

Guidelines for applications for NNDR Discretionary relief

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

1. Discretionary relief for charities and non-profit making organisations
2. Local Discounts
3. Hardship Relief All financial years prior to 2020/21
4. Hardship Relief 2020/21 only
5. Hardship Relief 2021/22 only
6. Central Government Prescribed schemes

Applicants for discretionary rate relief under sections 1 to 5 above must complete a declaration on whether or not Subsidy Limits will be exceeded.
(Notes regarding Subsidy Limits appear at the end of this document.)

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, the fine arts; or

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.

^ Applications for hardship relief for 2020/21 received after 30.9.2021 will be considered under the Section 3.

- 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, Property and Regeneration 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 European rules on State Aid.

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

[^] Applications for hardship relief for 2020/21 received after 30.9.2021 will be considered under the Section 3.

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, Property and Regeneration to support the relevant recommendation from the Panel.

3 Council Guidelines for Hardship Relief – All Financial Years prior to 2020/2021 ^

3.1 All applications for 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 Hardship Relief, the Council must take into account the interests of council taxpayers who meet

^ Applications for hardship relief for 2020/21 received after 30.9.2021 will be considered under the Section 3.

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, Property and Regeneration to support the relevant recommendation from the Panel.

4 Council Guidelines for Hardship Relief – 2020/2021 only[^]

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 & Enterprise team. The team will provide guidance / support and ensure that the business has exhausted all other options for financial assistance.

[^] Applications for hardship relief for 2020/21 received after 30.9.2021 will be considered under the Section 3.

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, Property & Regeneration recommending awards. The Cabinet Member will formally determine all awards of NNDR Hardship relief.

4.4 Exclusions

There are no exclusions other than those businesses that fail to engage with the Business & Enterprise'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, Property & Regeneration.

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, Property and Regeneration to support the relevant recommendation from the Panel.

5 Council Guidelines for Hardship Relief – 2021/22 only

5.1 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

5.2 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.

5.3 Considerations

The Council needs to consider all NNDR Hardship applications. Each application relating to 2021/22 will go through two stages:

Stage 1

The applicant must have attended an appointment with the Council's Business & Enterprise 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:

- h) Is the business solely or mainly based in Westminster?
- i) How long has the business been based in Westminster?
- j) Does the business provide a real benefit to Westminster residents and / or the local economy?
- k) Has the business experienced a significant fall in their business income?
- l) Has the business taken steps to reduce its costs as far as practically possible?
- m) Is the property currently operational / trading?
- n) 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.

Applications relating to businesses that were awarded hardship relief in relation 2020/21 will be assess as above and a factor of XXXX applied.

A Cabinet Member report will be prepared for the Cabinet Member for Finance, Property & Regeneration recommending awards. The Cabinet Member will formally determine all awards of NNDR Hardship relief.

5.4 Exclusions

^ Applications for hardship relief for 2020/21 received after 30.9.2021 will be considered under the Section 3.

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

5.5 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, Property & Regeneration.

5.6 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, Property and Regeneration to support the relevant recommendation from the Panel.

6 Central Government Prescribed Awards

- 6.1 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.
- 6.2 The Executive Director of Finance and Resources and the Director of Revenues and Benefits have delegated authority to determine relevant legislative changes meeting the associated legislative criteria.
- 6.3 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.

Subsidy Limits (Previously known as State Aid)

Under the scheme rules the maximum level of subsidy that an economic actor^[1] may receive under each level of allowance is set out below:

Small Amounts of Financial Assistance Allowance - this allowance is the equivalent of 325,000 Special Drawing Rights^[2], to a single economic actor over any period of three fiscal years and includes any subsidy previously received as *de minimis* aid or as Small Amounts of Financial Assistance under Article 3.2(4) of the TCA from any subsidy awarding body.

COVID-19 Business Grant Allowance - if limits are reached under the Small Amounts of Financial Assistance Allowance, the COVID-19 Business Grant Allowance enables a further £1,600,000 to be paid to a single economic actor. This allowance includes any grants previously received under the COVID-19 business grant schemes and any State aid previously received under Section 3.1 of the European Commission's Temporary Framework across any other UK scheme.

COVID-19 Business Grant Special Allowance – if limits are reached under the Small Amounts of Financial Assistance Allowance and COVID-19 Business Grant Allowance, you may be able to access a further allowance of funding of up to £9,000,000 per single economic actor if a series of further conditions are met (see Annex 1).

In total an economic actor could combine the allowances and potentially receive a total allowance of £10,935,000 from these business grants schemes (subject to the precise applicable amount calculation for the Small Amounts of Financial Assistance Allowance).

^[1] Defined as an entity or a group of entities constituting a single economic entity regardless of its legal status, that is engaged in an economic activity by offering goods or services on a market

^[2] As at 2 March 2021 this was the equivalent of £335,000. The Special Drawing Right calculator here can be used to calculate the exchange rate on the day the subsidy is awarded: https://coinmill.com/SDR_calculator.html.

^ Applications for hardship relief for 2020/21 received after 30.9.2021 will be considered under the Section 3.