet for a decision. As only those cases meeting the criteria are proposed to Cabinet, it is unlikely that such applications are refused. However, the requirement for Cabinet to make such a decision slows the process of awarding discretionary rate relief. It is therefore proposed for the Cabinet to delegate future decision making to the Head of Revenue and Debt in consultation with the Director of Finance and Cabinet Member for Jobs, Economy & Citizen Experiencer in relation to applications for discretionary relief regarding national non-domestic rates liability. All decisions will be reported to Cabinet on an annual basis.

Discretionary relief applications for consideration

- 3.11 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.

- 3.12 There is one application in appendix 2. The application relates to the Friends of Cricklewood Library and premises, which assists in the running of the local library for residents.
- 3.13 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 2023 unless there are any changes to the organisation. All existing recipients will be reviewed in October 2022 when all organisations will be required to reapply for relief from April 2024. This means qualifying organisations always have a twelve-month notice of any changes.
- 3.14 Charities and registered community amateur sports clubs are entitled to at least 80% mandatory rate relief and the council has discretion to grant additional relief up to the 100% maximum
- 3.15 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 such additional relief for these non-profit making organisations to 25%.

4.0 Financial Implications

- 4.1 The council has been part of a pan London business rates pool whereby a percentage of the income from business rates is retained by the council and the GLA and a single levy payment is paid to central government. From 1 April 2022, the retained share is 67% with the council picking up 30% of any discretionary rate relief awarded.
- 4.2 The Council, where it has decided to grant relief, has followed a general guideline of granting 100% of the discretionary element to local charities.
- 4.3 Any additional awards of relief will reduce income to the Council by 30% in 2022/23.
- 4.4 The total costs of awarding discretionary relief to the charitable organisation detailed in Appendix 2 is £1,196.50 over the two years

5.0 Legal Implications

- 5.1 Under the Local Government Finance Act 1988 ("the LGFA 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 LGFA Act 1988, 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 to grant relief and for determining the amount of relief. Details of the Council's proposed revised policy regarding discretionary relief in respect of NNDR liability are contained in Appendix 1 to this report. Discretionary relief in respect of NNDR liability is covered by sections 47 and 48 of the Local Government Finance Act 1988.
- 5.3 The Non-Domestic Rating (Discretionary Relief) Regulations 1989 allow the London Borough of 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 payable rates increasing. The notice must take effect at the end of the financial year.
- 5.4 The details of section 49 of the Local Government Finance Act 1988 regarding local authorities dealing with applications for hardship relief are set out in paragraph 3.7 of this report.
- 5.5 The operation of blanket decisions to refuse discretionary relief and or hardship relief across the board would be susceptible to legal challenge on grounds that the Council could be fettering its discretion. The legal advice provided to officers and Members is that each case should be considered on its merits.

6.0 Equality Implications

- 6.1 Applications have been received from a wide variety of diverse charities and organisations, and an Impact Needs Analysis Requirement Assessment (INRA) as 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 deemed required. Although the scheme remains substantially unchanged, nevertheless an Equality Analysis has been completed. This latest initial screening confirmed further work was not required, given that the business rate reductions are worth over £0.5m which help the charities and non-profits provide key services to residents of the borough. They in turn help support the council's wider objectives. Furthermore, all ratepayers receive information with the annual rate bill informing them of the availability of discretionary and hardship rate relief.

7.0 Consultation with Ward Members and Stakeholders

7.1 None, although ward members support the applications from the applications recommended for approval.

8.0 Human Resources/Property Implications (if appropriate)

8.1 None

Related documents: Report to Cabinet 15 November 2016 – National Non-Domestic Relief – Review of Discretionary Rate Relief Policy

Report sign off:

Peter Gadsdon

Strategic Director of Customer and
Digital Services