

Non-Domestic Rates

Hardship Relief



What is Hardship ?

“Adversity: a state of misfortune or affliction: Asperity:
Something hard to endure.”

Oxford on-line dictionary

*“Annual income twenty pounds, annual expenditure
nineteen, nineteen six, result happiness.
Annual income twenty pounds, annual expenditure
twenty pounds ought and six, result misery.”*

Wilkins Micawber.....Charles Dickens – David Copperfield

What is Hardship ?

“Inability to meet the families basic needs and traditional obligations and having limited resources, particularly land.”

“Living in a very difficult situation: being dependant on relatives for food, money, and shelter and supporting too many dependants in the Household.”

World Health Organisation

Non-Domestic Rates Hardship Relief

- Centre Point
- Schedule 1(3)(A) General Rate Act 1967 - from 1st April 1974 Authorities were given the power to reduce or remit unoccupied property rate.
- Local Government Finance Act 1988 extended this to occupied properties
- S156 Local Government Etc. (Scotland) Act 1994 introduced Section 25A to the Local Government (Scotland) Act 1966

S156 Local Government Etc. (Scotland) Act 1994

Every rating authority may, on the application of any person liable to pay any rate levied by the authority, remit payment (in whole or in part) of the rate if the authority are satisfied that—

- (a) the person 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 persons liable to pay council tax set by them.

R v Liverpool City Council Ex-parte Windsor Securities

A company paying empty rate because it has had to cease trading is very different from a company paying empty rate on a property bought speculatively by a development company.

Department of the Environment ODPM

- No Blanket policy
- Not confined to financial Hardship – Only Village Shop
- Should be the Exception not the rule
- What is reasonable to ratepayer loss of amenity
- Benefits to Council Tax Payers v's Costs
- Company remains viable

Infrequently used provision

- **Fife Council** - paper mill. Worked closely with Economic Development.
- **Edinburgh City Council** have awarded and are further considering applications from businesses that have been affected by the development of their **tram system**.
- Businesses affected by the reduction in **white fish catches**. - Scottish Government funding from 75% to 95% for a period of 6 months.
- **Hawick “Street Scape”** - maximum of 50% of the rate liability for a period of 6 months where severe hardship could be proved.
- Businesses affected by **foot and mouth** - from April 2001 to December 2001. Any business could claim under this legislation but for those with a rateable value of under £50,000 the Scottish Government extended their funding from 75% to 95%.

Scottish Borders Council Policy ?

Don't Have one !

Can we deny all knowledge **No !**

Can we blame someone else **No !**

Gary's in trouble AGAIN !!

Steps taken to formulate a policy

- Find out about other Councils Policies
- Note to Chief Executive
- Meeting with Economic Development
- Consultation paper to COSLA via Economic Development
- Canvas other Authorities to see what they're doing
- Survey IRRV Outcome
- Raise with NDR Working Group
- Samples of other Authorities Policies

Steps taken to formulate a policy

- Write a policy document for Councillors
- Produce consultation list
- Design an information leaflet
- Draft a sample application form
- Draft changes to the web site
- Book a space on the Council's Agenda
- Instruction note to staff
- Write workflow process

**Non-Domestic Rates
Hardship Relief**



Scottish Borders Council has a discretionary power to reduce Business Rates by up to 100% where payment is likely to cause hardship. It is important that you give full and accurate details so that your application can be fully considered.

Please refer to the guidance notes issued with this form.

You must continue to pay your rates in accordance with your bill while your application is being considered.

Section 1 - Your details

Ratepayers Name

Registered Business Name

Account Number

Contact Name

Contact Address

Contact Telephone Number

Section 2 - About your business

Property address

Do you own the property Y/N

Landlord Name and Address

Please list any other properties that your business occupies

Documentation

1. PURPOSE

1.1 To allow members to consider an appropriate policy and approach to the provisions in Section 156 - Local Government etc (Scotland) Act 1994 that allows rating authorities to remit or reduce the rates liability where payment would cause hardship.

1.2 Remission of rates on account of hardship.

25A. Every rating authority may, on the application of any person liable to pay any rate levied by the authority, remit payment (in whole or in part) of the rate if the authority are satisfied that—

- (a) the person 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 persons liable to pay council tax set by them

1.3 To propose a framework under which officers can evaluate and prepare applications to be presented to Council.

1.4 To devise an appropriate application form and guidance material.

2. BACKGROUND

2.1 Hardship Relief was first introduced in England and Wales by Schedule 1(3)(A) General Rate Act 1967 (as inserted by Section 15(5) Local Government Act 1974) that gave the rating authorities in England and Wales power to reduce or remit the payment of any *unoccupied* rate if it considered that payment would cause hardship to the person liable for the rate.

