



CABINET

20 March 2013

Subject Heading:

Non-Domestic Rate Relief - Charities and non-profit making organisations

Cabinet Member:

Councillor Roger Ramsey

CMT Lead:

Andrew Blake-Herbert

Report Author and contact details:

Jeff Potter Head of Customer Services
01708 434139
jeff.potter@havering.gov.uk

Policy context:

Contributes to the Councils savings strategy and recognises future changes in the funding arrangements to authorities

Financial summary:

Recommendation to agree an allocation of £160,000 for the financial year commencing 2013/14 in line with the funding for previous years and reports on changes to funding arrangements that impact the Council

Is this a Key Decision?

No

When should this matter be reviewed?

Reviewing OSC:

Value Overview and Scrutiny

The subject matter of this report deals with the following Council Objectives

- | | |
|--|-------------------------------------|
| Ensuring a clean, safe and green borough | <input type="checkbox"/> |
| Championing education and learning for all | <input type="checkbox"/> |
| Providing economic, social and cultural activity
in thriving towns and villages | <input type="checkbox"/> |
| Valuing and enhancing the lives of our residents | <input type="checkbox"/> |
| Delivering high customer satisfaction and a stable council tax | <input checked="" type="checkbox"/> |

SUMMARY

This report sets out the overall position in respect of discretionary rate relief against the Non Domestic Rate and explains the current budgetary position.

In light of the Council's savings strategy and future changes in the funding arrangements to authorities, this report makes a number of recommendations to the current policy operative from 1st April 2013.

The Localism Act has introduced a wider discretion to authorities that enables the rates payable to be reduced in accordance with rules determined by the Council. However any relief granted would be funded fully by the Council and this option is being considered separately as part of the Business Growth Strategy therefore subject to a separate report.

RECOMMENDATIONS

1. To note that decisions on the level of discretionary relief will continue to be made by the Group Director of Finance and Commerce under the arrangements set out in this report in Appendices A and B.
2. To authorise a change in the current policy so that educational establishments will no longer be eligible for Discretionary relief.
3. To endorse current practice and with the exception of educational establishments only award discretionary relief to charities or non-profit making organisations, which wholly or mainly benefit Havering residents
4. To endorse the current basis of calculation of relief through the assessment sheet attached at Appendix B.
5. To authorise an addition to the current policy to require businesses eligible for Small Business Rate Relief (SBRR) to apply for that relief before consideration of any Discretionary relief
6. To authorise a change to the current policy so that to be eligible for discretionary relief Sports Clubs must be registered with HMRC as Community Amateur Sports Clubs
7. To agree an allocation of £160k to the Collection fund for the financial year commencing 2013/14 in line with the funding for previous years for non educational establishments.

REPORT DETAIL

1. The Local Government Finance Act 1988 provides for local authorities to grant a percentage relief against the Business Rate liability to charitable and non-profit making organisations through either a mandatory and / or discretionary payment.
2. Mandatory relief can only be granted if an organisation is registered as a charity or exempted from registration and meets certain conditions, whereupon the relief is calculated at 80 percent of the rate charge as a requirement; however the authority has discretionary powers to
 - top up the payment to organisations qualifying for mandatory relief
 - grant relief to organisations that do not meet the criteria for mandatory relief but are established as non profit making and again able to meet conditions specified by the Council.
3. Whilst the Mandatory relief has until the present been funded by Central Government through the rate pooling arrangements, depending on the type and percentage of discretionary relief awarded, the costs of the discretionary amount are shared either 25/75 or 75/25 between the Council and Central Government.
4. The basis of granting discretionary rate relief was last considered by the Council in 2004/05 and a policy adopted on the conditions and funding arrangements that existed at the time.
5. However, with effect from the 1st April 2013, fundamental changes will apply to the way Councils are funded and in London the cost of any mandatory charitable relief granted will be shared on the basis of a split with
 - Central Government paying 50%
 - The Council paying 30% and
 - Greater London Authority paying 20%
6. Additionally a wider discretion has been afforded to Councils through the Localism Act to reduce the rates payable to any Business Ratepayer within rules determined by the Council. However any reduction granted would need to be funded direct by the Council. The extent of this discretion has yet to be considered as part of the Business Growth Strategy and therefore subject to a separate report to follow.
7. Additionally, in recent years, Central Government has introduced changes to charity relief eligibility and also introduced other rate reliefs which are fully paid for by the national non domestic pool rather than the Council.

8. With the revision of funding arrangements this report recommends that rate payers are required to use other fully subsidised reliefs if available and that the Council should only grant discretionary relief if no other relief is available and the circumstances meet the Council's criteria.

