

Appendix 1

Discretionary Rate Relief - GUIDANCE FOR OFFICERS

1.1 PURPOSE & CRITERIA OF POLICY

This policy has been adopted by the Council to ensure all ratepayers making applications for this relief are treated in a fair, consistent and equal manner.

This policy;

1. Sets guidelines for the factors that should be considered when making a decision to award or refuse relief
2. Establishes a framework to ensure applications are dealt with in an efficient manner
3. Sets out the delegated authority to award relief in appropriate circumstances
4. Establishes an appeals procedure for organisations that are dissatisfied with the Council decision.
5. Seeks to safeguard the interest of local taxpayers by ensuring that funds allocated for the award of discretionary rate relief are used in the most effective and economic way.

The aims of the discretionary rate relief policy are:

- To encourage community participation and in turn to support community cohesion;
- To promote access to membership and activities;
- To provide assistance, where possible, to disadvantaged individuals and groups.
- To support those organisations which actively enhance the Council's aims and objectives

The following criteria are to be used to assess whether an application for discretionary rate relief in respect of a non-profit making organisation :

- The extent to which the organisation is local (the Council does not give discretionary rate relief to national registered charities).
- Membership Arrangements for clubs - is membership restricted, are the fees excessive
- Membership consistency - what percentage is drawn from the authority residents
- Facilities - are there particular features for vulnerable or needy groups e.g. Disabled, Elderly, youth groups, minority groups
- Are there specialist facilities which:-
 - a) would otherwise be provided by the Council or;
 - b) are of particular Welfare to the community aimed at Harrow residents or;

- c) are used as a focal point for Harrow residents
- d) provide Specialist Training/skills for the young (e.g.: sport) or broader training (e.g. disabled or training specialists to pass on skill to service users)
- DRR will not be granted to any organisation which could qualify for the maximum amount of Small Business Rate Relief (100%). In such circumstances they should apply for that relief instead.
- DRR can only be granted when money is available in the designated DRR cash limited budget.

In addition to the above the following conditions must also be fully met for the organisation to be considered for any relief.

- The organisation must be likely to continue operating even without Council Help
- The organisation is Harrow specific and exists to support local residents or others operating within Harrow boundaries
- Until the year of application the organisation has a good record of business rate payments.
- The annual local income together with any reserves is not enough to meet annual running expenses and there is no recourse to other funds

Where the cumulative amount of potential successful awards exceeds available budget, organisations will have relief reduced to a lower amount in accordance with the following formula.

- Total rateable value of all commercial properties occupied by applicants (A) divided by Total available budget (B) multiplied by applicants property rateable value (C)
- Eg. $A/B \times C$
- Additionally no retrospective applications or new applications will be considered in year once budget is spent, or any revisions to original award due to increases in business rates due to splits or mergers or increased rateable values taking effect.

1.2 PROCESS

Voluntary and community organisations currently paying rates should complete an application form and return it with a copy of:

- Their constitution or similar document (e.g. club rules, memorandum and articles etc.)
- Their most recent accounts.
- A support statement setting out how the organisation meets the DRR criteria

2 THE PURPOSE OF THE DISCRETIONARY RATE RELIEF SCHEME

The scheme's aim is to award a grant aid towards non-domestic rates payable by voluntary and community groups. The award of a grant will enable these groups to use their resources to achieve the aims of the scheme.

The award is a percentage of the total rates charge for the year, and not an amount. Therefore an increase in rate charge for the year would lead to an increase in the relief awarded. The exception to this will be if the total budget for DRR is spent, in which case an increase in the rate charge will not result in an increase in relief.

3. AWARD ARRANGEMENTS

An application form is available for all applicants with a covering explanatory leaflet to allow them to indicate their status and their application for the appropriate reliefs.

The Revenues Service Manager and the Revenues Team Leaders review the applications with a recommendation on the appropriate levels of relief to the DD – Collections & Housing Benefits, for his approval. Currently these powers are exercised as part of the delegation to the Divisional Director as follows:

“authorised to exercise the powers of the Council in the collection of National Non Domestic Rates and Council Tax as set out in Section D2 and items 13 to 15 of the CEDF’S delegated authorities which includes the institution of legal proceedings and all steps necessary to prosecute and enforce judgments in relation to the assessment of rateable values and bands, the demand, collection recovery and refund of rates and council tax, determination of relief’s, remissions and exemptions, the imposition of penalties and any other action as may be required under the LGFA 1988, 1992 (as amended).”

