



City of Westminster Cabinet Member Report

Decision Maker:	Cabinet Member for Finance and Smart City
Date:	10 March 2022
Classification:	General Release
Title:	Covid-19 Additional Relief Fund (CARF)
Wards Affected:	All
Financial Summary:	There are no financial implications for the Council as the relief will be fully funded from within the Council's funding allocation of £88,711,692 from central government. The scheme's funding will be administered via the Business Rate Retention scheme's NNDR3 Return. New Burdens funding will be provided by central government to support the Council's administration costs.
Report of:	Gerald Almeroth (Director of Finance & Resources)

1.0 Executive Summary

- 1.1 This report outlines the Council's proposal for a new NNDR (Business Rate) discretionary relief scheme called the Covid-19 Additional Relief Fund (CARF) scheme. The government scheme requires local authorities to provide an allowance against ratepayer NNDR liabilities, rather than pay as a grant to businesses.
- 1.2 The Council's proposed scheme will provide relief of around 10% (a final percentage figure will be calculated at the point of extraction of the data for the allowances) against the net 2021/22 NNDR liability of office, manufacturing, and car park (not car spaces) properties that meet the scheme's eligibility criteria.
- 1.3 The government have advised that the CARF scheme will operate under Section 47 of the Local Government Finance Act 1988. This section allows the government to implement NNDR changes without having to raise new legislative provisions through Parliament. As Section 47 is technically a discretionary provision, local authorities are required to set up their own local schemes. The appendix to this report outlines the Council's local scheme in relation to both the new CARF scheme and other government changes that need to be implemented under Section 47.

2.0 Recommendations

- 2.1 That the scheme as outlined in Section 5 of this report is approved.
- 2.2 That a further Cabinet Member report is brought forward if a balance remains of the Council's funding allocation after eligibility under the scheme has been finalised.
- 2.3 That the revised version of the Council's "Guidelines for applications for NNDR discretionary Relief", including details of the Council's local schemes under Section 47 is approved.

3.0 Reasons for Decisions

- 3.1 The proposed scheme seeks to support the main categories of business that have not previously received any local authority COVID-19 financial support, i.e. offices, manufacturing, and car parks.

4.0 Background

- 4.1 At the start of the pandemic, a number of rating agents made proposals to the Valuation Office (VOA) to reduce the rateable value of their client's properties on the basis that the effect on businesses caused by the pandemic could be regarded as a Material Change of Circumstances (MCC).

- 4.2 It appeared that the VOA was preparing to accept this argument and was potentially planning to issue rateable value reductions of between 20% and 65% on all different property types, including office and retail properties.
- 4.3 The City Council, along with other London boroughs, met with senior officials from DLUHC to outline the consequences of such rateable value reductions on the finances of local government. Business rate is a key component of local authority income and are administered through the government's Business Rate Retention scheme. Reductions of the level suggested by the rating agents would have initially required local authorities to set massive rateable value appeal provisions and if the rateable value reductions were subsequently agreed by the VOA would have resulted in there being insufficient income within the system to support local government funding.
- 4.4 The issue was subsequently recognised by central government and a decision was taken that the pandemic should not be regarded as a Material Change of Circumstance (MCC) and therefore the proposed rateable value reductions could not take effect. The government indicated that alongside the requisite legislative change to put this into effect, it would provide a separate national discretionary funding scheme of £1.5B to mitigate the effect on businesses. However, the £1.5B funding allocation is, in reality only a fraction of the reduction in business rate bills that might have been achieved if the MCC rateable value reductions had been allowed by the VOA.
- 4.5 The government has taken around nine months to bring forward the legislation to implement the MCC position. In late December, the government issued a guidance document regarding the new discretionary scheme entitled "Covid19 Additional Relief Fund (CARF)". Alongside, the guidance, the government provided the funding allocation for each local authority. The City Council, as the largest collector of business rates in the country, received the largest funding allocation of £88,711,697
- 4.6 The discretionary scheme makes no mention of Material Change of Circumstances and therefore local authority discretionary schemes do not need to relate specifically to properties that had previously applied for a MCC rateable value reduction or properties that could have applied in the future.

