Title: Discretionary Business Rate Relief Policy

Report of the Cabinet Member for Finance

Open Report For Decision

Wards Affected: All Key Decision: Yes

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Summary

The Council has legislative powers to grant Discretionary Business Rate Relief to Ratepayers within the borough for the following reasons:

- Where a Ratepayer is a registered charity or is a Community Amateur Sports Club the Council is required to apply 80% relief which is funded by Central Government;
- The Council can at its own discretion add up to a further 20% (top up) relief and must fund 30% of this relief;
- Where a Ratepayer is a non profit making organisation and the property is solely used for charitable or philanthropic reasons the Council can grant up to 100% relief;
- Where the property is partially occupied for a temporary period the council can grant up to 100% relief;
- Where the Ratepayer is experiencing financial hardship the council can grant up to 100% relief.

At the 16 December 2014 Cabinet meeting it was agreed that the budget supporting this legislative power would be reduced by £50,000. As a result the said budget has been top sliced and reduced by £29,345. In addition the Council policy governing this relief has been reviewed and amended to deliver another £20,655 of savings to ensure the total £50,000 savings can be delivered in 2016/17.

In order to meet the new budget, a revised “Discretionary Business Rate Relief to Charities and Not for Profit Organisations” policy has been developed and is set out at Appendix A.

The impact of this policy criteria change is that 80 businesses will continue to receive support from the Council, whilst 21 will no longer qualify for this relief. Appendix B shows the breakdown of the types of businesses that will not qualify for relief in 2016/17 (table 1) and the types of businesses that will continue to be supported subject to the criteria stated in the new policy being met (table 2).

The Council must give 12 months notice of possible cancellation to those ratepayers
currently in receipt of these reliefs. A notice was issued in March 2015 informing the ratepayers of cancellation and a possible policy change. Delaying this notice would have jeopardised the 2016/17 savings meaning they may not have been delivered until 2017/18.

Ratepayers will be invited to reapply under the new criteria on an annual basis if they wish to be considered for said relief.

It is proposed that the initial determination of whether or not to award Discretionary Business Rate Relief be delegated to the Chief Finance Officer and that appeals are heard by a panel of three councillors, one of whom shall be the Cabinet Member for Finance.

**Recommendation(s)**

The Cabinet is recommended to:

(i) Approve the Discretionary Business Rate Relief to Charities and Not for Profit Organisations Policy as attached at Appendix A to the report, which reflects the budget for 2015/16 and beyond;

(ii) Note the potential impact of the new policy on local ratepayers currently in receipt of Discretionary Business Rate Relief Appendix B

(iii) Agree to the establishment of a Discretionary Business Rate Relief Appeal Panel, consisting of three councillors, one of whom shall be the Cabinet Member for Finance, and authorise the Chief Finance Officer, in consultation with the Cabinet Member for Finance, to finalise the arrangements for the Appeal Panel; and

(iv) Note that the necessary amendments to the Council’s Constitution to reflect the new arrangements will be made by the Monitoring Officer.

**Reason(s)**

The Council is facing unprecedented financial challenges and has identified significant savings that need to be made over the next three years. The approved savings proposals include a reduction to the Discretionary Business Rate Relief budget of £50,000 prompting the requirement to review and revise this policy.

The revised policy sets more specific guidelines for the factors that should be considered when making decisions to award or refuse Discretionary Business Rate Relief.

1. **Introduction and Background**

1.1 Sections 43, 44A and 47 of the Local Government Finance Act 1988 give billing authorities the discretionary power to grant rate relief for certain ratepayers.

1.2 The Council’s current policy containing the qualifying criteria for granting these reliefs was last revised in 2006.
1.3 Relief has been granted under the 2006 policy for ratepayers that engage in charitable or philanthropic activities where they are able to demonstrate a benefit to the borough and a link to the Council’s vision.

1.4 In addition relief has been granted to ratepayers that have been suffering financial hardship or if the property was partially occupied for a temporary period of time.

1.5 The policy has been revised to allow savings to be realised as agreed at the Cabinet meeting of 16 December 2014.

1.6 The previous policy was not specific enough in the criteria that would be used to identify eligibility for the relief. The revised policy clearly states the types of ratepayers that can or cannot be considered for this relief.

1.7 The new policy has been aligned with best practice similarly adopted by other Local Authorities.

2. Proposal and Issues

2.1 The adoption of this amended policy and the top slicing of the budget will realise savings of £50,000 in 2016/17.

2.2 The amended policy (Appendix A) will help the Council to more easily focus its powers to grant Discretionary Business Rate Relief to those ratepayers whom it considers to have aligned objectives.

2.3 The more specific criteria adopted in the revised policy will exclude the following types of ratepayers:

- Administration Offices for National Charities;
- Overseas Aid Organisations;
- Organisations that are already receiving funding from the London Borough of Barking and Dagenham Council;
- Housing Associations;
- Buildings used for worship or promotion of religious belief;
- Organisations operating a restrictive membership policy.

