

## **Appendix 1**

### **Draft Discretionary Rate Relief Policy –**

This draft policy sets out the legislative and eligibility criteria required for processing applications for rate relief. Subject to agreement and consultation, this draft policy will apply from 1 April 2016 for a period of two years.

#### **1. Discretionary Relief for charities and non-profit making organisations**

All applications for Discretionary Relief must be considered on their own merits. In order for the Chief Finance Officer to consider an application for Discretionary Rate Relief

- the application meets the legislative requirements in section 1.1, and
- the application is in accordance with the guidelines in section 1.2 or that there are exceptional circumstances that merit the award of Discretionary Relief (see section 1.3).

##### **1.1. Legislative requirements**

The Local Government Finance Act 1988 makes provision for local authorities to award 80% Mandatory Relief to charities.

Section 47 of the Local Government Finance Act 1988 allows a local authority to grant Discretionary Relief if all or part of the hereditament is occupied for the purposes of one or more institutions or other organisations:

- (i) none of which is established or conducted for profit, and
- (ii) each of whose main objects are charitable or otherwise philanthropic or religious or concerned with education, social welfare, science, literature or the fine arts; or
- (iii) the hereditament :
  - is wholly or mainly used for purposes of recreation, and
  - all or part of it is occupied for the purpose of a club, society or other organisation not established or conducted for profit.

A local authority may in its discretion award up to 20% Discretionary Relief to charitable organisations in receipt of 80% Mandatory Rate Relief.

A local authority may also in its discretion award up to 100% of Discretionary Relief to organisations not eligible for Mandatory Relief.

Discretionary Relief will be administered in accordance with guidance issue by central government.

## **1.2. Considerations**

The following factors will be considered by the Chief Finance Officer deciding whether to recommend the granting of NNDR Discretionary Relief for charities and non-profit making organisations.

Whether the organisation:-

- i) predominantly serves the needs of residents of London Borough of Barnet
- ii) contributes to the area and provides benefits to the local community
- iii) provides facilities that satisfy a local need or indirectly relieve the Council of the need to do so, or enhance and supplement those services the Council does provide
- iv) has a membership that is open to all sections of the community (not unduly restricted) and that is mainly drawn from persons resident in London Borough of Barnet
- v) provides training, education or schemes for its members or encourages participation from particular groups in the community, such as young people, the elderly, the disabled, minority groups, etc.
- vi) has facilities provided by self help or grant aid.

The Chief Finance Officer will also consider:-

- i) the finances of the organisation and whether payment of NNDR would adversely affect provision of the organisation's objectives
- ii) whether the cost to the Council of granting relief can be justified.

## **1.3. Exclusions**

The following categories of organisations will not normally be considered for Discretionary relief:

- i) national charity shops
- ii) organisations whose objectives are solely concerned with education and which are already receiving Mandatory relief (80%).
- iii) administrative offices of national charitable organisations which are already in receipt of Mandatory relief (80%)
- iv) organisations which have a commercially operated bar within the relevant property serving alcohol.
- v) organisations that have audited income of more than £1 million per annum.

## **1.4. Exceptional circumstances**

The Chief Finance Officer has the ability to recommend awards of Discretionary Relief which run contrary to these guidelines if the Chief Finance Officer is satisfied there is sufficient evidence of exceptional circumstances.

## **2. Local Discounts**

All applications for Local Discounts must be considered based on their own merits. In order to recommend an award of a Local Discount, the Chief Finance Officer must be satisfied that:-

- i) the application meets the legislative requirements in section 2.1 and
- ii) the application is in accordance with the guidelines in section 2.2 or that there are exceptional circumstances that merit the award of a Local Discount (see section 2.3).

### **2.1. Legislative requirements**

The Localism Act 2011, which came into effect on 1 April 2012, amends Section 47 of the Local Government Finance Act 1988 to allow local authorities to grant Discretionary Reliefs to any ratepayer, subject to the European rules on State Aid.

Local Discounts will be administered in accordance with guidance issued by central government.

### **2.2. Considerations**

The Localism Act 2011 does not set criteria for the award of a Section 47 Local Discount, therefore each application will be considered on its own merit and based on a local policy.

At this time the council will approve applications for a local discount for organisations that were Community and Amateur Sports Clubs in 2015/16, have amended their CASC status with the HMRC during 2015/16, and who also received mandatory rate relief in 2015/16. The maximum amount of relief is 80%.

This local discount will apply for two years, 2016/17 and 2017/18 at which time it will be subject to a further review.

### **2.3. Exclusions**

The following categories of organisations will not normally be considered for Local Discounts:

Unless otherwise stated, organisations such as payday lenders, and betting shops will not be entitled to a local discount.

### **2.4. Exceptional circumstances**

The Chief Finance Officer has the ability to recommend awards of Local Discounts which run contrary to these guidelines if the Chief Finance Officer is satisfied there is sufficient evidence of exceptional circumstances.

### **3. Government Supported initiatives**

The government has recently introduced some amendments to the legislation governing NNDR. The government has asked local authorities to administer these changes through the existing NNDR Discretionary Relief legislation. There is however no real discretion for local authorities, as the government expects local authorities to award relief and has committed to fully fund all such awards.

#### **3.1. The relevant changes relate to:**

- (i) the provision of a period of up to 18 months exemption for newly built properties (subject to state aid limits).

The legislative changes in 3.1 are delegated to officers to determine, and will be administered in accordance with guidance issued by central government.

### **4. Hardship Policy**

#### **4.1. Legislative requirements**

Section 49 of the Local Government Finance Act 1988 gives the authority the discretion to remit all or part of a ratepayer's debt if it is satisfied that a ratepayer would suffer hardship if it did not do so, and it is reasonable to do so having regard to the interests of the local taxpayers.

#### **4.2. Considerations**

Each application has to be carefully considered on its own merits. Individual ratepayers or limited companies can make applications.

- (i) Companies - The interests of local taxpayers go wider than just the financial implications. For example where the employment prospects in the area could be worsened by a company going out of business, or the amenities in an area might be reduced by say the loss of the only corner shop in a village.
- (ii) Sole Traders - Each application has to be individually considered, however this Authority considers that the following criteria can be deemed appropriate for the allowing of relief, provided of course that hardship can be proved and having regard to the interests of the local taxpayers:
  - the ratepayer(s) is/are dying of an incurable illness.
  - the ratepayer has had to close the business to look after a relative dying of an incurable illness
  - the ratepayer manages a shop which provides a service to the local community which could not be replaced if he/she stopped trading.

- the business has been affected by temporary action by the Council which was unavoidable and no allowance can be given by the Valuation Officer.

### **4.3. Exclusions**

Reduction business rates on grounds of hardship should be the exception rather than the rule.

Generally, claims for hardship in respect of empty rate will not be considered, on the basis that the premises could be sold or let at a peppercorn rent, if necessary, in order to relieve the owner of rate liabilities.

Relief will only be given for the period where there is clear evidence of hardship; it may be given for short periods subject to review and may be renewed following review;

No relief to be granted for a retrospective period, i.e. for the previous financial year.