5.0 Proposed CARF Scheme

- 5.1 The government guidance outlines that local authorities have discretion to provide NNDR relief (not grants) to businesses in relation to the 2021/22 liability year. The only conditions being that a local authority should:-
- not award relief to businesses that have received Expanded Retail Discount (a NNDR discount covering Retail, Hospitality & Leisure) or which have received the NNDR Nursery Discount within the 2021/22 liability year.
 - not award relief to a property for a period it was unoccupied.

- direct support towards ratepayers who have been adversely affected by the pandemic and have been unable to adequately adapt to the impact.

5.2 For the reasons given above, it is proposed to make the following property types defined by Valuation Office Analysis Codes as eligible for the Council's scheme:

- office properties with a (Primary VO analysis code of CO) and
- the Council's manufacturing properties (workshops, factories, and warehouses) with a (Primary VO analysis code of CW, IF, IF3, and IM3) and
- Car Parks (not car spaces) with a (Primary VO analysis code of CP)

5.3 The eligibility only applying to those offices, car parks and manufacturing properties with a net debit liability for 2021/22 (i.e. accounts not already in receipt of other NNDR allowances totalling 100% of the net NNDR liability) and which have not received the NNDR discounts outlined in 5.1 in relation to the 2021/22 financial year. It is further proposed that only businesses that have remained in occupation of their office / manufacturing / car park properties throughout the whole of 2021/22 (i.e. 1/4/21 – 31/3/22) are included within the scheme's eligibility criteria, i.e. with no empty periods within the financial year.

5.4 It is proposed that the following property types are excluded from the Council's CARF scheme. Whilst it is accepted that all business types have been adversely affected in some way during the pandemic, it is considered that offices, car parks and manufacturing have been more affected and therefore require support under the limited CARF funding available.

- UK power networks
- Site huts
- Advertising rights, phone masts
- Financial institutions, e.g. Banks
- Laboratories
- Libraries, ambulance stations, police stations and other government buildings
- Schools and colleges
- Hospitals, surgeries, and clinics
- Car spaces, garages
- Stores

- 5.5 The government's guidance makes it clear that local authorities can award the relief without an application process. On the assumption that all offices, car parks and manufacturing businesses have been adversely affected by the pandemic in some way, it is proposed to automatically award the relief to all eligible offices, car parks and manufacturing properties as outlined in 5.1 and 5.2 of this report. The Council will at the same time write to each eligible business requiring the business to advise the Council:
- if they have not been adversely affected by the pandemic and / or
 - if they have exceeded the Subsidy Control limitation and / or
 - if the business wishes to refuse the relief
- 5.6 This process will avoid the resource and time implications of trying to administer some 15,000+ applications.
- 5.7 The proposed scheme enables an accurate assessment of relief to be granted, therefore ensuring that our potential funding allocation is fully utilised and not exceeded (any excess cost would need to be met by the local authority).
- 5.8 Based on the above, it will be possible to calculate that the Council can award NNDR relief of approximately 10% against eligible office, car park and manufacturing properties' net 2021/22 NNDR liabilities (i.e. after other mandatory and discretionary reliefs), without exceeding the government's funding allocation. A final percentage figure will be determined once the data is extracted at the point of posting the allowances. A small balance will be kept in reserve to address any subsequent changes in liability in 2021/22 that would result in a change in the eligible allowance amount and for any new liabilities meeting the eligible criteria that are subsequently created with an appropriate VO Analysis code. However, once the scheme has fully allocated its funding allocation, no more CARF allowances will be made under the scheme irrespective of any new eligible claims.
- 5.9 The government guidance advises that Subsidy Control (formerly State Aid) will apply to this relief through the Small Amounts of Financial Assistance Allowance and the Covid-19 Additional Relief Fund Allowance, which in turn means that businesses can receive the CARF allowance providing the business has not received more than £2,243,000 in State Aid / Subsidy Control within the last 3 years. Further a business that has exceeded this limit could still receive a further £10M if it meets specific Subsidy Control eligibility criteria under the Covid-19 Additional Relief Fund Further Allowance element of Subsidy Control.
- 5.10 The inclusion of all three elements of Subsidy Control mean that it is very unlikely that many, or any, Westminster businesses will exceed the Subsidy Control limits, However, the guidance advises that we must ask businesses to notify us if the business is in breach of the Subsidy Control limitation, i.e. the Council does not need to seek a response from the business confirming Subsidy Control compliance, only if they are in breach of the limitations. This is important for an administrative point of view due to the number of businesses

affected. Information on Subsidy Control will be included as a question in the above-mentioned letter to the businesses.