9. Proposals

9.1 Educational establishments

9.1.1 The position on relief for schools has been determined through legislative decisions and historic local policy with the current framework as follows:

Academies	Academies are state funded schools that operate independently from the local authority. Academy conversion is through application to the DFE following a decision of the governing body or through sponsors from business, faith or voluntary groups.	80% Mandatory Relief 20% Discretionary
Foundation and Trust schools	Foundation schools are run by their own governing body, which employs the staff and sets the admissions criteria. Land and buildings are usually owned by the governing body or a charitable foundation. A Trust school is a type of foundation school which forms a charitable trust with an outside partner - for example, a business or educational charity - aiming to raise standards and explore new ways of working.	80% Mandatory Relief
Voluntary-aided schools	Voluntary-aided schools are mainly religious or 'faith' schools, although anyone can apply for a place. As with foundation schools, the governing body employs the staff and sets the admissions criteria	80% Mandatory Relief 20% Discretionary
Community schools	Community schools are run by the local authority, which employs the staff, owns the land and buildings and sets the admissions criteria.	Not Eligible
Voluntary-controlled schools	Voluntary-controlled schools are similar to voluntary aided schools, but are run by the local authority. As with community schools, the local authority employs the school's staff and sets the admissions criteria.	80% Mandatory Relief 20% Discretionary
Private and Independent schools	Independent private schools can qualify as a charity provided that the operation of the school is seen overall as being for the public benefit, with an appropriate level of benefit for the poor and can demonstrate a wider public benefit, beyond that to their own pupils.	80% Mandatory Relief 20% Discretionary

Cabinet, 20 March 2013

9.1.2 The position on relief has until recently been maintainable with the mandatory relief met through the pooling arrangements and the discretionary relief contained from within the DSG (Dedicated Schools Grant). Mainstream community schools have received no relief and the full cost has been funded through the DSG.

9.1.3 New School funding reforms are being introduced from April 2013 which requires the delegation of most of the Council's centrally held budgets to schools. This will include the DSG that has been held centrally to meet the costs of discretionary rate relief.

9.1.4 Therefore, from April, there is no provision within the Schools Finance Regulations to continue to hold the £100k budget centrally in the DSG and it will have to be included in the overall funding that is delegated to schools.

9.1.5 Schools receive funding to pay non domestic rates through a formula factor which allocates a budget based on the actual cost.

9.1.6 The benefit resulting from the use of the DSG has been that rather than provide separate funding to meet the costs of schools' rates bills by awarding discretionary relief, the net cost to the Council has been nil. This will continue.

9.1.7 This new funding arrangement means that there is no longer a benefit in granting discretionary relief to our schools and the reduced rates income to the Council would impact on future grant settlements.

9.1.8 Additionally, in recent months there has been an increasing number of Community Secondary Schools converting to Academies which are outside the control of the Council and qualify for Mandatory relief as charities. It is expected that this will continue with some Primary Schools also converting to Academies.

9.1.9 Currently the mandatory relief is centrally funded, however, from April 2013 the Council will need to meet 30% of the cost. As there is an inequality in the way schools are to be treated, it would seem inappropriate to continue to award the discretionary top up and to bring parity and fairness to the maintained education sector it is recommended that discretionary relief is no longer applied to educational establishments from 1st April 2013 on the basis that those who have charitable status can still apply for and benefit from 80% mandatory charity relief and will receive funding for the remaining 20% liability.

9.1.10 This action will result in educational establishments currently receiving discretionary relief having to pay 20% of their business rates although this will be met through other funding. In the case of Academies this will be met from funding from the DfE and in the case of VA and VC schools from the Dedicated Schools Grant.

9.1.11 There are, in addition, four Independent schools in the Borough of which only one has applied for and currently receives the discretionary top up and does not receive funding through the Dedicated Schools Grant. This school will

presumably continue to receive 80% mandatory relief but will not be entitled to 20% discretionary relief. In order to provide adequate notice of the proposed change in policy it is recommended that their relief should expire on 31st March 2014.

10.1 Sports Clubs,

10.1.1 The Local Government Act 2003 introduced an amendment to the Business Rate Regulations to enable mandatory relief to be applied where the ratepayer is a registered with HMRC as a Community Amateur Sports Club (CASC), on the grounds that the property occupied is wholly or mainly used—

- (i) for the purposes of that club, or
- (ii) for the purposes of that club and of other such registered clubs;”

10.1.2 There are a small number of clubs not as yet registered in this way but discretionary relief has been awarded historically for varying amounts.

