

<b>Cabinet</b>  31 October 2018	 <b>TOWER HAMLETS</b>
<b>Report of:</b> Zena Cooke, Corporate Director, Resources	<b>Classification:</b> Unrestricted
<b>Supporting the Local Economy – Proposed Criteria for Granting Business Rate Relief</b>	

<b>Lead Member</b>	<b>Councillor Candida Ronald, Cabinet Member for Resources &amp; the Voluntary Sector</b>
<b>Originating Officer(s)</b>	Roger Jones – Head of Revenue Services
<b>Wards affected</b>	All wards
<b>Key Decision?</b>	No
<b>Forward Plan Notice Published</b>	28 September 2018
<b>Reason for Key Decision</b>	N/A
<b>Community Plan Theme</b>	<b>A fair and prosperous community</b>

### **Executive Summary**

The Council provides a wide range of support for local businesses including through the awarding of business rate relief.

For the current year, business rates relief is awarded to 7,901 ratepayers totalling over £32.3m.

At the Cabinet meeting held on 25<sup>th</sup> July 2018 it was agreed to consult on the revised criteria and guidance used to assess eligibility for discretionary business rates relief as set out in appendix 1.

### **Recommendations:**

The Mayor in Cabinet is recommended to:

1. Note the outcome of the consultation on the criteria and guidance used to assess eligibility to discretionary business rates relief.
2. Approve the criteria and guidance used to assess eligibility to discretionary business rates relief.

### **1. REASONS FOR THE DECISIONS**

- 1.1 To consider the feedback from and outcome of the public consultation on the criteria and guidance used to assess eligibility for discretionary business rates relief and to approve the criteria and guidance.

## 2. ALTERNATIVE OPTIONS

- 2.1 The Mayor in Cabinet could revise the criteria and guidance used to assess eligibility for discretionary business rates relief, but this is not recommended as it is based on feedback that informed the development of the criteria and guidance and takes account of the outcome of the public consultation.

## 3. DETAILS OF THE REPORT

- 3.1 The Council provides a wide range of support for local businesses including through the awarding business rate relief.
- 3.2 For the current year, business rates relief is awarded to 7,901 ratepayers totalling over £32.3m.
- 3.3 The table below shows the current year position split by the type of relief currently awarded.

Type of Relief	Number of Accounts	Value
Mandatory Charity Relief (80%)	706	£19,999,974
Discretionary Charity Relief (20%)	193	£507,591
Discretionary Not For Profit Relief (100%)	13	£178,349
Local Discretionary Relief	2,482	£2,059,396
Pub Relief	88	£85,906
Small Business Rate Relief	3,901	£8,881,672
Supporting Small Business Rate Relief	518	£658,298
<b>Totals</b>	<b>7,901</b>	<b>£32,371,186</b>

- 3.4 Following the last review of reliefs brought in by the government and charitable rate relief, the revised criteria and guidance was produced taking account of feedback from charities and other organisations including the CVS. The criteria and guidance applies to all Business Ratepayers appearing in the London Borough of Tower Hamlets local rating list that are applying for any type of relief or requesting the Council to use its discretion to reduce the organisation's Business Rates liability.
- 3.5 There have been a number of new reliefs introduced by the government and these are now captured in one all-encompassing document.
- 3.6 The criteria and guidance aims to enable equitable and consistent determinations of requests for relief to Business Rate liabilities for ratepayers within the borough
- 3.7 The main changes relate to discretionary charitable relief applications and are as follows –

- 3.7.1 It is now clear that the criteria and guidance are not intended to be a self-assessment check list and each case will be considered on its own merits.
- 3.7.2 Any commercial activity is not considered as charitable activity and will not qualify for relief.
- 3.7.3 In all applications for mandatory and or discretionary reliefs the Council will need to be allowed free access to the premises in order to establish the actual use of the property before making any determination for relief. Where this has not been possible for whatever reason then no relief will be awarded.
- 3.7.4 In cases where charitable discretionary relief is requested consideration will be given to applications where:
- there is no commercial activity being carried out on the premises and:
  - it can be demonstrated with satisfactory supporting evidence that the service provided is open to the general public, and:
  - the service provided predominately benefits the residents of Tower Hamlets and:
  - there is a clear and significant benefit to a substantial number of residents within the borough. There is no set definition of the term “substantial” so that individual applications are assessed on a case by case basis.
- 3.8 The proposed changes will make the process clearer and clarify the qualification process particularly around how the objectives of the organisation must predominantly benefit residents of Tower Hamlets.

### **Public Consultation**

- 3.9 The public consultation exercise was conducted from 28<sup>th</sup> August 2018 to 25<sup>th</sup> September 2018. The consultation was on line on the council’s website and emails were sent to all current ratepayers that had provided their email address on their business rate account.

In total 58 responses were received from residents and businesses as shown in the table below:

<b>Respondent Type</b>	<b>Number of Respondents</b>	<b>Proportion of Total</b>
Charitable Organisation	10	17.24%
Non-Charitable Organisations	27	46.55%
Private individual	21	36.21%
<b>Total</b>	<b>58</b>	<b>100.00%</b>

The consultation asked 6 questions and a summary of the responses is shown below –

**Question 1.** – Do you think that the Council should make awards of discretionary relief to any organisation?

Criteria & Guidance	Number of Respondents	Percentage
Yes	53	91.38%
No	4	6.90%
Don't Know	1	1.72%
<b>Total</b>	<b>58</b>	<b>100.00%</b>

**Question 2.** – Do you agree with the factors in sections 5, 6 and 7 of the proposed Criteria & Guidance Document we will apply to applications for relief?

