



City of Westminster Cabinet Member Report

Decision Maker:	Cabinet Member for Finance, Property & Corporate Services
Date:	4 September 2017
Classification:	General Release
Title:	Revision of the Council's NNDR Discretionary Relief Guidelines, including the new Business Rate Revaluation Relief scheme
Wards Affected:	All
Financial Summary:	The inclusion of the new Local Discretionary Business Rate Revaluation Relief scheme in to the Council's NNDR Discretionary Relief guidelines will have no direct financial effect for the City Council, as spending under the fund will be met in full by central government up to the Year 1 funding allocation. The proposed revisions to the other elements of the existing guidelines will not have a financial effect for the City Council.
Report of:	City Treasurer

1. Summary

- 1.1 This report seeks approval of a revised version of the Council's guidelines for considering applications for NNDR Discretionary Relief, including a new set of guidelines for the administration of the Local Discretionary Business Rate Revaluation Relief Fund announced by the government as part of the Spring Budget.

2. Recommendation

- 2.1 That, having carefully considered the consultation responses, the revised NNDR Discretionary Relief Guidelines, including the delegated authorities for the City Treasurer and Head of Revenues & Benefits shown at Appendix C is approved.

3. Reasons for decision

- 3.1 The proposed guidelines document at Appendix C will, by providing criteria to be considered when making decisions, assist with robust and consistent decision-making.

4. Current guidelines

- 4.1 The City Council currently has an agreed set of guidelines for NNDR Discretionary Relief that encompass the following types of discretionary relief:

- NNDR Discretionary Charitable Relief
- NNDR Local Discounts (Localism Relief)
- Government Prescribed schemes administered under Section 47 of the Local Government Finance Act 1988

- 4.2 The guidelines are used by officers and councillors on the Rating Advisory Panel to consider applications for NNDR Discretionary relief.

- 4.3 Council officers have authority to determine applications within their delegated criteria guidelines, whilst the Council's Rating Advisory Panel considers all applications outside of officer's delegated authority and additionally any appeals from ratepayers in relation to officer determinations. The Cabinet Member for Finance, Property & Corporate Services will subsequently formally consider the recommendations of the Rating Advisory Panel before taking a decision.

5. Reason for the revision to the current guidelines

- 5.1 It has become necessary to amend the current guidelines due to the government's announcement at the Spring Budget of a Local Discretionary Business Rate Revaluation Relief Fund to support businesses most adversely affected by the NNDR Revaluation that took effect from 1 April 2017.

- 5.2 The above requirement to issue new guidelines has also given the City Council the opportunity to enhance the existing guidelines through:-

- The inclusion of the existing NNDR Hardship guidelines
- The updating of the current list of government reliefs that local authorities are expected to grant relief for under the existing NNDR Discretionary Relief legislation and which are fully funded by central government

- Clarification of the roles of officers and the Rating Advisory Panel for each type of relief

6 The Revaluation Discretionary Fund

- 6.1 As part of the Spring Budget the government announced that it would be allocating funding to local authorities to provide support to businesses that have been most adversely affected by the Revaluation. The effect of the Revaluation on Westminster's businesses is shown in a report to the Business Planning & Transport Policy & Scrutiny Committee on 12 June 2017 (see Appendix A)
- 6.2 A government consultation paper was subsequently issued outlining proposed funding levels for each local authority. The consultation proposed the following funding for Westminster:

2017/18	2018/19	2019/20	2020/21
£11,603,000	£5,636,000	£2,321,000	£332,000

The above funding levels have subsequently been confirmed. The 2017/18 funding for Westminster equates to only around 0.6% of our annual NNDR collection.

- 6.3 The City Council had, along with the rest of local government, been waiting for a government response to their previous consultation on the new fund, including further details of how the scheme will operate. However it is clear from recent government communications that the government expects local authorities to develop schemes on the current information available.
- 6.4 The proposed scheme shown below is based around a number of key questions. These questions and the Council's view is shown at Appendix B
- 6.5 Based on these questions, the proposed scheme will be:-
- a scheme for 2017/18 only (see 6.7)
 - based on an application process (see 6.10)
 - will allow any business that is occupying i.e. (no relief for empty properties) a property with a rateable value above £100,000 and has had an increase in their NNDR net liability above 20% in 2017/18 due to the Revaluation to apply for relief under the scheme (see 6.8). The property must be currently occupied and occupied consistently since at least 31 March 2017.

