

Appendix B

Policy Guidelines for Discretionary NNDR reliefs

This document contains guidelines that apply to the following discretionary NNDR reliefs:

1. Discretionary relief for charities and non-profit making organisations
2. Local Discounts
3. Hardship Relief - All financial years except 2020/21 and 2021/22
4. Hardship Relief -For financial years 2020/21. A NNDR Hardship scheme for 2021/22 has yet to be agreed.
5. Central Government Prescribed schemes, including the Expanded Retail Discount schemes for 2020/21 and 2021/22

1. Council guidelines for Discretionary relief for charities and non-profit making organisations

1.1 All applications for Discretionary relief must be considered based on their own merits. In order to recommend an award of Discretionary Charitable relief, the Council must be satisfied that:-

a) The application meets the legislative requirements in section 1.2

and

b) The application is in accordance with the guidelines in section 1.3 or that there are exceptional circumstances that merit the award of Discretionary relief (see section 1.6).

1.2 Legislative requirements

The Local Government Finance Act 1988 makes provision for local authorities to award 80% Mandatory relief to charities.

Section 47 of the Local Government Finance Act 1988 allows a local authority to grant Discretionary relief if:

a) all or part of the hereditament is occupied for the purposes of one or more institutions or other organisations:

(i) none of which is established or conducted for profit and

(ii) each of whose main objects are charitable or otherwise philanthropic or religious or concerned with education, social welfare, science, literature or the fine arts; or

b) the hereditament:

(i) is wholly or mainly used for purposes of recreation, and

(ii) all or part of it is occupied for the purpose of a club, society or other organisation not established or conducted for profit.

A local authority may in its discretion award up to 20% Discretionary relief to charitable organisations in receipt of 80% Mandatory rate relief. A local authority may also in its discretion award up to 100% of Discretionary relief to organisations not eligible for Mandatory relief.

1.3 Considerations

The following factors will be considered by the Council when deciding whether to recommend the granting of NNDR Discretionary relief for charities and non-profit making organisations.

Whether the organisation:-

- predominantly serves the needs of Westminster residents
- contributes to the area and provides benefits to the local community
- provides facilities that satisfy a local need or indirectly relieve the Council of the need to do so, or enhance and supplement those services the Council does provide
- has a membership that is open to all sections of the community (not unduly restricted) and that is mainly drawn from persons resident in Westminster
- provides training, education or schemes for its members or encourages participation from particular groups in the community, such as young people, the elderly, the disabled, minority groups, etc.
- has facilities provided by self-help or grant aid.

The Council will also consider: -

- the finances of the organisation and whether payment of NNDR would adversely affect provision of the organisation's objectives.
- whether the cost to the Council of granting relief can be justified.

1.4 Exclusions

The following categories of organisations will not normally be considered for Discretionary relief:

- National charity shops
- Organisations whose objectives are solely concerned with education and which are already receiving Mandatory relief (80%).
- Administrative offices of national charitable organisations which are already in receipt of Mandatory relief (80%)

- Organisations which have a commercially operated bar within the relevant property serving alcohol.
- Organisations that have audited income of more than £1 million per annum.

1.5 Determination of Relief

The Executive Director of Finance and Resources and the Director of Revenues and Benefits have delegated authority to decide applications meeting the following criteria:

- Organisations in receipt of Mandatory relief and which exclusively serve Westminster residents.

The Rating Advisory Panel will consider applications outside of the criteria for an officer determination and appeals against an officer determination.

1.6 Exceptional circumstances

The Rating Advisory Panel has the ability to recommend awards of Discretionary relief which run contrary to these guidelines if the Panel is satisfied there is sufficient evidence of exceptional circumstances. The evidence of exceptional circumstances will need to be provided to the Cabinet Member for Finance & Smart City to support the relevant recommendation from the Panel.

2. Council Guidelines for Local Discounts

2.1 All applications for Local Discounts must be considered based on their own merits. In order to recommend an award of a Local Discount, the Council must be satisfied that:-

- a) The application meets the legislative requirements in section 2.2
and
- b) The application is in accordance with the guidelines in section 2.3 or that there are exceptional circumstances that merit the award of a Local Discount (see section 2.6).

2.2 Legislative requirements

The Localism Act 2011 amends Section 47 of the Local Government Finance Act 1988 to allow local authorities to grant Discretionary reliefs to any ratepayer, subject to the UK Subsidy limits (replaces the previous EU State Aid limitations).