Fortunately, at present, a number of the sports clubs which were receiving discretionary relief only, and not registered as a CASC have received 100% assistance through the Small Business Rate Relief scheme (see Appendix C) and therefore are better off than they would be if they could only claim discretionary relief. However, this may end in March 2014 as the Government has yet to make an announcement on any extension to small business rate relief beyond this date.

10.1.3 As the changes in funding will place an additional burden on the Council it would seem inappropriate to continue to meet the discretionary rate payments unless the club can show that they have undertaken registration as a Community Amateur Sports Club (CASC). At this point only one sports club will lose relief as they do not qualify for Small Business Rate relief and are not registered as a Community Amateur Sports Club.

10.1.4 Whilst the discretionary relief will not expire until 31st March 2014, the club will be contacted to encourage registration as a Community Amateur Sports Club to minimise the future financial effect.

10.1.5 At present there are no Sports clubs receiving discretionary relief in addition to Mandatory relief and accordingly it is recommended that the policy should be changed to reflect the current practical position in that the Council will provide discretionary relief only if the CASC is registered with HMRC.

11 Small Business Relief

11.1 The background is set out at Appendix C. Small businesses have been eligible for relief for a number of years and the Government has indicated that this will be extended to March 2014. It is proposed to require small businesses to apply for this relief, and only if they are ineligible to be entitled to discretionary relief.

12 Notice of redetermination.

The regulations governing charity relief require that a notice of redetermination is served on any existing claims of a minimum of one year and must start from the commencement of a rate year. Therefore the earliest that the existing claims can

be redetermined would be 1st April 2014 provided the Council notifies the ratepayers by 31 March 2013.

REASONS AND OPTIONS

13. Reasons for the decision:

The changes in funding to authorities from April 2013 will place an additional burden on the Council and therefore the budgetary provision and policy for the award of discretionary relief requires urgent review.

The reasons for the proposed changes are as follows:

- Exclusion of educational establishments from discretionary relief. To provide a fair system of relief and funding for the maintained educational sector and to ensure the efficient use of resources.
- The requirement for small businesses to apply for small business relief before being eligible for discretionary relief. To ensure that the Authority maximises the use of government funding.
- The requirement for sports clubs to be registered as Community Amateur Sports Clubs (CASC) with the HMRC. To remove an anomaly in the system of relief and to provide consistency with the entitlement to mandatory CASC relief.

13. Other options considered:

13.1 The recommendations, whilst mainly affecting Educational establishments, have minimal effects on other groups in the borough and therefore these proposals are considered to be the least unpalatable.

13.2 The option to continue with the current arrangements was rejected as the financial effect would be too onerous.

IMPLICATIONS AND RISKS

14 Financial implications and risks:

14.1 Current position

14.1.1 The current year holds a budgetary provision within the collection fund for non educational establishments of £159,870 against which £143,770 has been allocated as shown in the following table and based on the administrative arrangements recorded.

Cabinet, 20 March 2013

14.1.2 The table records a negative amount for discretionary only however this represents relief taken back for previous years where we have converted the case to Small Business Rate Relief status

Charity Relief	31st January 2013			Cost to Collection Fund
	Mandatory	Discretionary	Discretion % to Collection Fund	
Mandatory and Discretionary				
~Educational	£1,204,891.42	£301,222.86	75%	£225,917.15
~Non Educational	£769,488.59	£194,106.17	75%	£145,579.63
Mandatory only				
~Educational	£559,259.08	£0.00	0%	£0.00
~Non Educational	£1,738,227.90	£0.00	0%	£0.00
Discretionary only				
~Educational	£0.00	£0.00	0%	£0.00
~Non Educational	£0.00	-£7,238.19	25%	-£1,809.55
	<u>£4,271,866.99</u>	<u>£488,090.84</u>		<u>£369,687.23</u>
Funded through		Dedicated Schools Grant		£225,917.15
		Collection fund budget provision 2012-13		£159,870.00
				<u>£16,099.92</u>

14.1.3 Additionally 20 educational establishments, mainly Academies, voluntary aided (VA) and faith schools will lose the discretionary element of £301,222.86 although this will be met through the arrangements for Educational establishments described earlier.

Legal implications and risks:

Any organisations affected by the change in arrangements for discretionary relief proposed within this paper will need to be the subject of 1 year's notice to take effect at the end of the financial year.

