

<b>Mayor and Cabinet</b>			
<b>Report Title</b>	National Non Domestic Rates – discretionary discount scheme for businesses accredited to Living Wage Foundation.		
<b>Ward</b>	All	<b>Item No.</b>	
<b>Contributors</b>	Executive Director for Customer Services		
<b>Class</b>	Open	<b>Date</b>	11 November 2015

## **1. Purpose**

- 1.1 To propose a National Non Domestic Rates (NNDR) discount is offered to businesses in the borough who become accredited by the Living Wage Foundation.

## **2. Executive Summary**

- 2.1 The Localism Act 2011 allows the Council to award a discount to any NNDR payer who meets the criteria set by the Council. Officers were asked to develop a scheme using this discretionary power which would encourage businesses in the borough to pay as a minimum the London Living Wage of £9.15 per hour.
- 2.2 The report proposes a scheme which awards a one off discount to a NNDR payer who becomes a member of the Living Wage Foundation in 2016/17. The amount of the discount will be a multiple of the cost of joining the Living Wage Foundation.

## **3. Recommendations**

It is recommended that Mayor agrees to:

- 3.1 To offer a one off discount in NNDR based on the cost of accreditation in 2016/17 to businesses that become accredited by the Living Wage Foundation and who meet the criteria set out in appendix 1.
- 3.2 To offer a discount set at one of the options in paragraph 7.2.
- 3.3 To offer the discount on a 'first come first served' basis until the Council's overall contribution equals £20,000 within the 2016/17 financial year. Once the Council's £20,000 contribution has been reached to offer no further discounts.
- 3.4 To review the scheme in 2016/17 to determine whether it should be offered in future years.

## **4. Policy context**

- 4.1 One of the primary functions of the Council is to promote the social, economic and environmental wellbeing of the borough and its people. In discharging this important role the Council has a specific duty to safeguard the most vulnerable from harm and to regulate access to public services and to provide social protection for those that might otherwise be put at risk.
- 4.2 As Council funding is provided through public resources (grants from central Government; Business Rates and Council Tax) the local authority must also demonstrate both responsibility and accountability in the stewardship of public resources.

- 4.3 The overarching policy and decision making framework for the discharge of the Council's many functions and duties is Lewisham's Sustainable Community Strategy. The Strategy contains two overarching principles which are:
- reducing inequality – narrowing the gap in outcomes; and
  - delivering together efficiently, effectively and equitably – ensuring that all citizens have appropriate access to and choice of high quality local services.
- 4.4 Also contained within this overarching policy framework are the Council's ten priorities. These priorities describe the specific contribution that the local authority will make to the delivery of the Sustainable Community Strategy.

## **5. Background**

- 5.1 The London Living Wage, currently set at £9.15, is the rate a person needs to earn to cover their basic living costs, the rate being set by the Greater London Authority. The Living Wage Foundation works with employers to help them pay the Living Wage and offers accreditation to employers that pay the living wage and agree a timescale for implementing for subcontracted staff.
- 5.2 Of all the people working in the borough 24.5% are paid less than the London Living Wage. This compares to 18.8% across London. Of all the people living in the borough and working either in the borough or elsewhere 20.9% are paid less than the living wage. This compares to 22.3% across London.
- 5.3 There are 7 organisations accredited to the Living Wage Foundation in the borough. They are:
- London Borough of Lewisham
  - London Housing Trust
  - The New Cross Gate Trust
  - Deptford Reach
  - The I Am Group
  - CAM Specialist Support Group
  - Rushey Green Time Bank
- 5.4 The Localism Act 2011 gives local authorities a discretionary power to award discounts to any NNDR payer who meets criteria set by the Council. Officers have been asked to set out how this discretionary power could be used to incentivise employers to pay the London Living Wage. This report proposes to offer a discount to employers who become accredited to the Living Wage Foundation during the 2016/17 financial year.