2.3 Considerations

The Localism Act 2011 does not set criteria for the award of a Section 47 Local Discount, therefore each application will be considered on its own merits. The following factors will be considered by the Rating Advisory Panel when deciding whether to recommend the granting of a Local Discount:

- Whether the business provides a unique or key service to the neighbourhood or locality;
- Whether the business is locally based within a single unit of accommodation or address in Westminster;
- Whether the organisation has been trading in Westminster for more than 3 years;
- How granting the discount will benefit the borough, (e.g. does it create or save jobs, or benefit local residents);
- Any help which is likely to be available to the applicant from other sources;
- Any other special circumstances;
- Whether the cost to the Council of granting relief can be justified.

2.4 Exclusions

The following categories of organisations will not normally be considered for Local Discounts:

- national and international organisations with additional properties outside of the borough.
- organisations that have audited income of more than £1 million per annum.

2.5 Determination of Relief

There is no delegated authority to officers for Local Discounts, therefore all applications must be considered by the Rating Advisory Panel.

2.6 Exceptional circumstances

The Rating Advisory Panel has the ability to recommend awards of Local Discounts which run contrary to these guidelines if the Panel is satisfied there is sufficient evidence of exceptional circumstances. The evidence of exceptional circumstances will need to be provided to the Cabinet Member for Finance & Smart City to support the relevant recommendation from the Panel.

3 Council Guidelines for Hardship Relief – All Financial Years except 2020/21 and 2021/22

3.1 All applications for NNDR Hardship Relief must be considered based on their own merits. In order to recommend an award of Hardship Relief, the Rating Advisory Panel must be satisfied that:-

- a) The application meets the legislative requirements in section 3.2
and
- b) The application is in accordance with the guidelines in section 3.3 or that there are exceptional circumstances that merit the award of a Hardship Relief (see section 3.6).

3.2 Legislative requirements

Section 49 of the Local Government Finance Act 1988 gives the charging authority discretion to reduce or remit the whole of an amount a person is liable to pay to it, provided the authority is satisfied that:

- a) the ratepayer would sustain hardship if the authority did not do so, and;
- b) it is reasonable for the authority to do so, having regard to the interests of the persons subject to its Council Tax.

3.3 Considerations

The following factors will be considered by the Rating Advisory Panel when deciding whether to recommend the granting of Hardship Relief:

- whether the accounts of the business are in order and show evidence of financial difficulty. Consideration needs to be given to the level of Directors' remuneration and general employees' salary levels.
- whether the business has been established in Westminster for more than three years.
- whether the business is locally based within a single unit of accommodation or address in Westminster. This would exclude national and international companies with properties outside the City.
- when considering cases for NNDR Hardship Relief, the Council must take into account the interests of council taxpayers who meet part of the cost. Therefore, businesses are required to

provide a written statement detailing how the local community benefits from their activities.

3.4 Exclusions

There are no exclusions.

3.5 Determination of Relief

The Executive Director of Finance and Resources and the Director of Revenues and Benefits have delegated authority to decide applications for Hardship relief meeting the following criteria:

- the accounts of the business show a loss and
- the business has been established in Westminster for at least 3 years and
- the business is locally based within a single address in Westminster and
- relief may be awarded for one year only and up to a maximum of 25% or £5,000, whichever is the lower.

The Rating Advisory Panel will determine applications outside of the criteria for an officer determination and appeals against an officer determination.

3.6 Exceptional Circumstances

The Rating Advisory Panel has the ability to recommend awards of Hardship Relief which run contrary to these guidelines if the Panel is satisfied there is sufficient evidence of exceptional circumstances. The evidence of exceptional circumstances will need to be provided to the Cabinet Member for Finance & Smart City to support the relevant recommendation from the Panel.

4 Council Guidelines for Hardship Relief – 2020/2021

4.1 All applications for Hardship Relief must be considered on their own merits. In order to recommend an award of Hardship Relief, the Council must be satisfied that:-

- the application meets the legislative requirements in section 4.2

and

- the application is in accordance with the guidelines outlined below

4.2 Legislative requirements

Section 49 of the Local Government Finance Act 1988 gives the charging authority discretion to reduce or remit the whole of an amount a person is liable to pay to it, provided the authority is satisfied that:

- ratepayer would sustain hardship if the authority did not do so, and;
- it is reasonable for the authority to do so, having regard to the interests of the persons subject to its Council Tax.

4.3 Considerations

The Council needs to consider all NNDR Hardship applications. Each application relating to 2020/21 will go through two stages:

Stage 1

The applicant must have attended an appointment with the Council's Business Unit team. The team will provide guidance / support and ensure that the business has exhausted all other options for financial assistance.

