

# Policy for Business Rate Relief on the Grounds of Hardship

2018-19 onwards

## **1 Background**

- 1.1 Under section 49 of the Local Government Finance Act 1988, the Council has a discretionary power to allow Business Rates relief to relieve hardship. The hardship does not necessarily need to be financial in nature.
- 1.2 In considering applications for hardship relief the Council must have regard for the interest of the community as a whole. This includes the cost to the community and the benefits, or disadvantages of awarding hardship relief.

## **2 Costs to the Council**

- 2.1 The Council is with effect from April 2018 part of the Berkshire Rates Retention Piolet and this has changed the costs of awarding Hardship Relief. This means that with effect from the 1st April 2018 the Council will bear the full cost of the relief.

## **3 Policy**

### **Business Rates**

- 3.1 There is no definition in the legislation for 'hardship', and as the scheme is aimed at covering unforeseen events it is not possible to list precise criteria.
- 3.2 However, a 'crisis' would have to result in a serious loss of income, trade or have a major effect on the services that can be provided for Business Rates
- 3.3 'Exceptional circumstances' will usually be circumstances that are outside the control of the business or organisation and are beyond the normal risks faced by businesses. The effect of strikes within a business or organisation increased running costs and increased competition would not be considered as 'exceptional circumstances' as they are normal business risks.
- 3.4 As a general rule, circumstances that would be covered by a commercial insurance policy or by compensation from public funding would not be considered
- 3.5 The Council recognises that there may be occasional circumstances in which the use of this power is beneficial to ratepayers or the community. However, in accordance with Government guidelines it accepts that this power should be used sparingly and only in the most exceptional circumstances.
- 3.6 All requests for hardship relief will be considered on an individual basis and decisions will be made in accordance with this policy and where the Council is satisfied that:
  - a) The ratepayer will suffer hardship if the relief is not granted

b) There is a direct benefit to the ratepayer, or the community, and there is no adverse impact to other ratepayers or the community as a result of awarding relief

c) The cost to local taxpayers is proportional to the benefits to the community

#### **4 Applications**

4.1 Applications must be made in writing by the ratepayer, their agent or someone authorised to act on their behalf .

4.2 Applications must provide the following information as appropriate

For Business Rates

1. The reason for the application
2. A set of the most recent accounts
3. A set of the last audited accounts
4. An up to date trading statement showing the current financial situation of the business
5. Details of the amount of relief requested
6. An explanation of the benefits to the community arising from and award of relief.
7. All other eligible discounts/reliefs have been awarded to the ratepayer.
8. The liable person for a unoccupied property has made their best efforts to sell or let the property and to levy a Business Rates charge would cause them exceptional financial hardship.
9. The Council's finances allow for a reduction to be made and it is reasonable to do so in light of the impact on other chargepayers and the community.

#### **5 Additional Items**

5.1 The following items contained in the policy for the award of relief for charities and not-for-profit organisations will also apply in respect of applications for business rate relief on the grounds of hardship.

## **6 State Aid Regulations**

- 6.1 There are European Union regulations which restrict the award of state aid and under certain circumstances the award of discretionary relief could be considered to be state aid.
- 6.2 These circumstances in which the EU regulations need to be considered will be where the organisation engages in commercial activities or competes with commercial bodies because of an activity it carries out. For example a not for profit training organisation that also provides training services to businesses.
- 6.3 If the organisation undertakes any commercial activity it must be commercially insignificant and localised so that there is no potential impact on intra-community trade, otherwise the regulations governing state aid will apply.
- 6.4 Guidance on State Aid is available via the government web site at <https://www.gov.uk/government/publications/enterprise-zones-state-aid-and-business-rate-discounts>
- 6.5 All businesses applying for any Business Rates relief will need to confirm any other state aid they are receiving.

## **7 Information to Support Applications**

- 7.1 In addition to the standard application form ratepayers will be required to supply supporting information such as audited accounts and articles of association. In some circumstances the Council may decide that it is necessary for one or more officers to visit the rated premises to establish further facts.
- 7.2 In some instances the Council may require the applicant to visit the Council's offices to provide verbal information in support of the application. Where a visit is required the Council will give a minimum of fourteen days notice of the date the visit is required.
- 7.3 The Council will not consider applications where the ratepayer has failed to provide information that has been requested, or where the ratepayer does not cooperate with the Council's request to visit a property.
- 7.4 It is recognised that some organisations may not currently keep records of sufficient detail to provide the information that is normally required to support an application. Where the Council is satisfied that the information is genuinely not available, and that the organisation has co-operated to provide all information that is available, the Council will consider the application based on the information provided. Only one application will be considered in this way, and future applications must provide all information that is required.

## **8 Authority to award relief**

- 8.1 All applications will be considered on an individual basis by the Head Revenues and Benefits who will provide an in depth report and recommendations which will include but not be limited to review sheet, with findings and financial implications and initial recommendations to the Council's Section 151 officer.
- 8.2 All applications for awards of Hardship Relief will be determined by the Council's S151 Officer.
- 8.3 All applications for awards of Hardship Relief will be subject to a maximum award of the equivalent of 6 months Business Rates payable.
- 8.4 A written record will be kept of the decision and of the factors considered in the process. This record will be available to the applicant free of charge on request.
- 8.5 The decision will be notified to the applicant in writing
- 8.6 Appeals against awards to be determined by a Member Appeals Panel.
- 8.7 Details of the recipients and the amount of awards will be reported to the Cabinet annually.

