

## URGENT BUSINESS AND SUPPLEMENTARY INFORMATION

**Executive**

**1 November 2010**

Agenda Item Number	Page	Title	Officer Responsible	Reason Not Included with Original Agenda
9.	(Pages 1 - 10)	<p>Hardship Relief (for National Non Domestic Rates)</p> <p><b>**Please note the wrong appendix was supplied for this agenda item. These pages replace agenda pages 167 – 178**</b></p>	Head of Revenues and Benefits	N/A

*If you need any further information about the meeting please contact James Doble, Legal and Democratic Services james.doble@cherwell-dc.gov.uk (01295) 221587*

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DISTRICT COUNCIL  
NORTH OXFORDSHIRE

## **BUSINESS RATES DISCRETIONARY HARDSHIP RELIEF POLICY**

### **A. Scope of This Policy**

This policy is in respect of Discretionary Hardship Rate Relief only. Section 49 of the Local Government Finance Act 1988 gives charging authorities the discretion to reduce or remit the payment of rates for any ratepayer. A charging authority can reduce or remit the payment of rates where it is satisfied that the ratepayer would sustain hardship if it did not do so and it is reasonable for it to do so having regard to the interests of its council tax payers.

It is for each charging authority to decide on the facts of each case whether to exercise its powers under section 49 - and to judge the extent of those powers.

Cherwell District Council intends to use these powers to support businesses suffering temporary hardship. The aim is to reduce or remit the rates in order to help the business through a problem period, not to provide continuous support to an unsustainable business. Consequently, it will be necessary to determine if the business is sustainable.

Each case will be considered on its own merits and the application process kept as simple as possible. However, the government guidelines state that the reduction or remission of rates should be the exception rather than the rule. Consequently, the Council is anxious to ensure that businesses are aware of the range other help which may be available and what steps to take to achieve improvement. If you require additional information please contact our Customer Services Department on 01295 227054.

### **B. Funding the Hardship Relief Policy**

The amount of funding set aside to support this policy will be reviewed by the Council on an annual basis as part of the budget setting process. For most organisations 75% of the cost of this discretionary relief is met by central government and this Council will be responsible for funding the remaining 25%. Consequently in deciding whether to grant discretionary rate relief Cherwell District Council will look at the cost of the relief against the Council's budgetary provisions and remaining funds.

### **C. Awards of relief**

If your application is successful and you are awarded hardship relief it will be applied to your account and you will be sent an amended bill showing the amount granted. If this results in an overpayment of business rates a refund will be sent to you.

It is possible that relief will be granted for a period of up to two years but initially under this policy rate relief awarded will be for a maximum period from the date of application up to the end of that financial year, but could be for a shorter period as defined in the ratepayer's application. Ratepayers receiving relief will need to reapply for relief for the following year but relief will not exceed 2 financial years.

#### **D. Equality & Diversity**

When applying the content of this policy to the determination of an application for a rate relief reduction, officers of the Council will base their decisions solely on the criteria in this policy and not discriminate against any particular group or groups. Officers will also aim to consider any impact on equality and diversity in the community of the organisation applying for relief.

#### **E. Right of Appeal**

Your application will be processed within one month of receiving the relevant information and you will be notified in writing of the decision and if relief is not granted you will be told why. As this is a discretionary power, we will re-consider our decision on appeal in the light of any additional points you wish to make.

#### **F. Scope and General Conditions For Hardship Relief**

- Awards shall be limited to up to two consecutive financial years (a financial year is the period 1 April to 31 March) starting in the year that the application is made, however applicants will need to reapply for the 2<sup>nd</sup> year and provide any supporting evidence again.
- Awards will not usually be backdated to any previous years.
- Any Hardship relief awarded is, throughout the period of the award, financially sustainable (i.e. the Council has the necessary funding).
- All other forms of rate relief have already been considered. If another type of relief is more appropriate you will be advised accordingly.
- Applications must be in writing, and, as a minimum must contain the information specified in the Council's standard application form shown in Appendix 1.
- Applications will only be considered where signed by the ratepayer, or, where an organisation is the ratepayer, an appropriately authorised representative of the organisation.
- Additional information deemed by the Council to be essential in order for a fair evaluation of the application to be made must be supplied within 4 weeks of a request.
- The business must demonstrate how it is beneficial to the local community and why it is currently suffering financial hardship.
- The business provides employment to local residents in an area where employment opportunities are limited.

#### **Examples of appropriate circumstances**

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.

- 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 these circumstances 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).