Mandatory relief can apply to national and local organisations alike with many national charities receiving relief, particularly with the development of charity shops, and quite often an application for discretionary relief is made with the application for mandatory relief.

To ensure conformity in dealing with applications the policy will be to only award discretionary relief to charities or organisations, which wholly or mainly benefit Harrow residents.

Whilst the percentage of discretionary relief is open ended to a maximum of 100%, for uniformity of approach the level is determined by assuming that 100% DRR has been applied for and that the organisation is not a charity who is already entitled to apply for 80% relief under Mandatory Charity Relief.

Where the applicant organisation is a registered charity, the expectation is that the organisation will apply in the first instance for the 80% Mandatory Charity Relief. If the organisation is a local charity, consideration will then be given to award it the additional 20% Top Up Discretionary Rate Relief.

The maximum discretionary relief to be allowed will be the difference between the rate charge less any other relief [if applicable].

For applications determined on or after 1/4/2012, please note that no premises occupied by educational or religious organisations will be granted “discretionary” rate relief. Additionally the Council will only consider 100%

Discretionary Rate Relief or the 20% Top Up Discretionary Rate Relief where the organisation is totally local to Harrow.

For the avoidance of doubt, DRR will only be given against occupied property; applications for relief on empty property will not be considered.

Community Amateur Sports Clubs (CASC's)

Property wholly or mainly used by a Community, Amateur Sports Club (registered with HRMC in accordance with section 64, Local Government Act 2003.) will be treated as if they are registered charities.

Sports Clubs which have set themselves up as such, that have tried to register with the Inland Revenue but have not been successful, and that are not run as commercial organisations but run on the same principles as a CASC, will be treated as a not for profit organisation (npo) for the purposes of DRR assessment.

4 PROPERTY ELIGIBLE FOR DISCRETIONARY RATE RELIEF.

General Principles:

- 4.1 Property, all or part of which is occupied for the purpose of a non-profit making institution or other organisations whose main objectives are recreational, charitable, philanthropic, religious or concerned with social welfare, science, literature, education or fine arts: or club, society or other organisation and is used for the purpose of recreation.
- 4.2 Property used for charitable purposes, which is occupied by a charity shop with the goods wholly donated and where the charity is local only.
- 4.3 Property wholly or mainly used by a Community, Amateur Sports Club (registered with the Inland Revenue in accordance with section 64, Local Government Act 2003.) and clubs that have tried to register with the Inland Revenue but currently have not qualified.
- 4.4 Property wholly or mainly used by an organisation established for charitable purposes only (registered with the Charity Commission or an excepted charity)

5 DETERMINATION OF ELIGIBILITY

a) ACCESS/MEMBERSHIP ARRANGEMENTS

- 5.1 Membership should be open to all sections of the community subject to legitimate restrictions placed on membership for any of the following reasons:
 - i) a minimum required standard of ability or achievements in activities covered by the organisation;

ii) where capacity of the facility is limited;

iii) where the organisation is providing a service for specific areas of the community, such as young people, women, men, old age, persons with disabilities, ethnic minorities or religious persuasions.

5.2 The organisation should actively encourage membership from particular groups in the community which are considered to be particularly deserving of support, i.e. young people, women, men, old age, persons with disabilities, ethnic minorities.

5.3 Facilities provided for members should also be made available to other members of the community as far as practicable.

5.4 Membership for the organisation should be drawn from people mainly resident in London Borough of Harrow.

6 PROVISION OF FACILITIES

The facilities provided for members should be made available for other members of the public as far as practicable.

The organisation should provide some training or education to its members to develop their skills e.g. young people, the disabled, retired people.

The facilities provided should directly or indirectly relieve the council of the need to provide similar facilities or supplement or enhance those provided by the council

Some self help or grant aid used to provide the facilities available at the premises in question might be an indicator that they are more deserving of relief.

7 OTHER CONSIDERATION

7.1 The organisation should be affiliated to local or national organisation as an indication of their involvement in developing of their interests.

7.2 The existence of a bar should not affect eligibility. The council should look at the main purpose of the organisation.