## **6. The scheme**

- 6.1 The aim of the scheme is to reward businesses who take action to pay their employees the London Living Wage or commit to do so within an acceptable time frame and become accredited to the Living Wage Foundation. The scheme does not aim to reward businesses who are already accredited to the Living Wage Foundation.
- 6.2 The scheme must be simple to understand for the employer, easy to communicate and simple to administer for the Council so as not to create unnecessary costs or require software and systems development. The two main options are to offer a % discount based on the rates paid by the employer or to offer a fixed rate discount based on the number of employees and a multiple of the cost of accreditation.
- 6.3 A % discount based on the rates paid would not necessarily bear any relation to the number of employees, a key factor in the equation. The cost to an employer of

paying the London Living Wage and becoming accredited by the Living Wage Foundation will vary depending on the number of employees. For these reasons it is proposed that a fixed rate discount is offered based on the number of employees and a multiple of the cost of accreditation.

- 6.4 The proposed main criteria for determining entitlement to the scheme would be accreditation by the employer to the Living Wage Foundation during the period 1 April 2016 to 31 March 2017 and the provision of evidence of this to the Council. The discount would be a one off reduction to the employers NNDR bill for the 2016/17 financial year. All of the proposed entitlement criteria are set out in Appendix 1.
- 6.5 Because the proposal is to use accreditation by the Living Wage Foundation as the main criteria it is proposed to set the fixed rate discount based on a multiple of the cost of accreditation. The current cost of accreditation by the Living Wage Foundation is:

**Cost of accreditation to the Living Wage Foundation**

Type of organisation	Number of employees				
	0 - 10	11 - 50	51 - 250	251 - 500	500+
Private sector	£50	£100	£200	£400	£1,000
Public Sector and charities	£50	£100	£200	£400	£400

- 6.6 In addition to the discount the Council will also promote those organisations using all its various communication channels.
- 6.7 Employers who become accredited will be able to nominate themselves for the Mayor of Lewisham Business Award for Lewisham Living Wage Champion.

**7. The scheme – discount amount options**

- 7.1 The current regulations will require the Council to fund 30% of the cost of any discount. The remaining amount will be funded by central government (50%) and Greater London Authority (20%).
- 7.2 The following table sets out the maximum number of employers that would be able to benefit from the scheme based on the different multiples of the cost of accreditation and limiting the Council’s maximum contribution to £20,000.

**Maximum number of employers that could benefit from the scheme if the cost of the accreditation x 1 was used**

Type of organisation	Number of employees				
	0 - 10	11 - 50	51 - 250	251 - 500	500+
Private sector discount	£50	£100	£200	£400	£1,000
<b>No. of private sector organisations that could benefit</b>	<b>1,320</b>	<b>660</b>	<b>330</b>	<b>165</b>	<b>66</b>
Public Sector and charities discount	£50	£100	£200	£400	£400
<b>No. of public sector organisations and charities that could benefit</b>	<b>1,320</b>	<b>660</b>	<b>330</b>	<b>165</b>	<b>165</b>

**Maximum number of employers that could benefit from the scheme if the cost of the accreditation x 3 was used**

Type of organisation	Number of employees				
	0 - 10	11 - 50	51 - 250	251 - 500	500+
Private sector discount	£150	£300	£600	£1,200	£3,000
<b>No. of private sector organisations that could benefit</b>	<b>440</b>	<b>220</b>	<b>110</b>	<b>55</b>	<b>22</b>
Public Sector and charities discount	£150	£300	£600	£1,200	£1,200
<b>No. of public sector organisations and charities that could benefit</b>	<b>440</b>	<b>220</b>	<b>110</b>	<b>55</b>	<b>55</b>

**Maximum number of employers that could benefit from the scheme if the cost of the accreditation x 5 was used**

Type of organisation	Number of employees				
	0 - 10	11 - 50	51 - 250	251 - 500	500+
Private sector discount	£250	£500	£1,000	£2,000	£5,000
<b>No. of private sector organisations that could benefit</b>	<b>264</b>	<b>132</b>	<b>66</b>	<b>33</b>	<b>13</b>
Public Sector and charities discount	£250	£500	£1,000	£2,000	£2,000
<b>No. of public sector organisations and charities that could benefit</b>	<b>264</b>	<b>132</b>	<b>66</b>	<b>33</b>	<b>33</b>

7.3 It is proposed that the discount award is based on either 1, 3 or 5 times the cost of accreditation.

## **8. Financial implications**

8.1 The cost of awarding a local discount is shared between the Council (30%) central government (50%) and the Greater London Authority (20%). If the Council sets its maximum contribution to the discount at £20,000 the total discount offered would be £66,000.