**N.B. in addition,** it must be in the interest of the community as a whole for Hardship relief to be granted.

### **G. How to apply for NNDR Hardship Relief.**

You will need to complete a NNDR Hardship Relief application form (Appendix 1), which is also available on the Council's website or by contacting the Business Rates Section.

### **Authority to Award Relief**

In the interests of efficiency, the authority to consider applications is delegated as set out below:

- ◆ Awards to be considered by the Service Assurance Technical Specialist for Revenues and recommendation approved by Head of Finance
- ◆ All Hardship Relief appeal cases: To be considered by Members Appeal Panel/Executive.

Details of the recipients and the amount of awards will be reported to the Executive annually.

Officers and Members who have an interest in any aspect of an application for relief must not participate in the decision making or appeals process and must declare their interest.

Examples of interests include those in the following list. However, the list is not intended to be exhaustive.

- Membership of the organisation making an application
- A close relative who is a member of the organisation making an application
- An interest in the property for which the relief is being sought
- Membership of a similar organisation (e.g. a rival sporting club)

Where an officer or Councillor is unsure whether they have an interest they should seek advice from the Head of Legal and Democratic Services as the Council's Monitoring Officer. The Head of Legal and Democratic Service may in turn need to liaise with the Head Finance on any case referred to them (e.g. where cases of conflict of interest will need to be monitored by the Service Assurance Team on an on-going basis).

### **Cancellation of relief**

Relief will be cancelled if:

1. The applicant ceases to be the ratepayer
2. The property becomes empty or the occupation changes in some other way.

3. The use of the property changes
4. The aims or objectives of the ratepayer change
5. There is an increase in the amount of rates payable

The ratepayer has an obligation to tell the Council where (1) to (4) applies.

Where relief is cancelled for any of the reasons from (2) to (4) above, a new application may be made straight away.

Where relief is cancelled for reason (5) above the decision will immediately be reconsidered and a new decision made, based on the new amount of rates payable.

## **Appeals Process**

Appeals may only be made by the original applicant. An appellant may appoint an agent act on their behalf and in such cases the Council will require written authorisation from the appellant before dealing with their agent.

Appeals against decisions will be considered by the Member Appeals Panel/Executive. Decisions on appeals made by the Members Appeal Panel/Executive will be final.

Applicants must make an appeal within four weeks of the issue of the letter notifying them of the Council's decision.

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 where the appeal is to be considered by the Executive, within twelve weeks. Or in both circumstances as soon as reasonably practicable thereafter.

Applicants may appeal against the decision to award or not award relief, or against the level of relief awarded.

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.

The appellant may make a request to present evidence in person but does not have a right to do so. Such requests will be considered at the discretion of the Head of Finance.

The Members Appeal Panel/Executive can request a meeting with either the applicant and/or the appropriate Revenues Service officer to hear evidence in person. The Executive may nominate a representative or representatives to attend such meetings on its behalf.

Each application will be considered individually on its merit.

The appeal decision may be adjourned if further information is required from either party.

The applicant will be informed of the final decision, and the reasons for the decision within four weeks of the hearing.

Submitting an appeal does not affect the appellant's legal rights to challenge a decision made by the Council through the Judicial Review process.

If the Council has requested further evidence from the ratepayer and this has not been received within four weeks, the appeal will be deemed to have been discontinued and the applicant notified in writing. No further consideration will be given to that appeal but the rate payer can submit a subsequent application but backdating will not be considered.

## **NATIONAL NON-DOMESTIC RATES**

### **HARDSHIP RELIEF**



#### **General Information**

Section 49 of the Local Government Finance Act 1988 gives Cherwell District Council, as a billing authority, discretion to reduce or remit payment of rates where it is satisfied that the ratepayer would sustain hardship if it did not do so, and where it is reasonable for Cherwell District Council to do so having regard to the interests of its Council Tax payers.