7.3 Charge for membership, would indicate availability of funds for the organisation.

7.4 Charity shops, all goods sold must be donated by the public. The sale of new stock is an indication of trade

7.5 Consideration of the organisation's net cash asset, not applied or allocated to any project.

7.6 The aims of the organisation must dovetail with the Council's Community Strategy and provide tangible benefits. Namely:-

- Increased community participation;
- Better health and welfare;
- A more prosperous community;
- Improved lifelong learning;
- A safer community;
- A high quality environment.

8. CAP FOR RELIEF

A cap will operate for discretionary relief. The cap is linked to the relevant budget allocation for DRR in any one year and total awards will not exceed this allocation.

9. RIGHT OF APPEAL

There is no statutory right of appeal against a decision regarding discretionary rate relief made by the Council. However, the Council recognises that ratepayers should be entitled to have a decision reviewed objectively if they are dissatisfied with the outcome.

The Council agrees to abide by the following appeals process and aggrieved ratepayers should make an appeal in accordance with the process.

Ratepayers will be notified of the appeals process in writing at the time that they are notified of the outcome of their request for rates relief.

This appeals process does not affect a ratepayer's legal rights.

10. APPEALS PROCESS

Appeals may only be made by the original applicant and within 28 days of receiving notification of eligibility. An appellant may appoint an agent to act on their behalf and in such cases the Council will require written authorisation from the appellant before dealing with their agent.

Appeals against decisions made by the Service Manager, either in respect of an initial application or of an appeal, will be discussed with the relevant Divisional Director. A decision made by the Divisional Director in consultation with the Portfolio Holder and another Independent Councillor will be final.

Applicants must make an appeal within four weeks of the issue of the letter notifying them of the Council's decision. Appeals must be made in writing and must give the reasons why it is believed the decision should be amended. New or additional information may be included, but only if it is relevant to the decision making process.

Each application will be considered individually on its merit.

Submitting an appeal does not affect the appellant's legal rights to challenge a decision made by the Council through the Judicial Review process.

11. PERIOD OF RATE RELIEF

Rate relief awarded under this policy will be awarded for one financial year except where it is considered between 1st April and 30th September where consideration may be given to awarding relief for the previous financial year.

Ratepayers will be notified that any relief awarded is for a specific period only and as such must apply each year for further on-going relief.

In order to comply with Regulation 2.2 & 2.3 of the Non Domestic Rating [Discretionary Relief] Regulations 1989 as amended by SI. 616 OF 1993 Schedule 2, which states that in the case of an authority **making a variation of a determination or revoking a decision that it must give at least 1 year's notice**, the authority will each year issue a formal notice notifying the claimant that the award is for one year only or other period as specified.

12. BACKDATING CLAIMS

The law allows claims received between 1st April and 30th September in any year to be backdated to 1st April of the previous year. Applications received after 30th September will only allow retrospection to apply to the 1st of April of the financial year in which the application was made, or a later date within the year if occupation occurred post 1st of April.

Requests for a backdated award of relief (i.e. for the previous year) will be dealt with in the same way as applications for the current year. However priority will always be given to applicants requesting support with current year business rates and awards given will reflect this.

The Council reserves the right to reject support for previous years [without explanation or right to the Appeal process] if insufficient budget exists to meet all potential successful claims.

13. CANCELLATION OF RELIEF

Relief will be cancelled if:

1. The applicant ceases to be the ratepayer
2. The property becomes empty or becomes occupied
3. The use of the property changes
4. The aims or objectives of the ratepayer change
5. The authority reviews the policy or the DRR budget is spent or cut
6. There is an increase in the amount of rates payable

Where relief is cancelled for any of the reasons from (2) to (4) above, a new application may be made straight away.

Where relief is cancelled for the reason (5), an applicant may make an application as soon as they may meet any new criteria adopted or in the following new financial year.

Where relief is cancelled for reason (6) above the decision will immediately be reconsidered and a new decision made, based on the new amount of rates payable.

14. NOTIFICATION OF AWARDS

The Council will consider applications within four weeks of the application and all supporting information being received, or as soon as practicable thereafter.

Notification of the outcome of the decision will be made in writing within fourteen days of the decision being considered.

15. ACTION TO RECOVER UNPAID RATES WHILST A DECISION IS PENDING

Receipt of an application for relief will not negate in any way the ratepayer's right to pay the business rates as demanded..

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