8.2 There is currently no budget provision for the Council's contribution of £20,000. Resourcing the proposed discount is, therefore, subject to a call on other resources.

8.3 There will be some additional administrative costs borne by the Council in implementing and administering the scheme. However, in view of the likely number of applicants to apply and qualify these will be minimal and can be absorbed within the service budget.

## **9. Legal implications**

9.1 Section. 47 of the Local Government Finance Act 1988, (as amended by s 69 of the Localism Act 2011,) replaces the limited circumstances in which local authorities can give discretionary rate relief with a power to grant relief in any circumstances. This is subject to the condition that, the local authority may only grant relief if it would be reasonable to do so having regard to the interests of council tax payers in its area.

The amendments also require a local authority to have regard to any relevant guidance issued by the Secretary of State when deciding whether to grant relief under section 47 of the 1988 Act.

- 9.2 Accordingly, local authorities may grant business rates discounts (also known as discretionary rate relief) by creating their own discounts schemes in order, for example, to promote growth and jobs in its area, or in specified areas. Any such scheme needs to be approved by Mayor and Cabinet.
- 9.3 Relevant guidance issued by the Secretary of State, (“Business Rates Retail Relief – Guidance”, issued February 2015,) provides that entitlement to a local discount is subject to State Aid “de minimis” limits. The guidance refers to “State Aid law” and confirms that it “... is the means by which the European Union regulates state funded support to businesses. Providing discretionary relief to ratepayers is likely to amount to State Aid. ....[providing a local discount will not breach State Aid] where it is provided in accordance with the De Minimis Regulations (as set out in EU Commission Regulation 1407/2013).
- 9.4 The De Minimis Regulations allow ...[a business] to receive up to 200,000 Euros of De Minimis aid in a three year period (consisting of the current financial year and the two previous financial years). ...[Officers] should familiarise themselves with the terms of this State Aid exemption, ...” when considering whether to award a discount, in particular the types of businesses that are excluded from receiving De Minimis aid (Article 1 of EU Commission Regulation 1407/2013 and the relevant definitions of businesses / undertakings as well as the requirement to convert the aid into Euros. (Article 2(2) EU commission Regulation 1407/2013.)
- 9.5 To administer the “De Minimis” provision, it is necessary for the Council to establish that the award of aid will not result in any business having received more than 200,000 Euros of ‘State Aid’ under the De Minimis Regulations. It should be noted that the threshold only relates to aid under the De Minimis Regulations (aid under other exemptions or outside the scope of State Aid is not relevant to the De Minimis calculation). For this purpose, s. 3 of the guidance provides a template set of paragraphs that can be used by Local Authorities to send out to businesses. The template contains a declaration to be completed by the businesses and returned to the Local Authority, so as to assist the Local Authority ensure they comply with the current ‘State Aid’ De Minimis financial threshold for each business.
- 9.6 The Equality Act 2010 (the Act) introduced a new public sector equality duty (the equality duty or the duty). It covers the following nine protected characteristics: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.
- 9.7 In summary, the Council must, in the exercise of its functions, have due regard to the need to:
- eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.
  - advance equality of opportunity between people who share a protected characteristic and those who do not.
  - foster good relations between people who share a protected characteristic and those who do not.
- 9.8 The duty continues to be a “have regard duty”, and the weight to be attached to it is a matter for the Mayor, bearing in mind the issues of relevance and proportionality. It is not an absolute requirement to eliminate unlawful discrimination, advance equality of opportunity or foster good relations.