Criteria & Guidance	Number of Respondents	Percentage
Yes	43	74.14%
No	9	15.52%
Don't Know	6	10.34%
<b>Total</b>	<b>58</b>	<b>100.00%</b>

**Question 3.** - Do you agree with the proposal that awards for the relief will be made for a fixed period in a particular financial year and will automatically cease at the end of the financial year?

Fixed Period of Awards	Number of Respondents	Percentage
Yes	48	82.16%
No	6	10.34%
Don't Know	4	6.90%
<b>Total</b>	<b>58</b>	<b>100.00%</b>

**Question 4** - Do you agree that the council applies the test outlined in section 4 of the Charities Act 2011 which states: "if a charity confines the provision of benefits to members, supporters, or subscribers, its purposes may not be carried out for the public benefit?"

Charities Act	Number of Respondents	Percentage
Yes	50	86.21%
No	3	5.17%
Don't Know	5	8.62%
<b>Total</b>	<b>58</b>	<b>100.00%</b>

**Question 5** - Do you agree with the proposal that in cases where a ratepayer refuses to allow access for an inspection, or where unannounced council visits result in finding that the property appears not be used at all or is not being used by the applicant for charitable purposes, the application will be refused?

Inspection Refusal	Number of Respondents	Percentage
Yes	57	98.28%
No	1	1.72%
<b>Total</b>	<b>58</b>	<b>100.00%</b>

The final question provided respondents with the opportunity to submit a free text response.

**Question 6** - What do you think that the Council could do to encourage new businesses into the borough?

3.10 Attached at appendix 2 are the free text comments received from respondents, these are provided verbatim.

3.11 The majority of the comments related to the following issues:

- Supporting new businesses by offering discounts for up to 10 years, although existing small businesses were concerned this gave an unfair advantage.
- Using empty properties as shared work space for small and new businesses to help them develop.
- Designate enterprise zones to encourage small and new businesses
- Stop increasing rent levels

3.12 The comments provided have been shared with the Council's Economic Development Team to identify what actions can be taken to provide support to local businesses. The Council is also procuring a CRM for businesses which will enable efficient and effective engagement and provide the analysis for targeted support for local businesses based on factors such as location, size, sector etc.

3.13 Based on the responses received, no revisions to the criteria and guidance are proposed, they will be regularly reviewed to ensure they remain relevant, fit for purpose and affordable for the council.

#### **4. EQUALITIES IMPLICATIONS**

4.1 Taking into account the nature of the proposal which will directly fund business rates for local businesses, the allocation of funds will be closely monitored to ensure all qualifying businesses receive the relief they are entitled to.

## **5. OTHER STATUTORY IMPLICATIONS**

- 5.1 In all cases, application for Mandatory Charitable must be considered before the award of any discretionary relief or new relief introduced by the government.

## **6. COMMENTS OF THE CHIEF FINANCE OFFICER**

- 6.1 This report provides an update on outcomes from the recent business rates relief consultation and seeks cabinet approval of the revised eligibility criteria and guidance.
- 6.2 Section 3.2 and 3.3 provides a summary of the current types of business rates relief available, how many organisations are awarded relief in each category and the total value of relief awarded. In 2018/19 a total of £32m worth of relief has been awarded across 7,901 recipient accounts.
- 6.3 Mandatory relief, local discretionary relief, pub relief and supporting small business relief are funded by central government through section 31 grants. Therefore, any changes to the amounts of relief awarded in these categories should not impact on Council resources.
- 6.4 However, the cost of discretionary charity relief and not for profit relief are shared by the Council (64%) and the GLA (36%) and any changes to the amount of relief awarded in these respective categories will have a direct impact on the level of Council income through retained business rates.

## **7. COMMENTS OF LEGAL SERVICES**

- 7.1 Section 47 of the Local Government Finance Act 1988 as amended by the Localism Act 2011 gives local authorities the necessary power to grant business rates discounts (relief). This allows the billing authorities to grant business rate discounts as they see fit.
- 7.2 The Localism Act 2011 also gives local authorities the discretionary powers to grant business rates relief on properties occupied by charities and other non-profit making organisations.
- 7.3 As mentioned above in para 6.3, the Council will be reimbursed through a grant under Section 31 of the Local Government Act 2003.
- 7.4 Providing discretionary relief to ratepayers is likely to amount to State Aid. However the Supporting Local Economy relief scheme will be State Aid compliant where it is provided in accordance with the De Minimis Regulations.
- 7.5 The De Minimis Regulations allow an undertaking to receive up to €200,000 of De Minimis aid in a rolling three year period (consisting of the current financial year and the two previous financial years).

- 7.6 To administer De Minimis it is necessary for the Council to establish that the award of aid will not result in the undertaking having received more than €200,000 of De Minimis aid.
- 7.7 When deciding whether or not to proceed with the proposals, the Council must have due regard to the need to eliminate unlawful conduct under the Equality Act 2010, the need to advance equality of opportunity and the need to foster good relations between persons who share a protected characteristic and those who don't (the public sector equality duty). A proportionate level of equality analysis must be undertaken prior to the ultimate decision being taken in order to enable the Council to adequately discharge its equality duty.
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## **Linked Reports, Appendices and Background Documents**

### **Linked Report**

Report to Cabinet July 2018 '[Supporting the Local Economy - Proposed Criteria for Granting Business Rate Relief](#)'

### **Appendices**

Appendix 1 - Granting Rate Relief for Non-Domestic Rates

Appendix 2 - Free text response to question 6 "What do you think that the Council could do to encourage new businesses into the borough?"

### **Background Documents – Local Authorities (Executive Arrangements)(Access to Information)(England) Regulations 2012**

NONE

### **Officer contact details for documents:**

N/A