

# Taunton Deane Borough Council

Executive - 16 September 2009

Report of the Head of Revenues and Benefits

## Non-Domestic Rates - Section 49 Hardship Relief Policy

(This matter is the responsibility of Executive Councillor Nicola Wilson)

### EXECUTIVE SUMMARY

The report explains the provision for a Billing Authority to award Hardship Relief to a Business Rate Payer and sets out a recommended procedure for determining applications made under Section 49 of the Local Government Finance Act 1988.

Members of the Executive are asked to consider the procedure and recommend its acceptance to Full Council.

## 1. Background

- 1.1. There are around 3,800 non-domestic properties within Taunton Deane. These businesses are liable to pay rates of roughly £33m a year.
- 1.2. Section 49 of The Local Government Finance Act 1988 gives Taunton Deane Borough Council, as a billing authority, discretion to reduce or remit payment of rates. This is where it is satisfied that the ratepayer would suffer hardship if it did not do so. Additionally it must be reasonable for Taunton Deane Borough Council to do so, having regard to the interest of its Council Tax payers.
- 1.3. Central Government has provided guidance to help billing authorities decide whether to grant relief. The guidance states that while 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 the following guidance in mind:-
  - Although authorities may adopt rules to consider 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;
  - Reduction or remission of rates on grounds of hardship should be the **exception** rather than the rule;
  - The test of 'hardship' need not be confined strictly to financial hardship; all relevant factors affecting the ability of a business to meet its liability for rates should be considered;
  - 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 shop in the village: and

- Where granting relief would have an adverse effect on the financial interest of Council Tax Payers, the case for a reduction or a remission of rates payable may still on balance outweigh the cost to them.
- 1.4. 75% of the cost of any reduction or remittance of rates can be offset against the authority's payment into the national non-domestic rate pool. **25% would be borne locally by Council Tax payers** and met from the authority's General Fund;
  - 1.5. Historically we have received very few applications for hardship from ratepayers. However it is expected the number of hardship applications will rise significantly as the economic downturn starts to bite.

## 2. The Recommended Procedure

- 2.1. All applications for Hardship relief must be made in writing using a prepared forms designed by Revenues and Benefits service to ensure that all the information which is considered important to the decision making process is captured.
- 2.2. All applications must be accompanied by a copy of the last two years audited accounts, a projected income and cash flow for the next 12 months and any other information in support of the application.
- 2.3. The process detailed below should ensure that proper and consistent consideration is given to all applications, the financial implications are considered and members have the final say in deciding on, and financing, any awards.
- 2.4. Applications will initially be received within the Revenues and Benefits unit where they will be examined for completeness.
- 2.5. Where the application is not complete the Revenues and Benefits unit will contact the ratepayer to seek any missing information or seek clarification where it is necessary. The application will not be considered further until it is complete.
- 2.6. The Revenues and Benefits unit will consider each complete application on its merits and the Head of Revenues and Benefits Service make a written recommendation to the Section 151 Officer whether to reject the application or whether to make an award.
- 2.7. In making either recommendation, the Head of Revenues and Benefits Service will consider the following
  - The goods or services provided by the applicant and the closeness of alternative suppliers
  - Whether the goods or services are mostly provided to customers within the Borough
  - Any social benefits provided by the applicant
  - Local employment provided by the applicant
  - The causes of the hardship
  - The applicant's attempts to mitigate the hardship
  - The impact of Rates as a % of overall business expenses
  - Whether the business is viable

- Whether it is in the interests of the Council Tax payers within the Borough to provide the 25% cost of any hardship relief awarded.
- 2.8. Where a recommendation to reject the application is made adequate reasons should be put forward.
- 2.9. Where a recommendation to approve the application is made, the recommendation should detail
- The period to be covered by the award
  - The social benefit to the Council Tax payers in the award being made
  - The amount of the award
  - The sum to be met by the general fund and the Non-Domestic rating pool respectively.
- 2.10. The authority to **decline** applications for hardship relief should be delegated to the Section 151 Officer.
- 2.11. Where the Section 151 Officer decides there is sufficient merit in awarding hardship relief a recommendation will be made to the Executive. The Executive should have the delegated power to decline or award hardship relief following referral of an application by the Section 151 Officer. **Where it supports the recommendation, The Executive will also need to make the necessary budget arrangements to meet the commitment.**
- 2.12. **Appendix A** gives examples of rates payable by different businesses within the Borough for 2009/10. An indication is provided of how much would have to be met by the authority's General Fund if 100% hardship relief were awarded.

### 3 **Appeals**

- 3.1 The authority to consider any appeal against the refusal of a hardship application should be delegated to the Executive Portfolio Holder Resources. All appeals must be made in writing and be received within two months of the date on which the ratepayer was advised of the Council's decision.

### 4. **Conclusion**

- 4.1 The legislation requires Taunton Deane, as a billing authority, to consider and determine applications for Section 49 reductions.
- 4.2 The Council is potentially faced with receiving a significant increase in the number of such applications. We need to be able to ensure consistency in approach and give due consideration to the financial implications to the ratepayer and the Council Tax payers.

### 5. **Recommendation**

- 5.1 The Executive is asked to recommend Full Council to adopt this policy for considering applications for Section 49 Reductions.

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# Appendix A

## Non-Domestic Rates, Section 49 Hardship Relief Procedure

### Illustration of potential cost to the General Fund of awarding Section 49 Hardship Relief

Business Type	Rates Payable 2009/2010	Cost to General Fund if 100% Hardship Relief awarded for 2009/2010.
Take away, Station Road, Taunton	£ 2,500	£ 625
Medium sized clothes Store Cheapside, Taunton	£ 37,000	£ 8,250
Mobile phone shop, Cheapside, Taunton	£ 18,000	£ 4,500
Medium Pub, Wellington	£ 4,000	£ 1,000
Small Unit, Chelston Business Park	£ 2,600	£650
Small Office, Fore Street, Taunton	£ 1,800	£450
Woolworths, Fore Street, Taunton	£195,000	£48,750
Woolworths, Fore Street, Wellington	£ 10,000	£ 2,500
MFI Priory Fields, Taunton	£160,000	£40,000

**Important** - the above examples are for illustration purposes only.