

<b>Mayor and Cabinet</b>			
<b>Report Title</b>	Review of the 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 and Head of Public Services		
<b>Class</b>	Open	<b>Date</b>	10 January 2018

## **1. Purpose**

- 1.1 To review the National Non Domestic Rates (NNDR) discount offered to businesses in the borough who become accredited by the Living Wage Foundation during 2017/2018.

## **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 developed a scheme using this discretionary power which encouraged businesses in the borough to pay as a minimum the London Living Wage of £10.20 per hour.
- 2.2 Prior to the introduction of the scheme 10 organisations were accredited to the Living Wage Foundation. There are now 52 accredited organisations and the scheme continues to be promoted during 2017/18 with leaflets and online communication, promotional events with local businesses and residents as well as specific events taking place during Living Wage Week.
- 2.3 The report proposes to continue to offer the discretionary discount scheme for businesses accredited to Living Wage Foundation in 2018/19.

## **3. Recommendations**

It is recommended that the Mayor agrees to:

- 3.1 Continue to offer a one off discount in NNDR based on the cost of accreditation in 2018/19 to businesses that become accredited by the Living Wage Foundation during 2018/19 and who meet the criteria set out in appendix 1.
- 3.2 To offer the discount on a 'first come first served' basis until the Council's overall contribution equals £20,000 within the financial period 2016 to 2019. Once the Council's £20,000 contribution has been reached no further discounts will be offered.
- 3.3 To review the scheme in 2018/19 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 £10.20, 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 25.9%<sup>1</sup> are paid less than the London Living Wage. This compares to 19.1%<sup>2</sup> across London.
- 5.3 The Localism Act 2011 gives local authorities a discretionary power to award discounts to any NNDR payer who meets criteria set by the Council. On the 11 November 2015 Mayor and Cabinet agreed to award 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.
- 5.4 Prior to the 1 April 2016 there were 10 organisations accredited to the Living Wage Foundation in the borough:
- London Borough of Lewisham
  - London Housing Trust
  - The New Cross Gate Trust
  - Deptford Reach
  - CAM Specialist Support Group
  - Rushey Green Time Bank
  - Regular Cleaning Services
  - RN Property
  - Good Food
  - My Aerial Home
- 5.5 The total of LLW accredited businesses to date in Lewisham is now 52.

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<sup>1</sup> Proportion of employee jobs in London boroughs where employees earned less than the London Living Wage, 2008-14

<https://www.ons.gov.uk/employmentandlabourmarket/peopleinwork/employmentandemployeetypes/adhocs/proportionofemployeejobsinlondonboroughswhereemployeeearnedlessthanthelondonlivingwage200814>

<sup>2</sup> Proportion of employee jobs in London paid less than the London Living Wage (LLW), 2005 to 2014  
<https://www.ons.gov.uk/employmentandlabourmarket/peopleinwork/earningsandworkinghours/adhocs/004872jobsinlondonpaidlessthanthelondonlivingwage2005to2014>

- 5.7 This report reviews the scheme, the work that has been done to promote it and makes recommendations for its future.

## **6. The NNDR Discretionary Discount Scheme**

- 6.1 The scheme rewards businesses who take action to pay their employees the London Living Wage and become accredited to the Living Wage Foundation during the forthcoming financial year. The scheme does not aim to reward businesses who are already accredited to the Living Wage Foundation.
- 6.2 The scheme offers a fixed rate discount based on the number of employees and a multiple of the cost of accreditation. Mayor and Cabinet chose a multiple of 5.
- 6.3 The discount was a one off reduction to the employers NNDR bill for the 2016/17 and subsequently 2017/18. All of the entitlement criteria are set out in Appendix 1.
- 6.4 The current regulations require the Council to fund 30% of the cost of any discount. The remaining amount is funded by central government (50%) and Greater London Authority (20%).

## **7. Review**

### **Promotion**

- 7.1.1 The Council works with the Living Wage Foundation to provide information and practical support for businesses to become accredited employers. Most recently this was done at the Lewisham Means Business event.
- 7.1.2 A leaflet providing details about the scheme was issued to all businesses in March 2017 with each ratepayer's annual business rates bill. The scheme has been promoted on the Council's website throughout the year and on twitter during Living Wage week. The leaflet was also circulated to the manager of Lewisham Shopping Centre to alert more businesses to the discount available.
- 7.1.3 Lewisham co-chaired a promotional event in Living Wage Week with Lambeth and Southwark Councils and the Living Wage Foundation. This included hearing from local businesses and employees who pay the living wage and the positives that come from it. Through events like this the Council continues to encourage local businesses to become accredited employers.
- 7.1.4 The Council has overseen a successful year of promotion with various different methods. The Council's Social Value officer oversees promotion alongside the Council's communication team and is a first point of contact for newly accredited businesses to access all support they can from the Council in terms of promotion and marketability. Newly accredited businesses are given information about the NNDR discretionary discount scheme.

### **Discount awards**

- 7.2.1 During 2017/18 5 more businesses have successfully applied and received the discount as detailed below. The following table is a breakdown of the awards.

Account Name	Accreditation Date	Sector	No. of Employees	Discount award
Kernow Music School Limited	16/05/2017	Private	8	£250
Shea & Co Limited	01/04/2017	Private	10	£250
Kickslove Limited	28/04/2017	Private	1	£250
Anglo Office Group Limited	09/05/2017	Private	40	£250
Lewisham Homes Limited	19/07/2017	Public	537	£2,000

### 7.3 Administration

7.3.1 Owing to the small number of applicants for the discount, there was very little if any impact in relation to the implementation and ongoing administration of the scheme for the Business Rates Team.

## 8. **Proposals for 2018/19**

8.1 On the basis that the scheme involves minimal administration and appears to be encouraging some businesses in the borough to pay the London Living Wage and become accredited to the Living Wage Foundation it is proposed to continue the scheme for 2018/19.

## 9. **Financial implications**

9.1 The cost of awarding a local discount is shared between the Council (30%) central government (50%) and the Greater London Authority (20%). The Council set its maximum contribution to the discount for 2017/18 at £20,000 making the total discount available of £66,000.

9.2 The total discount award to date is £3,000.00 with the Council's spend/contribution of £900.

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

## 10. **Legal implications**

10.1 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.

10.2 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.

10.3 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).

- 10.4 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.)
- 10.5 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.
- 10.6 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.
- 10.7 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.
- 10.8 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.
- 10.9 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/>

10.10 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

10.11 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/>

## **11. Crime and disorder implications**

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

## **12. Equalities implications**

12.1 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.

12.2 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.

## **13. Environmental implications**

13.1 There are no environmental implications arising from this report.

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

14.1 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 2018 and 31 March 2019. 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 5 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.