## **9 Interests of Officers and Members**

- 9.1 Officers and Members who have an interest in any aspect of an application for relief must not participate in the decision making process and must declare their interest.
- 9.2 Examples of interests include those in the following list. However, the list is not intended to be exhaustive.
  - An interest in the business making an application
  - A close relative who has an interest in the business making an application
  - An interest in the property for which the relief is being sought
  - In interest in a similar business

Where an officer is unsure whether they have an interest they should seek advice from the Section 151 Officer . Where a Councillor is unsure whether they have an interest they should seek advice from the Council's Monitoring Officer.

These three Heads Service Leads (i.e. Section 151 officer, Democratic Support & Legal) may in turn need to liaise with the Head of Revenue and

Benefits on any case referred to them (e.g. where cases of conflict of interest will need to be monitored by Revenue Services on an on-going basis).

## **10 Appeals**

- 10.1 There is no statutory right of appeal against a decision regarding a hardship relief decision made by the Council. However, the Council recognises that ratepayers should be entitled to have a decision reviewed objectively if they are dissatisfied with the outcome.
- 10.2 The Council agrees to abide by the following appeals process and aggrieved ratepayers should make an appeal in accordance with the process.
- 10.3 Ratepayers will be notified of the appeals process in writing at the time that they are notified of the outcome of their request for rates relief.
- 10.4 This appeals process does not affect the Ratepayers legal rights.

## **11 Appeals Process**

- 11.1 Appeals may only be made by the original applicant. An appellant may appoint an agent to act on their behalf and in such cases the Council will require written authorisation from the appellant before dealing with their agent.
- 11.2 Appeals against decisions will be considered by the Members Appeal Panel. Decisions on appeals made by the Members Appeal Panel will be final.
- 11.3 Applicants must make an appeal within four weeks of the issue of the letter notifying them of the Council's decision.
- 11.4 Applicants will be notified of the date on which the appeal will be considered, which will be within eight weeks of receipt of the appeal, or as soon as reasonably practicable thereafter.
- 11.5 Applicants may appeal against the decision to award or not award relief, or against the level of relief awarded.
- 11.6 Appeals must be made in writing and must give the reasons why it is believed the decision should be amended. New or additional information may be included, but only if it is relevant to the decision making process.
- 11.7 The appellant does not have a right to appear in person but may make a request to present evidence in person. Such requests will be considered at the discretion of the Members Appeal Panel as appropriate.
- 11.8 The Members Appeal Panel can request a meeting with either the applicant and/or the appropriate Revenues and Benefits officer to hear evidence in

person. The Members Appeal Panel may nominate a representative or representatives to attend such meetings on its behalf.

- 11.9 Each application will be considered individually on its merit.
- 11.10 The appeal decision may be adjourned if further information is required from either party.
- 11.11 The applicant will be informed of the final decision, and the reasons for the decision within four weeks of the hearing.
- 11.12 Submitting an appeal does not affect the appellant's legal rights to challenge a decision made by the Council through the Judicial Review process.

## **12 Discontinuation of Applications or Appeals**

- 12.1 If the Council has requested further evidence from the Ratepayer and this has not been received within four weeks the application or appeal will be deemed to have been discontinued.
- 12.2 Ratepayers will be notified in writing in these circumstances

## **13 Notifications and payment of award**

- 13.1 The Council will consider applications within six weeks of the application and all supporting information being received or as soon as practicable thereafter.
- 13.2 Notification of the outcome of the decision will be made in writing within fourteen days of the decision being considered.
- 13.3 If your application is successful, the balance on your Business Rates account will be reduced. The maximum amount of help is 100% of your Business Rates liability. Any hardship payment will be made by way of reduction to your Business Rates charge.

## **14 Amount of Relief**

- 14.1 Relief may be awarded as a fixed sum or as a percentage of the rates bill.

## **15 Duration of Relief**

- 15.1 Relief will normally only be awarded retrospectively. However, where the applicant can show that the circumstances will remain the same for a period up to the end of the current financial year relief may be award for the remainder of the year.

In all cases relief will end in the following circumstances:

1. At the end of a financial year
2. A change of liable person
3. The property becomes empty, or become occupied
4. The ratepayer enters any form of formal insolvency
5. The ratepayers financial circumstances change (the ratepayer must inform the Council if their circumstance change)

## **16 Examples of appropriate circumstances**

- 16.1 The following examples indicate circumstances where it may be appropriate to award relief. They are included in this policy in the form of broad general guidelines and are not intended to be prescriptive.

In the first instance the District Valuation Officer will be asked to review the assessment.

- a) The ratepayer is severely or terminally ill
- b) Without rate relief the business will close and deprive local residents of an essential service.
- c) 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 (e.g. a natural disaster, an unusual or uncontrollable event in the neighbourhood of the business such as a fire making the immediate area of the business unsafe).

## **17 Action to recover unpaid Business Rates**

- 17.1 Once an application, or an appeal, is received for Hardship Relief no action will be taken to recover unpaid charges until fourteen days after the decision has been notified to the ratepayer.
- 17.2 In the event of an application or appeal being discontinued recovery action may be commenced seven days after the Ratepayer has been notified of the discontinuation.

## **18 Promotion of Rate Relief**

- 18.1 The Council will promote the availability of hardship relief, and this policy, in the following ways.
- All demands will have accompanying information explaining the availability of relief.



- Employees who deal with enquiries from Ratepayers will be trained in all aspects of this policy
- The Council will work in partnership with other organisations that may have a stake in this area.
- The policy will be published on the Council's web site and printed copies will be made available to ratepayers and other stakeholders on request.