2.4 In addition the following organisations and establishments will not be eligible for Discretionary Business Rate Relief:

- Profit making organisations;
- Non profit making organisations who are not Registered Charities or Community Amateur Sports Clubs (CASCs);
- Empty properties;
- Car parking spaces;
- Social Clubs;
- Organisations that have an audited income of over £500,000 per annum including any reserves.

2.5 Set out at Appendix B is a schedule of the types of organisations that received Discretionary Business Rate Relief in 2014/15 who would no longer qualify under
the new policy (table 1), as well as the types of organisations that will continue to be supported subject to the criteria stated in the new policy being met (table 2).

2.6 The determination of applications will be made by the Chief Finance Officer (CFO), or his designated officers, in accordance with the policy. Under the arrangements, an Appeal Panel would hear appeals by applicants against determinations by the CFO.

3. Options Appraisal

3.1 The revised proposals have been developed in the context of the reduced budget allocation for Discretionary Business Rate Relief.

4. Consultation

4.1 Ratepayers were issued with a notice letter of cancellation on 27 March 2015 confirming their entitlement will cease as at 31 March 2016 with details of the new application criteria to follow in 2015 (subject to the agreement of the attached policy). A copy of the notice is included at Appendix D.

5. Financial Implications

Implications completed by: Chris Leslie, Group Accountant, Corporate Finance

5.1 The changes to the Discretionary Rate Relief Policy would increase the Council’s income from business rates by £68,850 a year based on the current level of relief. This assumes a 100% collection rate and that the businesses remain in the premises.

5.2 Given there is a 12 month notification period this will assist the businesses in making the financial arrangements to pay the new charge.

6. Legal Implications

Implications completed by: Paul Feild, Senior Governance Solicitor

6.1 A local authority is required under the Local Government Finance Act 1992 to produce a ‘balanced budget’. The current budget setting takes place in the context of significant and widely known reductions in public funding to local authorities. Where there are reductions or changes in service provision as a result of changes in the financial position the local authority is free to vary its policy and consequent service provision but at the same time must have regard to public law considerations in making any decision lawfully as any decision eventually taken is also subject to judicial review. Members would also wish in any event to ensure adherence as part of good governance. Specific legal advice may be required on the detailed implementation of agreed savings options. Relevant legal considerations are identified below:

6.2 Whenever there are proposals for the closure or discontinuance of a service or services, there will be a need for appropriate consultation, so for example if savings proposals will affect staffing then it will require consultation with Unions and staff. In
addition to that Members will need to be satisfied that Equality Impact Assessments have been carried out on policies before the proposals are decided by Cabinet.

6.3 In terms of who must be consulted, the demands of fairness are expected to be somewhat higher when an authority contemplates depriving someone of an existing benefit or advantage than when the claimant is a bare applicant for a future benefit. If a person is likely to lose something or be worse off, then they should be specifically identified and consulted. For example all those who are likely to be affected should be written to and preferably the letters hand delivered. This is considered to be sound practice.

6.4 If at any point resort to constricting expenditure is required, it is important that due regard is given to statutory duties and responsibilities. In particular the Council must have regard to:

• any existing contractual obligations covering current service provision. Such contractual obligations where they exist must be fulfilled or varied with agreement of current providers;
• any legitimate expectations that persons already receiving a service (due to be cut) may have to either continue to receive the service or to be consulted directly before the service is withdrawn;
• any rights which statute may have conferred on individuals and as a result of which the council may be bound to continue its provision. This could be where an assessment has been carried out for example for special educational needs statement of special educational needs in the education context);
• the impact on different groups affected by any changes to service provision as informed by relevant equality impact assessments;
• to any responses from stakeholders to consultation undertaken.

6.5 In relation to the impact on different groups, it should be noted that the Equality Act 2010 provides that a public authority must in the exercise of its functions have due regard to the need to eliminate discrimination and to advance equality of opportunity between persons who do and those who do not share a relevant ‘protected characteristic’. This means an assessment needs to be carried out of the impact and a decision taken in the light of such information.

7. Other Implications

7.1 Risk Management – There is a risk that these changes to the policy will have an impact upon collection rates. In addition some Ratepayers who have been in receipt of the relief in the past could find that they receive bills that they may have difficulty in paying. To mitigate this, all Ratepayers currently in receipt of the relief have been given 12 months notice allowing them adequate time to prepare for the financial impact.

7.2 Corporate Policy and Customer Impact - An Equalities Impact Assessment (EIA) was completed as part of the savings proposal and is included at Appendix C.

Public Background Papers Used in the Preparation of the Report: None
List of appendices:

- **Appendix A** – Revised Policy for the award of Discretionary Business Rate Relief to Charities and Not for Profit Organisations
- **Appendix B** – Affected Businesses
- **Appendix C** – EIA for Savings Proposal
- **Appendix D** – Notice of Cancellation Letter