2.2 Hardship Relief initially could only be granted where an owner was liable for payment of the unoccupied property rate however, it was later extended so that applications could be considered irrespective of whether the property is occupied or unoccupied.

2.3 The relief was extended to Scotland by Section 156 Local Government Etc. (Scotland) Act 1994, which introduced section 25A to Local Government (Scotland) Act 1995. It also required that the rating authority should consider the interests of its Council Tax payers when deciding on applications for Hardship Relief as 25% of any such award of relief is funded by the Local Authority, at a cost to Council Tax payers. However, to date it has remained a little used provision.

Hardship relief may be awarded at the discretion of Scottish Borders Council to ratepayers who are suffering financial hardship in payment of their Business Rates.

Scottish Borders Council has discretionary powers to grant up to 100% relief for ratepayers experiencing *exceptional* financial hardship.

This relief is in part funded by local Council Taxpayers therefore the Council's discretion to award relief must be balanced against the cost to Council Taxpayers. European Union State Aid rules also limit Government subsidies to businesses.

What is Hardship?

There is no precise legal definition of what is meant by the term hardship. While the Council can give general guidance on the types of circumstances that it considers appropriate for this type of relief it cannot make a blanket policy to cover all cases. The Council will ask you to provide the information that it considers necessary to make a decision together with documentary evidence to support your claim.

State Aid

Under European Competition rules there is a limit to the amount of assistance that can be received from a public body. The de-minimis limit is currently €100,000 over a 3 year rolling period. If you apply for hardship relief you will be asked to declare any assistance that you have received in the last 3 years

How do I apply?

In the first instance you should telephone the Business Rates Team on 0845 3000342. An advisor will discuss any payment or deferment options available to you. They will also attempt to establish if there are any other exemptions or relief that you may be entitled to e.g. Small Business Bonus Scheme. If it is appropriate a hardship relief application form and guidance notes will be issued to you.

Once you have submitted the completed form and supplied the documentary evidence, you will be invited for a meeting with a senior member of staff to review your application. You may be asked for further information to support your application or given advice with respect to the application. Once officers have established that your application meets the Council's requirements they will include it in a report to the Council so that elected members can formally consider your application.

You will be advised of the date of the meeting and the subsequent decision.

How do ratepayers apply ?

- Telephone the Business Rates Team.
- An advisor will discuss any payment or deferment options available to you.
- Establish if there are any other exemptions or relief that you may be entitled to e.g. Small Business Bonus Scheme.
- If it is appropriate a hardship relief application form and guidance notes will be issued.
- A meeting with a senior member of staff to review your application.
- A report to the Council so that elected members can formally consider your application.

How will the application be assessed?

Are the circumstances exceptional?

Will those specific circumstances result in hardship?

Will the business remain viable?

Is it fair to other businesses?

Is it reasonable to expect Council Tax Payers to cover the cost?

What are exceptional circumstances ?

Exceptional circumstances will usually be:-

- External to the ratepayer;
- Beyond the normal business risk;
- Unavoidable and;
- Unforeseen.

What are not exceptional circumstances?

The Council does not consider that the following circumstances are exceptional:-

- A general market turn down;
- Increased competition;
- Strikes within a business;
- Increases in interest rates;
- Changes in currency exchange rates;
- Increases in insurance, energy or transportation costs;

What information will be required ?

- depends on the size and type of business.
- financial statements that demonstrate hardship
- recent audited accounts,
- asset register / working capital / other debt
- bank statements
- details of income and expenditure.
- an outline recovery plan detailing the measures taken to improve the position.

Information to impart

- Appeals
- Disclosure of information
- State Aid normally €100,000 over a 3 year rolling period

Who Decides?

- Delegation of powers - S50 Local Government (Scotland) Act 1973
- Financial Rules / Authorisation levels
- Standing Policies
- Officer Recommendation

The big picture

- **Who Pays ?**

- 25% from Council Tax payers
- 75% charged against the pool
- Do the Government put extra money in ?
- Does the Council have budget ?

- **Local Solution for a national Problem vs National assistance for a local problem?**

- Should local tax payers pay 100%
- Foot and Mouth
- Edinburgh Trams
- Spreading the effect of local problems

The big picture

- **Is it a threat to the tax base and local services?**
 - Exceptional circumstances
 - Council Budgets
 - Council Tax Payers feel the same burden

- **What is the Scottish Governments role?**
 - Is this an appropriate way to address national issues
 - Consistent approach
 - COSLA / Scottish Government Guidance?

Non-Domestic Rates

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