



# City of Westminster Cabinet Member Report

<b>Decision Maker:</b>	Cabinet Member for Finance, Property and Regeneration
<b>Date:</b>	25 September 2020
<b>Classification:</b>	General Release
<b>Title:</b>	National Non Domestic Rates (NNDR) Hardship Relief Policy for the 2020/21 Financial Year
<b>Wards Affected:</b>	All
<b>Policy Context:</b>	To maintain a low Council Tax
<b>Financial Summary:</b>	The cost of NNDR Hardship relief is governed by the Council's end of year position within the Business Rate Retention Scheme. However, the cost to the Council will not exceed 30% of the total amount of Hardship relief awarded in the financial year 2020/21
<b>Report of:</b>	Martin Hinckley Director of Revenues & Benefits

## 1. Executive Summary

- 1.1 This report seeks a change to the Council's current policy on NNDR Hardship relief for the 2020/21 financial year within the "Guidelines for applications for NNDR Discretionary relief" policy document.
- 1.2 A change is required to the policy / process for administering NNDR Hardship claims due to the increase in volume of applications resulting from the pandemic. In 2019/20 the Council received 34 applications, however in 2020/21 the Council has so far received 570 applications.

## 2. Recommendation

- 2.1 That the Council's Guidelines for applications for NNDR Discretionary relief policy document is amended as shown at Appendix A to reflect a change of policy and process for NNDR Hardship Relief applications received in relation to the financial year 2020/21.

### **3. Reasons for Decision**

- 3.1 The current NNDR Hardship arrangements are unworkable due to the increase in the number of applications arising from the pandemic.
- 3.2 The recommended policy / process will allow the Council to meet its statutory requirements to consider (“apply its mind”) requests for NNDR Hardship relief.
- 3.3 The process will ensure that each applicant has sought advice from the Council’s Business and Enterprise team and also exhausted all options to mitigate losses in business income / reduce business cost, which in turn should ensure that the Council utilises its limited funds to support the most appropriate businesses.

### **4. Current Policy / Procedure**

- 4.1 Section 49 of the Local Government Finance Act 1998 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
- 4.2 The Executive Director of Finance and Resources and the Director of Revenues and Benefits currently 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 lower.
- 4.3 The Rating Advisory Panel determines applications outside of the criteria for an officer determination and appeals against an officer determination.

- 4.4 The following factors are currently considered by the Rating Advisory Panel when deciding whether to recommend the granting of NNDR Hardship relief:
- Whether the accounts of the business are in order and show evidence of financial difficulty. Consideration is 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 the borough's council taxpayers who meet part of the cost (the remainder of the cost being met by central government and the GLA). Therefore, businesses are required to provide a written statement detailing how the local community benefits from their activities.
- 4.5 The Rating 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.
- 4.6 The Rating Panel makes recommendations to the Cabinet Member for Finance, Property and Regeneration who makes the formal determination.

## **5. Proposed Policy / Procedure**

- 5.1 The pandemic has resulted in an increase in NNDR Hardship applications that make the current policy / process unworkable. In 2019/20 the Council received 34 NNDR Hardship applications, whilst since the pandemic the Council has received 570 applications to date.
- 5.2 It is proposed that a revised policy / process is introduced for NNDR Hardship applications relating to the 2020/21 financial year. Applications relating to previous financial years will continue to be addressed through the Rating Advisory Panel and the existing arrangements.
- 5.3 There have so far been 570 applications for NNDR Hardship relief (some businesses have applied for more than one rate account). Each business has been contacted by the Council's Business & Enterprise team to offer an appointment to provide guidance and support, including the identification of other financial support that is available.
- 5.4 The exercise undertaken by the Business & Enterprise team is considered a significant success. The outcomes are summarised below:

	<b>Rate Accounts</b>
<b>Hardship Applications</b>	<b>570</b>
Number did not engage	187
Number of appointments held	383
<b>Number found alternative funding</b>	
Confirmed by business rates	44
<b>Number to proceed to hardship application process</b>	<b>339</b>

- 5.5 Each of the 187 businesses that failed to engage with the Business & Enterprise team each received an appointment request and at least one reminder. These businesses will have their NNDR Hardship applications discontinued.
- 5.6 It is proposed that the remaining 339 rate accounts of the businesses that attended an appointment and which have shown that they have exhausted all other avenues of financial support will proceed to a NNDR Hardship application process. It should be noted that 33 businesses have applied for multiple rate accounts (172 in total, with one business applying for 78). This equates to a total of 200 businesses applying covering 339 rate accounts.
- 5.7 It is proposed that the application process follows a similar format to that successfully utilised for the Council's Discretionary Grant scheme.
- 5.8 The Council needs to consider (apply its mind) to all NNDR Hardship applications, i.e. no application can be automatically discounted due to any specific criteria. However, it is proposed that each application is evaluated / scored against the following criteria:
- 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, including through local employment?
  - 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) The level of local employment by the business
- 5.9 The evaluation scores will be aggregated into a league table format, i.e. to produce a scoring threshold for awards in line with paragraph 5.8 of this report.

- 5.10 In order to support as many businesses as possible, it is proposed that 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**. It is considered that this will allow the estimated level of funding to support as many businesses as possible, whilst at the same time providing a reasonable level of funding for each successful business.
- 5.11 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. It is therefore proposed that the award letters for companies limited at the £10,000 level are 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 (see paragraph 5.13).
- 5.12 In accordance with the NNDR Hardship legislation, the Council in making awards must consider the cost of awards in relation to borough's Council Taxpayers. As such it is proposed that the above methodology is used to allocate 50% of the estimated funding as shown in section 6 of this report for the first round of 339 rate account applications. The remainder of the funding will be utilised to consider new NNDR Hardship claims received during the rest of 2020/21 (an increase in applications is expected once the Council commences the recovery process). The scoring process for these additional rounds of applications will follow the same format as for the first round, including appointments with the Business & Enterprise team and the same scoring threshold for awards.
- 5.13 The above proposal will result in recommendations of NNDR Hardship relief being made to the Cabinet Member for Finance & Property & Regeneration via Cabinet Member reports at various stages within the financial year.
- 5.14 Any 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.

## **6. Financial Implications**

- 6.1 The Business Rate Retention scheme makes the calculation of the cost to the Council of NNDR Hardship relief difficult to forecast. However, the cost for the Council should not exceed 30% of any NNDR Hardship relief granted in 2020/21.
- 6.2 It would be prudent for the Council to plan its funding contribution cost for NNDR Hardship relief awarded in the 2020/21 financial year, say of around

£600,000, which would equate to an overall funding level of £2M for NNDR Hardship allowances in 2020/21. The GLA and central government will fund the balance.

## **7. Legal Implications**

7.1 The legal implications are as outlined within the report.

## **8. Ward Member Consultation**

8.1 This report relates to all Wards and there is therefore no requirement for separate Ward Member consultation.

## **9. Outstanding Issues**

9.1 There are no outstanding issues.

**If you have any queries about this report please contact: Martin Hinckley, on  
07816 215828 or via email to**

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City Solicitors authorisation memorandum dated 20 July 2018 (Confidential)  
For completion by the **Cabinet Member for Finance, Property and Regeneration**

**Declaration of Interest**

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

Signed: \_\_\_\_\_ Date: \_\_\_\_\_

NAME: **Councillor Melvyn Caplan**

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

**NNDR Hardship Relief Policy for the 2020/21 Financial Year**

and reject any alternative options which are referred to but not recommended.

Signed .....

**Cabinet Member for Finance, Property and Regeneration**

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.