Non-Domestic Rating (Discretionary Relief) Regulations 1989/1059

“(3) A decision may only be revoked and a relevant variation of a determination may only be made so that the revocation or variation takes effect at the expiry of a financial year, and so that at least one year's notice of the revocation or variation is given under paragraph (1) or (2) (as the case may be).”

Accordingly notice must be given at the latest by 31 March 2013 to take effect from 1 April 2014.

If there are any representations made about the proposed changes then there would be sufficient time for these to be considered and acted upon if necessary before the date for implementation.

Human Resources implications and risks:

There are no Human Resource implications or risks arising from this report

Appendix A – Charity relief background

Appendix B - Discretionary relief assessment form

Appendix C – Small Business Rate Relief briefing document

Appendix D - Equality Impact Assessment

BACKGROUND PAPERS

Charity relief background

Mandatory Relief – Registered charities

An organisation will qualify for mandatory relief provided the ratepayer is a charity registered with the Charity Commissioners or exempted from registration, and the property is wholly or mainly used for charitable purposes.

Where the property is used as a shop to sell goods to supplement the finances of the organisation, further provisions exist to ensure that relief is only granted where the goods sold have been wholly or mainly donated. This ensures that the shop is not in direct competition with retailers by selling wholesale goods bought from suppliers, including cottage industry and third world output.

Where an organisation meets the conditions of the legislation the relief is a requirement and therefore is actioned as part of the normal administration of Non Domestic Rates (Business Rates), within the Revenue section, although to ensure probity a report of the case is reviewed by the Group Director of Finance and Commerce.

Mandatory relief is 80% of the rate liability, which *may* be supplemented by up to 20% discretionary relief.

The full cost of mandatory relief is currently borne by the non-domestic rate pool and not met directly by the authority. This will change with the revised funding arrangements from April 2013 with the Council sharing the cost on the 50/30/20 split described above.

Discretionary Relief

Billing authorities have discretion to grant an award to:

- Top up the award to charities in receipt of mandatory relief
- Grant awards to non-profit making organisations

Top up to mandatory relief

The top up of relief to charities, in addition to the amount of mandatory relief may be made to a maximum of 100% of the rate charge

Where discretionary relief is granted in addition to mandatory relief, 25% of the discretionary award is offset against payments into the pool and therefore not directly met by the Council the remainder 75% is borne locally through the

Cabinet, 20 March 2013

collection fund. However this funding arrangement changes with effect from 1st April 2013.

It is for each authority to judge whether an organisation qualifies for relief and any percentage allowed.

Non-profit making organisations

Authorities may grant relief of up to 100% to non-profit making bodies where the property is:

“used by one or more institutions or organisations, none of which is established or conducted for profit and whose main objects are charitable, philanthropic or religious or concerned with education, social welfare, science, literature or the fine arts.”

The cost of any discretionary rate relief granted to non-profit making organisations is borne 75% by the pool and 25% locally through the collection fund. Again the funding arrangements will change from 1st April 2013 to the 50/30/20 split described above.

The criteria used within the current policy to assess whether an application for discretionary rate relief in respect of a non-profit making organisation are as follows:

- The extent to which the organisation is local: e.g. the Council do not give rate relief to national charity shops.
- Membership Arrangements for clubs etc : 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 would otherwise be provided by the Council or of particular welfare to the community aimed at Havering residents, or used as a focal point for Havering residents. Specialist Training : Special skills for the young (e.g.: sport), Broader training (e.g.: disabled or training specialists to pass on skill)

Rate relief charged to the non-domestic rate pool is subject to an annual audit through the District Audit procedures.

Current 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 Head of Customer Services and the Customer Services Improvement Manager review the applications with a report on the appropriate levels of relief made to

Cabinet, 20 March 2013

Group Director of Finance and Commerce for approval. These powers were exercised as part of the delegation to Group Director of Finance and Commerce under the authority contained within the Constitution.

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 current practice is to only award discretionary relief to charities or organisations, which wholly or mainly benefit Havering residents, e.g. St. Francis Hospice, and Community Centres.

Whilst the percentage of discretionary relief is open ended to a maximum of 100%, for uniformity of approach the level is considered by reference to an assessment of the organisation using a Discretionary Rate Relief Assessment Sheet (appendix A).

In this way a consistency of approach is maintained.

The calculation starts with a base premise of 0% discretion for mandatory cases and a 50% base for qualifying non profit applicants and is then adjusted to reflect certain conditions. For example, where membership is considered to be restrictive by excessive fees or “blackballing” arrangements the relief would be reduced by 100% or where the facilities offered were directed to the welfare of Havering residents increased by 30%

The sum of these adjustments are applied to the base to provide a guide on the level recommended.