- 5.11 The agreed CARF scheme percentage will also apply to the GLA's Business Rate Supplement (BRS) that the London boroughs collect on behalf of the GLA for properties with a rateable value of over 70,000. Whilst the allowance will reduce the income of the GLA, the London boroughs do not need to utilise any of the central government funding to meet the cost of the BRS new CARF allowance.
- 5.12 It is proposed that there will be no appeal process in relation to the Council's discretionary scheme, Businesses can still apply for NNDR Hardship relief if they are in financial difficulty.
- 5.13 The Council's scheme will not provide CARF allowances to any individual or company that appears on HM Treasury's Sanctions list.

6.0 Legal Implications

- 6.1 The government has advised that the relief will be granted under Section 47 of the Local Government Finance Act 1988 ("the Act"). The use of Section 47 of the Act allows the government to implement the new relief without any new legislation having to be passed.
- 6.2 As Section 47 of the Act is technically a discretionary provision, local authorities are required to set up their own local schemes. The appendix to this report (the revised version of the Council's "Guidelines for applications for NNDR Discretionary relief" document) outlines the Council's local schemes in relation to both the new CARF scheme and other government changes that need to be implemented under Section 47 of the Act.

7.0 Finance Implications

- 7.1 There are no financial implications for the Council as the relief under the scheme will be fully funded from within the Council's funding allocation £88,711,692
- 7.2 The administration of the relief will be addressed via the government's Business Rate Retention scheme within their NNDR3 Return. On account Section 31 payments will be provided by the government to protect authorities' cashflow.
- 7.3 New Burdens funding will be provided by central government to support the Council's costs in administering the scheme.

8.0 Ward Member Consultation

- 8.1 The scheme applies to all Wards and therefore no separate Ward member consultation was required.

9.0 Carbon Impact

9.1 This report has no carbon impact implications.

10.0 Outstanding Issue

10.1 The Council has been awaiting central government to issue a set of CARF scheme FAQs before presenting this report for approval. However, this document appears to have been delayed and senior civil servants have stated that there should be no reason to await the FAQs before proceeding.

If you have any queries about this report or wish to inspect any of the background papers please contact: Martin Hinckley, on 07816 215828 or via email to

mhinckley@westminster.gov.uk

For completion by the **Cabinet Member for Finance, and Smart City**

Declaration of Interest

I have <no interest to declare / to declare an interest> in respect of this report

Signed: _____ Date: _____

NAME: _____

State nature of interest if any

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(N.B: If you have an interest you should seek advice as to whether it is appropriate to make a decision in relation to this matter)

For the reasons set out above, I agree the recommendation(s) in the report entitled **Covid-19 Additional Relief Fund (CARF)**

Signed

Cabinet Member for Finance, and Smart City

Date

If you have any additional comment which you would want actioned in connection with your decision you should discuss this with the report author and then set out your comment below before the report and this pro-forma is returned to the Secretariat for processing.

Additional comment:
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If you do not wish to approve the recommendations, or wish to make an alternative decision, it is important that you consult the report author, the Head of Legal & Democratic Services, Chief Operating Officer and, if there are resources implications, the Director of Human Resources (or their representatives) so that (1) you can be made aware of any further relevant considerations that you should take into account before making the decision and (2) your reasons for the decision can be properly identified and recorded, as required by law.

Note to Cabinet Member: Your decision will now be published and copied to the Members of the relevant Policy & Scrutiny Committee. If the decision falls within the criteria for call-in, it will not be implemented until five working days have elapsed from publication to allow the Policy and Scrutiny Committee to decide whether it wishes to call the matter in.