



# **Business Rates Hardship Relief Policy**

## VERSION CONTROL

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## **1.0 Introduction**

- 1.1 Section 49 of the Local Government Finance Act 1988 gives the Council discretion to reduce or remit the payment of business rates where it is satisfied that the ratepayer would sustain hardship if it did not do so and that it is reasonable to award relief, having taken into account the interests of the Council Tax payers.
- 1.2 The Welsh Government meets 75% of the cost of funding this relief, with the Council meeting the remaining 25%.

## **2.0 Hardship**

2.1 The legislation does not give a definition of hardship however the Council determines hardship as:

- The ratepayer is able to satisfy the Council that they are not able to meet their full Business Rates liability or part of their liability.
- The ratepayer is able to demonstrate that all reasonable steps have been taken to meet their full Business Rates liability.
- The ratepayer can prove that their current circumstances are unlikely to improve in the following 12 months making payment of the Business Rates impossible.
- The ratepayer has no access to assets that could be realised and used to pay the Business Rates.
- Enforced payment of their full Business Rates liability would result in severe hardship and the closure of the business or significant job losses.

## **3.0 Policy Principles**

3.1 The Council has determined the following policy principles:

- All grants of hardship relief are only intended as short term assistance and will not extend beyond the current financial year of the bill and should not be considered a way of reducing Business Rates liability indefinitely.
- Applicants may apply for hardship relief each financial year and the Council will determine each application on its own merits.
- Hardship relief will be the exception and not the rule.
- There must be evidence of hardship that justifies a reduction in Business Rates liability.

- The Council must be satisfied that the ratepayer has taken reasonable steps to resolve their situation prior to application including taking financial advice.
- There is a direct benefit to the ratepayer or the community or no adverse impact to other ratepayers or the community as a result of awarding relief.
- The cost to local Council Tax payers is proportional to the benefits of the community.
- The ratepayer's business has been detrimentally affected by circumstances beyond the ratepayers control and that do not constitute part of the normal risks in running a business i.e. a natural disaster or an unusual or uncontrollable event in the neighbourhood of the business.
- By refusing to award the relief this may result in the loss of the business. The impact on local amenities must be considered if the business is the sole provider of a service in the local area i.e. the only village shop.
- By refusing to award the relief may result in the loss of the business. The impact on employment prospects in the local area must be considered i.e. if the closure results in a large number of redundancies, the social aspect of increasing unemployment and the possible negative impact in attracting further investment in the area must be considered.
- The Council's finances allow for a reduction to be made and it is reasonable to do so.

#### **4.0 Application process**

- 4.1 All applications should be made in writing, on the relevant form, from the ratepayer, their advocate/appointee or a recognised third party acting on their behalf, who the Council has accepted, and the ratepayer has given appropriate authorisation to them to discuss their affairs.
- 4.2 All applications should be supported, where applicable, by audited financial accounts over a 2 year period including income and expenditure, a balance sheet as well as supporting evidence such as the business plan to get the business onto a sound financial footing.
- 4.3 All applications will be considered on their merits. In coming to an individual decision we will consider a combination of the following factors:

##### **Financial Factors**

- Income and outgoings - i.e. how is the organisation/individual doing financially. What expenses do they have and what money have they coming in
- Reserves - Does the organisation / individual have any reserves, is the hardship just a temporary measure and could be covered by reserves.
- Other shops / areas of business - Is this a one premises business or are there other areas of the business which could offset any hardship.

- Excessive Outgoings - Is the hardship caused by excessive outgoings, are the level of drawings too large, is the organisation / individual renting excessively large or expensive premises.

#### History and Future Planning

- What was the reason for the hardship - is there a recognisable one-off reason for the hardship, or is it just a slowdown in trade, or even that the business is just not sustainable.
- Is there an improvement plan - does the organisation / individual have an improvement plan to relieve them of hardship and if so what are the chances of success.
- Will the granting of hardship be effective - will the organisation / individual still be unsustainable even with the granting of a reduction in the non-domestic rates liability. Will the money spent by the authority have any longer term benefit or will it just delay the inevitable

#### Loss of Amenity

- What would be the effect on the local community - would the local community suffer if the organisation / individual were no longer in existence.
- Are there other similar businesses - if the applicant no longer occupied the premises would the existence of other organisations / individuals mean that there would be no or insignificant loss of amenity
- What area / group is served by the applicant - does the ratepayer serve a limited target audience or do large sectors of the Birmingham community benefit from their existence.
- Another vacant property? - are there other empty properties in the area and another empty property would degrade the area further and be detrimental to the local public.

#### Employment Implications

- Number of people employed - What number of people are employed by the organisation / individual and would their jobs be in danger if hardship was not granted.
- How many live in Flintshire - If the reason for granting hardship is to prevent job losses, are those employees protected residents of Flintshire County Council.
- Are employees family members - Are the people employed by the organisation / individual members of their family or are any vacancies open to the general public
- Are the employees taken from an unemployment black-spot - Is the organisation / individual situated in an area where jobs are more difficult to obtain, or are they in an area when the employees would have a greater chance of finding other employment.

#### External Factors

- Consideration should be given when certain regional, national or global factors affecting hardship are beyond the organisation's control, particularly when central government provides extra funding and including consideration of rules of state aid.

The Council is only able to support applications for hardship relief under these provisions, where we are satisfied on all of the following counts:

- That exceptional hardship is demonstrated;
- That the business is responsible for providing a local amenity and/or employment to Flintshire residents;
- That notwithstanding this hardship, the business has a credible future; and
- That a short term award of hardship relief will materially serve to ensure the future of the business, the continued provision of the amenity and/or employment opportunities: and
- That there is sufficient budgetary provision available to meet the Council's commitment to fund the relief.
- There is no minimum award period. The maximum is 12 months but this would only be in the rarest of circumstances.

4.4 Applications will usually be determined within 28 days of receiving sufficient information.

4.5 The ratepayer will be informed in writing of the Council's decision, the reasons for the decision and receive a revised Business Rates demand if appropriate.

## **5.0 Restrictions on awarding Hardship Relief**

5.1 Hardship relief should only be awarded once to each eligible ratepayer. The Council expects the ratepayer to take the opportunity of any relief granted to place their financial affairs in proper order. However, applicants may reapply for relief each financial year with each application being considered on its own merits.

5.2 Hardship relief will only be granted if there is sufficient budget available for the financial year in which an application is determined.

**If there are extreme circumstances where hardship relief may need to be awarded beyond the Council's annual budgeted figure then this will be considered under delegated powers and recorded as a financial pressure if awarded.**

5.3 The award of hardship relief must comply with the European Union law on State Aid. Under the De Minimis Regulations (EC 1407/2013) the ratepayer should not receive more than €200,000 in total of De Minimis aid within the current financial year or the two previous financial years.

## **6.0 Conditions and Duties of the Ratepayer**

6.1 The ratepayer agrees that he/she must let the Council know immediately either by phone or in writing about any changes in their circumstances which might affect the claim for hardship relief. Failure to do so will result in the withdrawal of the total amount of hardship relief granted for the year and the requirement to repay this to the Council.

- 6.2 The ratepayer agrees that any application for hardship relief does not negate in any way the ratepayer's obligation to pay Business Rates as demanded.
- 6.3 Relief will not to be granted where the amount is outstanding as a result of wilful refusal or culpable neglect on the part of the ratepayer to pay Business Rates.