



# Cabinet (Resources) Panel

29 July 2014

<b>Report title</b>	Business Rates Discretionary Relief (Hardship) Policy	
<b>Decision designation</b>	AMBER	
<b>Cabinet member with lead responsibility</b>	Councillor Andrew Johnson Resources	
<b>Key decision</b>	Yes	
<b>In forward plan</b>	Yes	
<b>Wards affected</b>	All	
<b>Accountable director</b>	Keith Ireland, Delivery	
<b>Originating service</b>	Revenues and Benefits	
<b>Accountable employee(s)</b>	Sue Martin Tel Email	Head of Revenues and Benefits 01902 554772 <a href="mailto:Sue.martin@wolverhampton.gov.uk">Sue.martin@wolverhampton.gov.uk</a>
<b>Report to be/has been considered by</b>	Strategic Executive Board	3 July 2014

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## Recommendation(s) for action or decision:

The Cabinet (Resources) Panel is recommended to:

1. Approve the local policy for awarding discretionary business rates relief on grounds of hardship.

## **1.0 Purpose**

- 1.1 To seek approval of a local policy setting out the circumstances in which discretionary relief will be granted to businesses who are suffering hardship.

## **2.0 Background**

- 2.1 Section 49 of the Local Government Finance Act 1988 (Section 49) provides councils with discretion to grant rate relief where a business is suffering hardship due to exceptional circumstances.
- 2.2 Under Section 49, the Council has the discretion remit some or all of the rates for a period of time.
- 2.3 Under the Constitution the decision whether to grant the relief is delegated to the Section 151 Officer.
- 2.4 This policy will join a suite of Business Rates Discretionary Reliefs that have previously been approved by Cabinet (Resources) Panel:
- a. Discretionary Relief (Charitable and Not for Profit Organisations) - approved June 2013
  - b. Discretionary Relief (Retail Reoccupation Relief) - approved April 2014
  - c. Discretionary Relief (New Build Empty Property) – approved April 2014
  - d. Discretionary Relief (Retail Discount) – approved April 2014
- 2.5 A further policy, Discretionary Relief (partly occupied properties) is the subject of a separate report on this agenda.

## **3.0 Revising the Local Scheme for Business Rates Discretionary Reliefs**

- 3.1 Relief has been granted using the discretionary power under Section 49 Local Government Finance Act 1992 (Section 49 relief) for a number of years using guidance issued by the Office of the Deputy Prime Minister December 2002 and general principles established through consideration of a range of applications.
- 3.2 In order to ensure a level of consistency, a framework policy has been developed to support the decision making process.
- 3.3 Consultation has been carried out with officers from Education and Enterprise to ensure the policy supports the corporate aim of encouraging enterprise and business. The recommended scheme is included as Appendix A.
- 3.4 Each application will be considered on its own merits in line with the policy.

#### **4.0 Financial implications**

- 4.1 Section 49 relief is not separately Government funded. From April 2013, with the localisation of business rates, all mandatory and discretionary reliefs are shared as a cost between central government (50%), the Council (49%) and the Fire Authority (1%). This has been confirmed in the Local Government Finance Act and in the detailed calculations to provide baseline funding for 2013/14. The Council now collects business rates and receives an amount from the Collection Fund which is 49% of the net income after appeals, and other losses incorporating an adjustment for mandatory and discretionary reliefs.
- 4.2 During 2013/14 an amount of £4,188 was granted in respect of Section 49 relief, which is part funded by Central Government, the Council and the Fire Authority. An award was made on one application from a total of six applications received. It is not possible to estimate the potential costs for 2014/15.

[CF/08072014/A]

#### **5.0 Legal implications**

- 5.1 Section 49 of the Local Government Finance Act 1988 (Section 49) provides councils with discretion to grant rate relief where a business is suffering hardship due to exceptional circumstances.
- 5.2 When deciding whether to make an award of discretionary relief, consideration should be given to the fact that the Council must bear a percentage of the cost.
- 5.3 When granting relief the Council has to ensure that any relief granted does not transgress State Aid rules through asking whether the business receives any other Government relief which would take the total amount of relief granted beyond de minimis limits.

[KO/09072014/W]

#### **6.0 Equalities implications**

- 6.1 This policy has been looked at from an equalities perspective via an equalities initial screening. The policy is open to all businesses in the situation described by the report so there are no equality implications in this regard. Equalities considerations will be included in the monitoring of the policy to ensure that it is one that will be able to demonstrate that relief is awarded fairly. In this way councillors can be confident that the approach will meet the requirements of the Public Sector Equality Duty as established by the Equality Act.

## **7.0 Environmental implications**

- 7.1 There are no environmental implications if temporary relief is granted to support a business through a difficult period and the company continues to trade.

## **8.0 Human resources implications**

- 8.1 There are no human resources implications.