Stage 2

Any applicants that attend a Stage 1 appointment, and which have exhausted all other options for financial assistance. will be sent a NNDR Hardship application form. The application form will seek information on the following criteria under which each application will be scored by an officer evaluation panel:

- a) Is the business solely or mainly based in Westminster?
- b) How long has the business been based in Westminster?
- c) Does the business provide a real benefit to Westminster residents and / or the local economy?
- d) Has the business experienced a significant fall in their business income?
- e) Has the business taken steps to reduce its costs as far as practically possible?
- f) Is the property currently operational / trading?
- g) What is the level of local employment by the business?

The evaluation scores will be aggregated into a league table format, i.e. to produce a scoring threshold for awards in line with the above criteria taking account of the Council's limited available funding. This process will be repeated for batches of NNDR Hardship applications.

A Cabinet Member report will be prepared for the Cabinet Member for Finance & Smart City recommending awards. The Cabinet Member will formally determine the award of NNDR Hardship relief.

4.4.1 Exclusions

There are no exclusions, other than those businesses that fail to engage with the Business Unit's offer of assistance.

4.5 Determination of Relief

In order to support as many businesses as possible, the maximum award will be £10,000 or 25% of the net collectable NNDR liability – whichever is the lower.

For businesses that have more than one property subject to their NNDR Hardship application, the maximum award will be applied using the same limit of £10,000 or 25% of the net aggregate collectable NNDR liability across all their properties, i.e. **the award limit will be applied to the business rather than against each individual rate account.**

The majority of applications that are successful will be awarded using the 25% of rating liability limit (i.e. rather than the £10,000 limit). There will however be instances where the £10,000 limit is applied and where the business concerned believes that it has rationale for an award above the £10,000 limit, e.g. if they have a very large rating liability. The award letters for companies limited at the £10,000 level will be given the option to submit an appeal to the Rating Advisory panel providing they have sufficient reasons for awarding above the standard £10,000 limit.

A business that appeals the Council's decision on their application (refusal or level of award) will have their appeal heard by the Rating Advisory Panel, who will in turn make a recommendation to the Cabinet Member for Finance & Smart City.

4.6 Exceptional Circumstances

The Rating Advisory Panel has the ability to recommend awards of Hardship Relief which run contrary to these guidelines if the Panel is satisfied there is sufficient evidence of exceptional circumstances. The evidence of exceptional circumstances will need to be provided to the Cabinet Member for Finance & Smart City to support the relevant recommendation from the Panel.

5 Central Government Prescribed Awards

- 5.1 The government has in recent years introduced several new NNDR discounts / allowances which it has required local authorities to administer through the existing NNDR Discretionary Relief legislation (Section 47 of the Local Government Finance Act 1988). There is no real discretion for local authorities, as the government expects local authorities to award relief and has committed to fully fund all such awards.
- 5.2 The Executive Director of Finance and Resources and the Director of Revenues and Benefits are granted delegated authority to administer schemes that the government asks local authorities to implement under Section 47 of the Local Government Finance Act 1988, in accordance with relevant government guidance.
- 5.3 The government has recently asked local authorities to administer the Expanded Retail Relief scheme and the Nursery Discount scheme under the existing NNDR Discretionary Relief legislation.
- 5.4 For clarification, the Council determines that the Council's use of Section 47 allowances for the Expanded Retail Discount & Nursery Discount schemes for 2020/21 & 2021/22 will mirror the requirements outlined in central government guidance. The key elements being:
- The 100% Expanded Retail Discount for 2020/21 will be extended for three months for eligible properties at 100% relief uncapped for the period 1 April 2021 to 30 June 2021.
 - From 1 July 2021 to 31 March 2022, the Expanded Retail Discount will apply at 66% relief for eligible properties in the scheme, with a cash cap of £2m for businesses that were required to close as at 5 January 2021, and up to £105,000 for business permitted to open at that date.
 - The 100% Nursery Discount for 2020/21 will also be extended for three months, at 100% uncapped for the period 1 April 2021 to 30 June 2021
 - From 1 July 2021 to 31 March 2022 the Nursery Discount will apply at 66% relief for eligible properties, with a cash cap of £105,000 per business
 - For the Expanded Retail Discount 2021/22 and Nursery Discount 2021/22 businesses may choose to opt out of support by providing billing authorities notification of their request to refuse support, per eligible herediament

5.5 The discounts referred to Section 5 are only for the quoted financial years and will not carry forward to future financial years.