9.9 The Equality and Human Rights Commission has recently issued Technical Guidance on the Public Sector Equality Duty and statutory guidance entitled "Equality Act 2010 Services, Public Functions & Associations Statutory Code of Practice". The Council must have regard to the statutory code in so far as it relates to the duty and attention is drawn to Chapter 11 which deals particularly with the equality duty. The Technical Guidance also covers what public authorities should do to meet the duty. This includes steps that are legally required, as well as recommended actions. The guidance does not have statutory force but nonetheless regard should be had to it, as failure to do so without compelling reason would be of evidential value. The statutory code and the technical guidance can be found at: <http://www.equalityhumanrights.com/legal-and-policy/equality-act/equality-act-codes-of-practice-and-technical-guidance/>

9.10 The Equality and Human Rights Commission (EHRC) has previously issued five guides for public authorities in England giving advice on the equality duty:

1. The essential guide to the public sector equality duty
2. Meeting the equality duty in policy and decision-making
3. Engagement and the equality duty
4. Equality objectives and the equality duty
5. Equality information and the equality duty

9.11 The essential guide provides an overview of the equality duty requirements including the general equality duty, the specific duties and who they apply to. It covers what public authorities should do to meet the duty including steps that are legally required, as well as recommended actions. The other four documents provide more detailed guidance on key areas and advice on good practice. Further information and resources are available at: <http://www.equalityhumanrights.com/advice-and-guidance/public-sector-equality-duty/guidance-on-the-equality-duty/>

## **10. Crime and disorder implications**

10.1 There are no direct crime and disorder implications arising from this report.

## **11. Equalities implications**

11.1 An Equalities Impact Assessment has been carried out which shows no adverse impacts on any of the protected groups. This policy will help the lowest paid workers in the borough.

11.2 Any policy which results in an increase in household income will benefit all groups within the borough either directly or indirectly through the Council having to provide less financial support.

## **12. Environmental implications**

12.1 There are no environmental implications arising from this report.

## **13. Background papers and report author**

13.1 There are no background papers to this report.

13.2 If you require further information about this report, please contact Ralph Wilkinson, Head of Public Services, on 020 8314 6040.

**Criteria for awarding a NNDR discount to businesses accredited with the Living Wage Foundation**

1. The scheme is open to all employers who occupy a business address within the London Borough of Lewisham and are liable for the payment of NNDR.
2. A business must become accredited with the Living Wage Foundation (LWF) i.e. has a signed accreditation licence agreement with the LWF. Confirmation of the accreditation with the LWF will be conclusive proof. A business must become accredited between 1 April 2016 and 31 March 2017. If the accreditation licence is for a phased implementation, entitlement is confirmed when the licence is signed.
3. The LWF monitors organisations and should any business break the agreement within 2 years of signing it then any discount awarded will be reclaimed.
4. A discount equivalent to a multiple of the accreditation cost quoted by the LWF at the time of becoming accredited will be credited to the organisations NNDR account. The cost of accreditation is based on the number of employees and whether the organisation is a private or public body, and set by the LWF. The accreditation fee charged by the LWF will be the evidence of the size of the organisation.
5. The discount is a one off award to the NNDR account. Where the organisation occupies more than one property in the borough only one award will be made.
6. Entitlement to the discount is subject to State Aid de minimis limits whereby a business must not have received state aid exceeding 200,000 Euros in the last 3 years (current year plus preceding 2). State Aid includes reliefs, grants, interest rates and tax relief, subsidies, guarantees etc. The business will be required to sign a declaration confirming this. This may preclude many of the large national retail chains that have shops in many town centres from receiving this relief.
7. If a qualifying business moves out of the borough within 2 years of becoming accredited the discount will be reclaimed. If the business moves within the borough the discount will remain.
8. Some small organisations or charities may not have any NNDR to pay as they may be entitled to other reliefs. Should an organisation become accredited to the LWF and they have no rates to pay as they are receiving other reliefs then the discount will be credited to the account and refunded.