

Appendix C

Hardship Relief

1. GUIDANCE SUMMARY

Discretionary hardship relief allows the Council to reduce or remit an NNDR (Business rates) charge under Section 49 of the Local Government Finance Act 1988.

The principal purpose of awarding hardship relief shall be to provide short-term assistance to businesses that are suffering unexpected hardship, arising from circumstances beyond the business's control and outside of the normal risks associated with running a business of that type.

2. HARDSHIP RELIEF ELIGIBILITY

The Council will only consider awarding Rate relief on the grounds of hardship under Section 49 where it is satisfied that:

- ✓ The ratepayer would sustain significant hardship if the Council failed to grant Hardship Relief; and
- ✓ Full regard has been given to the interest of its council taxpayers and it is considered reasonable for the Council to provide the relief. North Norfolk District Council funds 40% of any relief awarded.
- ✓ The "interest" of local council taxpayers may go wider than direct financial interests; for example, where employment prospects in an area would be worsened by a ratepayer going out of business, or the amenities of an area might be reduced by, for instance, the loss of a neighbourhood shop or services.
- ✓ Applicants should disclose all relevant factors affecting the ability of the business to meet its current and future rate liabilities.
- ✓ A business will not be considered to be suffering financial hardship in any annual accounting period during which it is profitable or has experienced a loss which is minor in comparison to the overall turnover of the business.
- ✓ In determining whether a business is profitable account shall be taken of reasonable drawings by the proprietor or directors.
- ✓ It is expected that the business has taken prompt action to mitigate any factors giving rise to hardship. Examples of mitigating actions may include seeking business advice, discounts, and promotions, reviewing pricing, extending the range of stock or services, negotiating with creditors etc. Applications may be declined in circumstances where the business is unable to demonstrate that it is taking reasonable steps to alleviate the hardship.

3. APPLICATIONS

All applications for Discretionary Rate Relief in relation to 'hardship' should be made to Non-Domestic (Business) Rates at Brates@north-norfolk.gov.uk and must be accompanied by:

- A fully completed application form.
- Copies of the business audited accounts and balance sheets for the last two years
- A comprehensive Business Plan incorporating a brief history of the business and what the business plans are to rectify its financial situation.
- Cash Flow forecast for a minimum of the next 12 months
- Where the business has traded for less than two years accounts must be provided where available along with bank statements for at least the three months leading up to the application, and draft accounts or budget forecasts for the period since the business commenced trading.

No award shall be made where it appears to the Council that the proprietor of the business has failed to exercise due diligence to anticipate circumstances that may give rise to hardship, financial or otherwise, and/or to put in place measures to prevent or mitigate the circumstances.

The Business Rates Team will assess all relief applications, and the Revenue Manager will make decisions where he has delegated authority up to the NNDC cost value of £4k.

All other relief applications with NNDC cost value of £4k or over will be presented by the Revenues Manager to the Discretionary Rate Relief Panel which will consist of the Section 151 Officer and the portfolio cabinet holder representing the Revenues Service.

Applicants must engage with the Council's Revenues team during this process and should be aware that it is likely that the Council will require some contribution to any outstanding liabilities whilst the application is determined.

A decision as to whether to award discretionary relief will be made based off the information held, and a Decision Notice detailing the level of any relief awarded and for what time period will be issued in writing alongside any adjusted Non-Domestic (Business) Rate Demand.

Notice. Should the application be rejected the applicant will be notified in writing.

4. FACTORS THE COUNCIL WILL CONSIDER

Although there is no statutory definition of hardship some guidance has been provided by the Government and case law to assist in the consideration of hardship applications.

- A blanket approach, either to give or not to give relief, should not be adopted by the Authority, each application should be considered on its own merits.
- Any relief granted should be the exception rather than the rule. Hardship under section 49 Local Government Finance Act 1988 should be seen as a short-term award and not a continuous or long-term solution.

- All relevant factors affecting the ability of a business/ratepayer to meet their liability for rates should be considered.
- The test of hardship does not have to be confined to 'financial', all relevant factors affecting the ability of a business to meet its liability for rates should be considered.
- The 'interest' of local taxpayers may go wider than just the financial impact. Consideration to the effect of any business closure on the local community should be considered for example, where the employment prospects of the area would be worsened, or the amenities of an area being reduced, for instance, the loss of the only shop in a village.
- The hardship caused to a ratepayer may be self-evident, for example where a business has been affected by severe loss of trade, due to external factors such as natural disasters or pandemic. However, the council will have to consider how the business can demonstrate such loss of trade or business. For example, do accounts, order books, till receipts or VAT returns show a marked decline in trade compared to corresponding periods in previous years?

The table below identifies some of the factors that will be considered in deciding whether to award discretionary hardship rate relief to an organisation.

Factors	Guideline Considerations
The Financial Positions?	Hardship will often be determined based on the financial position of the ratepayer's business. In addition to looking at the business ability to pay rates. The Council will also want to see evidence of the business' future viability.
How important is the organisation to the local community?	A business applying for hardship relief must be of high importance to the local community. Does the business provide a service or for fill a need for the local area?
Is the same service available in the same locality?	Consideration will be given as to whether the service provided by the business is available in the same locality or within reasonable distance of the business address.
Is the same service available by public transport?	Public transport to the nearest alternative service is not available or is very restricted.
How long is the hardship likely to last for?	Awards are less likely to be made if the Council believe that the need for assistance may be a for a medium- or long-term period. Hardship relief should only be awarded for short term assistance.

The Council recognises that there will be occasions when an applicant does not satisfy all the above factors. The Council will consider each application on its own merits and the granting of any relief will be based on the facts of each case.

5. UNOCCUPIED PROPERTIES

Hardship relief will only be awarded in respect of unoccupied properties in exceptional circumstances where the applicant can show that making such an award will provide a clear and tangible benefit to the council taxpayers of the district.

6. DURATION OF AWARDS

All awards of Hardship relief will end at the end of the financial year, unless the award has already been ended from an earlier date. Should the hardship continue, a further application may be made in the new financial year, however in considering repeated applications the Council will take into consideration the number and value of previous awards. The Council may require repeat applicants to provide evidence from an accountant or other professional adviser regarding the long-term financial viability of the business

7. SUBSIDY LIMITS (Previously known as State Aid)

The Council must be satisfied that the award of any discretionary relief complies with the UK's international subsidy control commitments, and the award of Hardship relief is likely to amount to a subsidy.

In most cases Hardship relief will fall within the Small Amounts of Financial Assistance Allowance, allowing an economic actor to receive up to 325,000 Special Drawing Rights in a three-year period (£354,500.25 at the time of writing 19th December 2022)

Full details can be found at: <https://www.gov.uk/government/publications/complying-with-the-uks-international-obligations-on-subsidy-control-guidance-for-public-authorities>

8. APPEALS RIGHTS

Although there is no legal right of appeal against the Council's decisions on discretionary rate relief applications, in keeping with good customer care practice and principles of transparency this policy provides for a review of any decision. There is provision within this policy for a request for reconsideration of a decision to be made by the Discretionary Rate Relief Panel.

A request for reconsideration must be made in writing to the Revenues Manager with any further information that the ratepayer considers would support a different decision, or evidence that a particular factor or factors were not given sufficient weighting in the original decision by the Panel.

The Council will acknowledge receipt of a request for reconsideration in writing and advise the applicant of the date that the application will be reviewed, if known. The reconsideration

request along with the additional evidence will be represented at the next available panel hearing and a final decision notice issued in writing.

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