

Mid Sussex

POLICY FOR THE AWARD OF HARDSHIP NON DOMESTIC RATE RELIEF

Rate Relief on the Grounds of Hardship Relief

Introduction

1.0 This policy relates to the Hardship rate relief that the Council has a discretionary power to award under Section 49 of the Local Government Finance Act 1988.

2.0 Reasons for the policy

2.1 This policy has been agreed by the Council to ensure all ratepayers making applications for Hardship relief are treated in a fair, consistent and equal manner.

2.2 This policy

1. Sets guidelines that should be considered when making a decision to award or refuse an application
2. Establishes a framework to ensure applications are dealt with in an efficient manner
3. Sets out the authority to award Hardship relief in appropriate circumstances
4. Establishes an appeal procedure for organisations that are dissatisfied with the Council decision
5. to ensure that it is reasonable for the Council to grant the relief having due regard to the interests of the Council Tax payers

3.0 Legal Background

3.1 The Council has a discretionary power to allow rate relief to relieve hardship.

3.2 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.

4.0 Financial information

4.1 There is a cost to the council of 25% of the total amount awarded which must be met from the Councils general fund. The remaining cost is borne by Central Government.

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

5.0 Policy

5.1 All requests for Hardship will be considered on an individual basis and decisions will be made in accordance with this policy and where the Council is satisfied that:

1. The ratepayer will suffer hardship if the relief is not granted
2. If the ratepayer is providing a vital service to the community which can not be provided from elsewhere and/or the benefit to the local council tax payers is out weighed by the cost of providing the relief
3. The application is of an exceptional nature and not merely due to normal market forces or general economic conditions affecting a number of local businesses
4. The property is a shop/service that is vital to the community, proof must be supplied as evidence and that the nearest alternative provider of this service or shop of a similar nature is a fair distance away.

5.2 A report will be prepared outlining all applications and will be passed to the Cabinet Member for resources for consideration. It is a requirement of the regulations that granting Hardship relief should be in the interests of the community as a whole. If the decision of the Cabinet Member is that it is not in the interests of the community as a whole to grant Hardship Relief then the said decision will be final with no appeal.

5.3 Relief will be awarded for the Financial year in which it has been applied for.

5.4 Relief will cease in the following circumstances:

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

6.0 Applications

6.1 Annex 1 sets out the criteria and information required before and application can be considered.

6.2 Applications must be made In writing by the ratepayer or their agent.

7.0 Examples of appropriate circumstances

7.1 The following indicate examples where it may be appropriate to award relief. They are included in this policy in the form of broad general guidelines are not intended to be rigid

1. The ratepayer is severely or terminally ill
2. Without rate relief the business will close and deprive local residents of an essential service
3. The ratepayer's business has been detrimentally affected by circumstances beyond their control and 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)

NB in addition, it must be in the interest of the community as a whole for Hardship Relief to be granted

ANNEX 1

**SECTION 49 LOCAL GOVERNMENT FINANCE ACT
(DISCRETIONARY HARDSHIP RELIEF)**

All applications are to be made in writing, providing comments and evidence concerning each of the 10 criteria points shown below:

GENERAL CRITERIA FOR CONSIDERATION

1. Are the circumstances giving rise to the application exceptional? What are those circumstances and could the ratepayer have anticipated them?

Government guidelines suggest that the factors giving rise to the hardship should be of an exceptional nature rather than the rule and the council will normally need to be satisfied that the hardship is not just due to normal market forces or general economic conditions affecting a number of local businesses.

It will also need to consider whether hardship is wholly or partially due to trading competition, over optimism of turnover/profitability or the failure to anticipate liabilities normally payable by an owner or occupier. Even if some of those factors exists, the Council may on the other hand, still consider an application if the ratepayer is providing a vital service to the community which cannot be provided from elsewhere and/or where the benefit to the local Council Tax payers is outweighed by the cost of providing the relief. Each case is considered on its own merits and all relevant factors will be taken into consideration.

2. Can the ratepayer demonstrate actual hardship now? How does this compare to that of a few months or a year ago and what is the trading forecast for the next 12 months?

The Council would need to see the previous 2 years accounts, a current trading statement and trading forecast for the next 12 months. Information of the value of any assets is to be supplied.

3. What is the amount of relief being requested and/or for what period?

4. What steps has the Ratepayer taken to mitigate losses?

5. Has the ratepayer taken any steps to obtain/increase an overdraft or loan from his/her bankers or shareholders in order to resolve any cash flow difficulties?

6. What would be the consequences to the Business and the Local Community if the Council were to decline to grant some or all of the hardship relief requested?

7. Is there sufficient equity which would allow the Ratepayer to agree that the Council can place a Charging Order on the rated property as an alternative to enforcement or hardship relief and thus delay payment until a sale can be arranged?

8. Does the ratepayer have any other debts which may result in another creditor taking action to enforce recovery or commence insolvency proceedings?

9. Does the ratepayers business provide a service to the local community and which is not provided elsewhere within the town? If so please provide:

1. *What range of products does the shop offer*
2. *Opening hours*
3. *No. of employees*
4. a) *Does the shop have a sub post office*
b) *Are pensions paid at the sub post office?*
5. *Does the shop offer a local delivery service?*
6. *Does the shop provide any other local service?*
7. *Is your business convenient & easily accessible for the elderly and disabled?*
8. *If your business were to close, what would be the effect on the elderly and the disabled in the community?*

10. Any other relevant factors applicable to the individual application or factors which the applicant wishes to be taken into account.

The Council will also need to consider the following:

- **Does the granting of relief constitute State Aid?**
- **What would the cost to the Council Tax payers be if relief were to be granted and, where no contingency budget exists, would the Council have to delay, reduce or curtail the provision of other services provided from existing budgets, draw from reserves and/or increase future Council Tax charges.**