- Funding to be limited to the State Aid limit (see 6.10)
- The applicants must show that:-
 - a) Their business has been adversely affected by the NNDR Revaluation

and

 - b) The organisation brings some tangible benefit to the residents and / or businesses within the borough
- Relief will be granted based on the following table, although the Rating Advisory Panel will be able to consider relief above these levels in exceptional circumstances (subject to the State Aid limitations)

Increase in NNDR Charge in 2017/18 compared with 2016/17 (Note 1)	% Relief Granted (Note 2)	Number of Potential Cases	
Increase 35.00% +	7.5%	2,864	
Increase between 20.00% and 34.99%	5%	1,310	

Note 1 – The increase in charge is calculated as (Gross charge 2017/18 – Transitional Relief (if any) + Small Business Uplift / Gross charge 2016/17 + Small Business Uplift (2016/17)).
The Business Rate Supplement collected by the Council on behalf of the GLA is excluded from the calculation.

Note 2 – The relief percentage will be calculated against net NNDR liabilities and will be pro-rated if needed by any future NNDR liability changes, e.g. occupation changes.

- 6.6 The allocation of reliefs will need to be carefully monitored throughout the financial year to ensure that the level of relief granted does not exceed the level of government funding (£11.6M in 2017/18). Central government has recently confirmed that any underspend at year end cannot be carried forward to the next financial year.
- 6.7 At the point the Council's funding allocation is met, any new applications will have to be deferred for consideration until Year 2. Due to the significantly reduced funding levels in future years, it is only possible to consider a Year 1 scheme at the moment and therefore a Year 2 scheme will need to be agreed towards the end of 2017/18. This will also give the Council a chance to reflect on how the scheme has worked in Year 1 and how it can be improved in Year 2.
- 6.8 The level of protection for “Small” category properties (rateable value < £28,000) and “Medium” category properties (rateable value £28,000 to

£100,000) under the government's Transitional Arrangements in Year 1 (2017/18) is in line with previous government Transitional schemes. "Small" category properties' NNDR liabilities are limited to a maximum increase in 2017/18 of 5%, whilst for the "Medium" category increases are limited to 12.5%). The government's aim for the new scheme is to provide protection to those businesses most adversely affected by the Revaluation. The Council's response to the Transitional scheme consultation (included in Appendix A) highlighted the unfair high level of increase for "Large" businesses before the transitional scheme protection commences (i.e. a final figure of 42% increase in business rates before transitional relief commences was subsequently agreed by central government following the consultation exercise). In view of the above, it is proposed that the Council's NNDR Revaluation Discretionary scheme is limited to properties with a rateable value above £100,000 (the threshold for "Large" properties under the government's Transitional scheme). Any business with a rateable value below this level will still have the option to apply for relief under the existing NNDR Hardship scheme.

- 6.9 The table shown at 6.5 indicates the maximum number of businesses that could meet the eligibility criteria. It is however expected that a number of businesses will not wish to apply, consider that they do not meet the criteria or in the case of business chains will have already met the State Aid limit through applications outside of Westminster. The relief percentages shown in the table at 6.5 for successful applications has been based on the aim to fully award (but not exceed) our Year 1 funding allocation of £11.6M. If the number of applications exceeds the above estimate, applications after our funding allocation have been met can either be deferred until Year 2 of the scheme or considered under the NNDR Hardship provision if there is an urgent need. Alternatively, if the scheme does not appear that it will allow full use of our funding allocation, the scheme can be amended prior to year end.
- 6.10 The government has confirmed that the NNDR Revaluation scheme funding allocations will be limited by the EU State Aid rules, which means that a business cannot receive more than 200,000 Euros (£178,000) over a 3 year period. As this covers any State Aid received by a business at a national level the organisation will have to provide a statement of the level of State Aid relief, if any, received in the last 3 years. This will be included as a requirement within the application process.
- 6.11 Due to the expected high volume of applications, it is proposed that officers will determine applications meeting the criteria as outlined within the new Guidelines (Appendix C). Applications outside of the officer criteria and appeals against officer determinations, will be considered by the Rating Advisory Panel who will make recommendations to the Cabinet Member. There is therefore likely to be an increased workload for the Panel and discussions have commenced with the Council & Committee Secretariat about increasing the number of future panel meetings and potentially having more than one set of panel members.
- 6.12 Awards of relief will be notified to the relevant ratepayer. The notification will make it clear that the award is for the 2017/18 financial year only and that any