Discretionary Rate Relief Assessment Sheet

Does the organisation receive mandatory relief?

Yes / No

Criteria	% change	% allowed
Base discretionary relief - Mandatory cases : 80%		
Discretion only : 50%		
Membership Arrangements –		
Blackballing (membership rejection through secret vote)	-100.00	
Personally known	-80.00	
Excessive fees	-100.00	
Open (no restrictions)	0.00	
Membership consistency –		
less than 50% local	-5.00	
less than 40% local	-7.00	
less than 30% local	-10.00	
less than 20 % local	-25.00	
less than 10 % local	-50.00	
Facilities		
Provision for Elderly	5.00	
Disabled	5.00	
Young	5.00	
Minority	5.00	
Regular use by other organisation	5.00	
Special Facilities		
Which would otherwise be provided by the Council	10.00	
Welfare to the community aimed at Havering residents	30.00	
Focal point for Havering residents	20.00	
Specialist Training		
Special skills for the young (e.g. sport)	5.00	
Broader training (e.g. disabled or training specialists to pass on skill)	10.00	
New Club / Organisation		
First year of existence	10.00	
Second year of existence	5.00	
Provision of bar		
Open to the public with public license	-30.00	
Ancillary to the aims of the club	0.00	
Calculated relief		

Appendix C

Small business rate relief - Briefing note

Business ratepayers will be eligible for small business rate relief if they generally occupy only one property and the rateable value is below a certain level. The system varies between England and Wales.

Small business rate relief in England

Business ratepayers will be eligible for small business rate relief in England if their rateable value is below £18,000 (£25,500 in London) which means they are charged on lower rate poundage. (For 2013/14 this is 46.2p in £ compared to 47.1p in £)

In addition:

The last national revaluation of properties was undertaken in 2010 and therefore if the 2010 assessed rateable value is **£6,000 or below**, the small business rate multiplier is used and the bill will be reduced by 50 per cent.

However, the Government has doubled the relief, which was extended by the last Budget, to March 2014 with the following levels

- If the 2010 rateable value is **£6,000 or below** small business rate relief at 100 per cent applies (rather than 50 per cent),
- If the 2010 rateable value is **between £6,001 and £11,999** inclusive, the small business rate multiplier is used and the bill will be reduced on a sliding scale - from 100 per cent at the bottom of the range to 0 per cent at the top. For example, if the rateable value is £9,000, the bill will be reduced by 50 per cent.

If the ratepayer has more than one business property, the relief is only available if the rateable value of each of the other properties is below £2,600. If this is the case, the rateable values of all the properties will be combined and the relief is applied to the main property based on the total rateable value.

Equalities implications and risks:

When making this decision Cabinet should have due regard to the public sector equality duty. Section 149 of the Equality Act 2010 states:

A public authority must, in the exercise of its functions, have due regard to the need to:

- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;*
- (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;*
- (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.*

The relevant protected characteristics are:

- *Age*
- *Disability*
- *Gender reassignment*
- *Pregnancy and maternity*
- *Race,*
- *Religion or belief*
- *Sex*
- *Sexual orientation*
- *Marriage and Civil partnership*

An Equalities Impact Assessment has identified the main impact on protected groups and the mitigation measures are as follows:

Age – many organisations potentially affected are used by younger people (e.g. scouting/guiding and sports clubs). In addition, a number of schools are affected, with a potential impact on students attending these schools.

Mitigating measures –Sports clubs will still be eligible for assistance through its Community Amateur Sports Club affiliation and other groups can still be considered for relief as not for profit bodies. Many educational establishments are also charities and as such will still qualify for mandatory rate relief. In the context of a school's budget, the financial impact of removal of discretionary relief is very small and in the case of establishments subject to the Dedicated School Grant will be finance neutral.

Disability – there are no plans which will directly impact upon disabled groups or individuals

Religion – many of the VA schools affected are faith based and as such the impact of changes may affect certain faiths more than others.

Mitigation measures - it is expected that any impact on VA schools will be finance neutral. The proposal ensures that schools are treated fairly regardless of the community they serve and schools with charitable status will still be able to apply for mandatory relief.

Cabinet, 20 March 2013

As a result of the Equality Impact Assessment, a review process will be introduced and organisations will be expected to provide monitoring information to show the impact of any proposed changes on particular protected groups. This report also recommends that further consultation is undertaken on other possible changes to eligibility criteria. Following this consultation, the Equality Impact Assessment will be reviewed to identify any equality implications