

## **Appendix A**

### **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
4. Central Government Prescribed schemes

The Non-Domestic Rating Act 2023 has enabled Local Authorities to back-date discretionary rate relief under Section 47 of the Local Government Finance Act 1988 without restriction from 1 April 2024 (in relation to 2023/24 onwards). The Council will retain the ability for the local scheme to backdate as far as legislation allows.

Applicants for discretionary rate relief under Sections 1 to 4 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, 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 and Council Reform 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 UK Subsidy Allowance Limits (the previous EU State Aid Limit)

### **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.
- Whether the business pays its employees the London Living Wage

## **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 and Council Reform to support the relevant recommendation from the Panel.

### **3 Council Guidelines for Hardship Relief**

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 part of the cost. Therefore, businesses are required to provide a written statement detailing how the local community benefits from their activities.
- Whether the business pays its employees the London Living Wage / has been accredited under the London Living Wage Foundation

### **3.4 Exclusions**

There are no exclusions.

### **3.5 Determination of Relief**

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 £15,000 (up from £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 and Council Reform to support the relevant recommendation from the Panel.



## **4 Central Government Prescribed Awards**

- 4.1 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.
- 4.2 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 the relevant government guidance.
- 4.3 In 2024/25, central government have asked that local authorities implement and administer the following schemes under Section 47 of the Local Government Finance Act 1998:
- 2024/25 Retail, Hospitality and Leisure Relief Scheme
  - Supporting Small Business relief
- 4.4 The City Council will implement and administer the following schemes in line with central government guidance documents, including any subsequent updated guidance documents:
- 2024/25 Retail, Hospitality and Leisure Relief Scheme
  - Supporting Small Business relief
- 4.5 For schemes administered under Section 47 legislation, businesses may choose to opt out of support by providing billing authorities with notification of their request to refuse support. Hereditaments (properties) where the ratepayer has refused the relief are outside of the scheme and outside of the scope of the decision on which hereditaments qualify for the discount and are therefore ineligible for the relief.
- 4.6 The City Council will make decisions which are conditional upon eligibility. If a change of circumstances renders a property ineligible, the Council will adjust the relevant NNDR accounts to reflect the change of eligibility / loss of relief and rebill accordingly, i.e. any award of relief is condition on the property's continued eligibility.

- 4.7 The discounts referred to above are limited to the financial years shown and will not continue into subsequent financial years.

### **UK Subsidy Allowance Limits (the previous EU State Aid Limit)**

#### *Trade and Co-operation Agreement*

1. Providing discretionary relief to ratepayers is likely to amount to a subsidy. Any relief provided by Local Authorities will need to comply with the UK's domestic and international subsidy control obligations (see the BEIS guidance for public authorities which explains the subsidies chapter of the UK-EU Trade and Cooperation Agreement (TCA), World Trade Organisation rules on subsidies, and other international subsidy control commitments).

#### *Minimal Financial Assistance*

2. To the extent that a Local Authority is seeking to provide relief that falls below the Minimal Financial Assistance (MFA) thresholds, the Subsidy Control Act allows an economic actor (e.g. a holding company and its subsidiaries) to receive up to £315,000 in a three-year period (consisting of the 2024/25 year and the two previous financial years). MFA subsidies cumulate with each other and with other subsidies that fall within the category of 'Minimal or SPEI financial assistance'. BEIS COVID-19 business grants and any other subsidies claimed under the Small Amounts of Financial Assistance limit of the Trade and Cooperation Agreement should be counted towards the £315,000 allowance.