changes to the level of liability of a ratepayer after the award of relief will require a recalculation of the Discretionary relief entitlement, e.g. changes in liability resulting from rateable value changes, occupation status changes etc.

7. Other Changes to the Guidelines

7.1 The requirement to issue new guidelines for the new Local Discretionary Business Rate Revaluation Relief scheme has also given the City Council the opportunity to enhance the existing guidelines through the:

7.1.1 The inclusion of the existing NNDR Hardship guidelines

The Council's NNDR Hardship policy has been long established and works well. It is felt appropriate as Hardship relief is a Discretionary award that this should now be included in the Council's NNDR Discretionary Guidelines.

7.1.2 The updating of the current list of government prescribed reliefs that local authorities are expected to grant relief for under the existing NNDR Discretionary Relief legislation and which are fully funded by central government

In recent years the government has introduced a number of miscellaneous NNDR reliefs without separate legislation and has instead asked local authorities to implement the reliefs under Section 47 NNDR Discretionary legislation. In reality these reliefs are not at the discretion of local authorities, as the government expects the reliefs to be granted and the reliefs are fully funded by central government. The revised guidelines in this area remove some of the ceased "time limited" reliefs and include some new reliefs recently announced by the government.

7.1.3 Clarification of the roles of officers and the Rating Advisory Panel for each type of relief

It is felt that the addition of this information for each type of relief will help all parties to be clear of their roles within the process, in particular the delegated roles of officers.

8. Consultation

8.1 The government's scheme required the City Council to consult with the GLA regarding our proposed scheme. The council also consulted with the borough's Business Improvement Districts.

8.2 The Council received four responses to the consultation, including a comprehensive response from the GLA. Overall the responses were

supportive of the council's proposed scheme, with the GLA's response summarising the benefits of the council's scheme as follows:

- Generally targets resources at firms facing the highest increases in bills this year. i.e. those in the "Large" property transitional relief band facing year on year rises of over 20% in their bill
- Reflects the unique circumstances of Westminster which has the largest number of properties subject to the 42% transitional relief cap for "Large" properties in 2017-18 across England
- Ensures that support is provided to a variety of different types and sizes of business across the Westminster borough rather than been concentrated on specific localities or sectors
- Uses a default methodology which is straightforward to calculate and amend subsequently without requiring significant manual intervention
- Is relatively straightforward for ratepayers to understand and calculate how they will be affected
- The GLA recognises why, given the specific local impact of the Revaluation and the higher valuations in the City Council's area, the City Council has decided to focus support to ratepayers with valuations above £100,000 in 2017-18.

8.3 There were also some specific points raised in the consultation responses. The main points are outlined below along with the council's comments on each point:

- i) That the requirement for businesses to show how they benefit Westminster residents and businesses is too vague and maybe difficult for some businesses to demonstrate. The GLA also believe that the criteria should be expanded as to how the business benefits businesses & residents across Greater London rather than just in Westminster. The City Council believes that the proposed criteria is fair and will enable funding support to be delivered to businesses that support local services / local employment. This requirement mirrors the criteria used successfully for a number of years within the Council's existing NNDR Hardship arrangements.
- ii) Comments were made in in a couple of the responses to the table of reliefs to be granted under delegated authority (Paragraph 6.5). The comments were not consistent across the responses, however there was acceptance that the table had been compiled to reflect the protection already provided under the government's transitional scheme and the limited government funding available. It is therefore not proposed to adjust the table shown at paragraph 6.5.
- iii) One BID questioned the definition of a business "chain" as outlined in the proposed guidelines. The council is not proposing to exclude any

business chain from applying for relief. The definition is only to ensure that Members (rather than officers) consider applications from businesses meeting the “business chain” definition. It is therefore not proposed to adjust the definition.