In making decisions on whether to grant relief, Cherwell District Council considers guidance issued by the Communities and Local Government Department (CLG). The CLG has said that whilst it is for each billing authority to decide on the facts of each case whether to exercise its powers under Section 49 – and to judge the extent of those powers – authorities may wish to bear in mind the following guidance:

- i. Although authorities may adopt rules for the consideration of hardship cases, they should not adopt a blanket policy either to give or not to give relief, each case should be considered on its own merits;
- ii. Reduction or remission of rates on grounds of hardship should be the exception rather than the rule;
- iii. The test of 'hardship' need not be confined strictly to financial hardship; all relevant factors affecting the ability of a ratepayer to meet its liability for rates should be taken into account;
- iv. 75 per cent of the cost of any hardship relief granted is offset against the authority's payment to the national non-domestic rate pool, 25 per cent is borne locally and met by the local authority;
- v. The 'interests' of Council Tax payers in an area may go wider than direct financial interests. For example, where the employment prospects in the area would be worsened by a company going out of business, or the amenities of an area might be reduced by, for instance, the loss of the only provider of a service in the area; and
- vi. Consideration will be given to the financial impact on the Council and the local community in making awards. Relief may be refused or capped if it is considered that the financial cost to the Council or the local community outweighs the benefits generated through the award of relief.



## **How to apply for Hardship Relief**

- ◆ Please complete the attached application form as fully as possible. If you have any difficulties completing the form, please contact the Customer Services department on 01295 227054.
- ◆ 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.
- ◆ 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.
- ◆ The Council will not consider applications where the ratepayer has failed to provide information that has been requested within 4 weeks of the request, or where the ratepayer does not cooperate with the Council's request to visit a property.
- ◆ 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.
- ◆ If the process of keeping record to the standard required will incur additional expense for the organisation it will be up to the organisation to decide whether the additional expense is worthwhile in order to apply for relief.
- ◆ Once an application is received no action will be taken to recover unpaid rates until fourteen days after the decision has been notified to the ratepayer. However, payment cannot be withheld pending an appeal. In the event that an appeal is successful, any overpayment will be refunded.
- ◆ In the event of an application being discontinued or refused recovery action may be commenced fourteen days after the ratepayer has been notified of the discontinuation or refusal.
- ◆ Where an application has been refused either initially or following an appeal, further applications will not be considered within the same financial year except where:
  - a) The use of the property changes, or
  - b) The objectives of the organisation change, or
  - c) There have been other changes that may affect the Council's decision (for example where an organisation has taken action to address an issue which had previously precluded an award of relief).
- ◆ The decision on whether to consider a reapplication shall be made by the Head of Finance.

## NATIONAL NON-DOMESTIC RATES

### APPLICATION FOR HARDSHIP RELIEF UNDER SECTION 49 OF THE LOCAL GOVERNMENT FINANCE ACT 1988

1. Name of Ratepayer	
2. Business Rates account number	
3. Address of property to which this hardship application relates	
4. Address for correspondence if different from 3. above	
5. Please describe the nature of the business / organisation (i.e. what sort of goods and / or services do you provide?).	
6. How long has the business / organisation been established?	
7. Please state the number of staff employed by the business / organisation at the property.	Full Time:                      Part Time:
8. How many of these employees live in Cherwell District Council?	Full Time:                      Part Time:
9. Please state the days and hours that the property is open for business / in use.	

<p>10. Please state the period for which hardship relief is being sought.</p>	
<p>11. How long do you expect the circumstances giving rise to this application for hardship relief to last?</p>	
<p>12. Any hardship relief granted will normally be for a short fixed period only. Please explain how you plan to keep your business / organisation viable and meet your business rate and other liabilities in the future.</p> <p>(This is particularly important if your business rates rose in the last financial year as it is likely that they will rise again.)</p>	
<p>13. Please give as much information as possible regarding the reasons why you consider that your business / organisation would sustain hardship if the Council does not reduce or remit the rates due (please use additional sheets of paper if necessary).</p>	
<p>14. Does the business / organisation provide a service to the local community which is not provided by any other local business / organisation? If so please explain what this service is.</p>	

15. Please provide copies of the last two years' audited accounts for the business / organisation (if audited accounts are not available, please provide un-audited ones).

16. Please provide an up to date copy of your trading account showing the current financial position of the business / organisation.

If no trading account is available, please provide other paperwork, such as copies of bank statements, till receipts and VAT returns for the period for which relief is being sought in order to demonstrate the hardship suffered.

**I certify that to the best of my knowledge and belief the foregoing statements are correct, and that the organisation to which they refer is not established or conducted for profit.**

**I HEREBY CERTIFY THAT I WILL NOTIFY THE COUNCIL OF ANY CHANGES TO THESE PARTICULARS SHOULD THEY OCCUR.**

**DATE:** \_\_\_\_\_

**SIGNED:** \_\_\_\_\_

**CAPACITY IN WHICH SIGNED:** \_\_\_\_\_

Once completed, this form should be returned to:

**Service Assurance Team, Bodicote House, Bodicote, Banbury, Oxfordshire,  
OX15 4AA**