## **9.0 Corporate landlord implications**

- 9.1 There are no Corporate Landlord implications.

## **10.0 Schedule of background papers**

- 10.1 Non Domestic Rates-Guidance on Rate Relief for Charities and other Non Profit Making Organisations issued by the Office of the Deputy Prime Minister December 2002.

## **Appendix A**

# **Wolverhampton City Council Business Rates Discretionary Relief (Hardship) Policy**

- 1 Introduction**
- 2 Purpose and principles of the policy**
- 3 Requirements for Applications**
- 4 Decision Making Framework**
- 5 Duration of Awards**
- 6 State Aid**
- 7 Review process**

## **1. Introduction**

- 1.1. This policy sets out the circumstances in which reductions in rate liability will be granted due to part occupation.
- 1.2. Section 49 of the Local Government Finance Act 1988 provides councils with discretion to grant rate relief where a business is suffering hardship.
- 1.3. The amount of any relief awarded can reduce or remit the full business rates charge on both occupied and unoccupied properties.

## **2. Purpose and principles of the policy**

- 2.1. The purpose of this policy is to
  - Ensure that all applications are treated in a fair, consistent and equal manner.
  - Set a framework for how ratepayers can apply for this relief.
  - Make clear the limited criteria under which relief will be awarded.
  - Set out the delegated authority for dealing with applications.
- 2.2. Each application will be considered on its individual merit but in making a decision on the award the decision maker will give due consideration to the requirements of the Policy Framework.
- 2.3. This policy has been written in line with Government guidance.

## **3. Requirements for Applications**

- 3.1. Applications will only be considered where a written application is received from the ratepayer, or where the ratepayer is an organisation, a person properly authorised to make an application on behalf of the organisation.
- 3.2. Applications must provide relevant information to demonstrate the loss of trade or business to include the following:
  - audited accounts for at least 3 years and cash flow forecast (in the case of a new business an estimate of annual income/expenditure by the Director/bookkeeper/accountant)
  - in the cases of sole traders/partnerships, details of drawings from the business and a breakdown of personal income and expenditure
  - details of steps that have been/are being taken in an attempt to keep the company sustainable

- a business plan
  - details of the number of employees prior the problems experienced and current number of employees
  - details of any relationships with any other businesses, particularly with local suppliers
  - details of any benefits provided by the business to the elderly, young or any other disadvantaged group
  - any other information which may support the application
  - contact details of the relevant officer
  - a signed declaration setting out any amount of State Aid received within the preceding three years
- 3.3. The Council will request any supporting evidence it considers necessary to properly assess the merits of the application.
- 3.4. Ratepayers must continue to pay any amount of rates that fall due whilst an application is under consideration.

#### **4. Decision Making Framework**

- 4.1. Relief will only be granted in exceptional circumstances giving consideration to the following:
- the ratepayer would sustain hardship if relief is not applied
  - it is reasonable for the Council to grant relief having considered the interests of its council tax payers
- 4.2. When considering an application for relief the following factors will be taken into account:
- whether the granting of relief will help the business through a temporary difficulty
  - the effect on local businesses, employment and the residents of Wolverhampton
  - whether the business is the only one of its kind in the vicinity and it is in the interests of the community to grant relief
  - whether the current hardship (financial or otherwise) could have been foreseen and avoided

#### **5. Duration of Awards**

- 5.1. The amount of relief granted may be for a fixed sum or be equivalent to a period of charge. Whilst each application will be considered on its own merits, it is unlikely that any relief will be granted for more than the current financial year.
- 5.2. The ratepayer will be notified of the decision in writing.

- 5.3. Ratepayers are required to notify the Council immediately of any change in circumstances that may affect their entitlement to relief.

## **6. State Aid**

- 6.1. Relief will not be awarded in any circumstances where it appears that an award will result in the ratepayer receiving state aid that is above the current de minimis level. Each application must be accompanied by a statement signed by the appropriate person representing the business setting out the amount of state aid, including but not limited to discretionary rate relief, which the ratepayer has received within the previous three years. Applications will not be considered until this statement is received.

## **7. Review Process**

- 7.1. There is no statutory right of appeal against a decision made by the Council regarding discretionary rate relief. However, the Council recognises that ratepayers should be entitled to have a decision reviewed if they are dissatisfied with the outcome.
- 7.2. The council will accept a written request for a review of its decision. The request should include the reasons for requesting a review and any supporting information.
- 7.3. A request for review must be made within one calendar month of the date of the decision letter.
- 7.4. Reviews will be considered by an officer independent of the original decision maker.
- 7.5. The letter notifying of the outcome of an application for relief will include instructions on how to request a review and the address where any request for review should be sent
- 7.6. The applicant will be notified of the outcome of the review in writing.
- 7.7. This review process does not affect a ratepayer's legal right to seek leave to challenge a decision by way of Judicial Review.