9. Financial Implications

9.1 There are no direct implications arising from the report, as the government has committed to fully fund the Local Discretionary Business Rate Retention scheme up to our Year 1 funding allocation and spending will be monitored to ensure that this figure is not exceeded.

9.2 The other Discretionary reliefs within the Guidelines are covered within existing budgets, with the cost of Discretionary Relief and NNDR Hardship relief now effectively shared under the Business Rate Retention scheme on the following basis:

- Central Government	33%
- GLA	37%
- City Council	30%

9.3. The prescribed government reliefs shown at section 5 of Appendix C are fully funded by central government.

9.4 The government has provided some limited funding for the administration of the scheme (£12,000 plus £0.50 for each reissued bill).

10. Legal Implications

10.1 The liability for NNDR (Business Rates) is set out in the Local Government Finance Act 1988. Section 47 of the Local Government Finance Act 1988 allows a local authority to grant Discretionary Relief, this section was amended by the Localism Act 2011 and came in in January 2012 to allow local authorities to grant Discretionary Relief to any ratepayer, subject to the European rules on State Aid.

10.2 The Local Discretionary Business Rate Revaluation scheme will also be administered under the same legislation.

10.3 Section 49 of the Local Government Finance Act 1998 enables a local authority to grant Hardship relief up to 100% of the NNDR liability.

11. Outstanding Issues

11.1 There are no outstanding issues.

12. Ward Member Consultation

- 12.1 There is no requirement for separate Ward Member consultation as the proposal relates to all wards.

If you have any queries about this report, please contact: Martin Hinckley
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Background Papers : The four consultation responses are available upon request

For completion by the **Cabinet Member** for Finance, Property and Corporate Services

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

.....
(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

Revision of the Council's NNDR Discretionary Relief Guidelines, including the new Local Discretionary Business Rate Revaluation scheme

Signed

Cabinet Member for Finance, Property and Corporate Services

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:
.....
.....

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, Director of Finance and, if there are resources implications, the Strategic Director of 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.

Appendix A – Report to the Business Planning & Transport Policy & Scrutiny Committee report - 12 June 2017

Appendix B – Local Discretionary Business Rate Revaluation Relief – Key questions

- a) Do we want to limit applications to businesses within a particular rateable value range?

The proposed scheme is based on a minimum rateable value of £100,000, as it is believed that properties categorised as “Small” under the government’s 2017 Transitional scheme (rateable value <£28,000) and the “Medium” category (£28,000 - £100,000 rateable value) are adequately protected by the Transitional Scheme, which limits increases in their business rates to 5% for “Small” businesses and 12.5% for “Medium” businesses. Any businesses in the “Small” and “Medium” categories will still have the option to seek relief under the existing NNDR Hardship legislation.

It is not proposed to have an upper rateable value limit within the scheme, although any awards of relief will be subject to the State Aid limit (£178,000 over a 3 year period)

- b) Do we wish to target any types of business?

No

- c) Do we want to exclude any types of business?

No

- d) Do we wish to target businesses in any geographical areas?

No

- e) Do we want to set a maximum or minimum level of relief that can be granted or set amounts in banded ranges? .

It is proposed that set percentage reductions in net NNDR liability are awarded based on two banded ranges of increase in NNDR liability between 2016/17 and 2017/18. Awards will be subject to the State Aid limit

- f) Do we wish to only support occupied premises, i.e. no relief to owners of empty properties?

Yes – only occupied properties

- g) Are we happy supporting businesses with more than one address, i.e. should the scheme exclude chains?

Yes, but applications from business chains (businesses with more than 2 properties at a national level) will be determined by the Rating Advisory Panel, rather than under officer delegated authority

- h) Do we wish to support businesses irrespective of their annual turnover?

Yes

- i) Should we limit relief to businesses in receipt of other forms of NNDR relief?

No

- j) Are we looking at this stage for just a Year 1 scheme that will be amended for Year 2, 3 and 4?

Year 1 only at this stage

Appendix C - NNDR Discretionary Relief Guidelines