

CABINET

Date of Meeting	Tuesday 19 th July, 2016
Report Subject	Hardship Rate Relief Policy Framework
Cabinet Member	Cabinet Member for Corporate Management
Report Author	Chief Officer (Community & Enterprise)
Type of Report	Strategic

EXECUTIVE SUMMARY

Section 49 of the Local Government Finance Act (LGFA) 1988 provides the Council with discretionary powers to award Business Rates Hardship Rate Relief to businesses in exceptional circumstances, where it is reasonable for the Council to grant relief having regard to the interests of local taxpayers.

Using Regulations as guidance, there is already a tried and tested determination process in place to consider applications for Hardship under delegated powers although the Council does not currently have a policy framework in place that explains the approach or considerations taken into account when adjudicating applications.

The introduction of a formal policy framework has primarily been developed to ensure consistency, transparency and best practice. At the same time, it also provides an opportunity to formalise into a single policy framework, well established procedures and regulations for the determination of applications.

The framework will ensure all ratepayers making applications for Hardship Rate Relief are treated fairly and consistently as well as providing ratepayers with a clearer understanding of the scheme.

RECOMMENDATIONS

1	Approve the policy framework for Hardship Rate Relief as set out in appendix 1 to the report.
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REPORT DETAILS

1.00	EXPLAINING THE HARDSHIP RATE RELIEF POLICY FRAMEWORK
1.01	There are a number of Mandatory and Discretionary rate reliefs already available to businesses under current Business Rates legislation, including Small Business Rate Reliefs, however there are instances where these reliefs do not apply to certain businesses or the amount of relief they receive does not reduce their rates liability in full.
1.02	Businesses that fall within this category, as with all businesses, can occasionally experience loss of trade and cash flow issues which can make paying their rates difficult without causing significant financial hardship, especially where the payment of rates may directly lead to job losses or the potential closure of the business.
1.03	The Council has discretion to reduce or remit the payment of Business Rates where it is satisfied that the ratepayer would sustain hardship if it did not do so and that it is reasonable to award relief, having taken into account the interests of Council Tax payers who bear part of the cost of hardship awards.
1.04	Government guidelines stipulate that Hardship Rate Relief should be used to provide short term assistance and should not be considered a way of reducing Business Rates liability indefinitely.
1.05	Welsh Government (WG) advice also indicates that local authorities must not adopt a blanket policy regarding awards and must consider the individual merit of each request.
1.06	The approval of a policy framework, as set out in appendix 1, has been developed to introduce more clarity around the criteria used to determine applications for Hardship Rate Relief.
1.07	<p>The following key guidelines are incorporated into the policy framework when considering requests:</p> <ul style="list-style-type: none">• The Council's finances allow for a reduction to be made and it is reasonable to do so.• All grants of hardship relief are intended as short term assistance and not considered a way of reducing Business Rates liability indefinitely.• Applicants may apply for hardship relief each financial year and the Council will determine each application on its own merits.• Hardship relief will be the exception and not the rule and only considered where there is evidence of hardship that justifies a reduction in Business Rates liability.• The Council must be satisfied that the ratepayer has taken reasonable steps to resolve their situation prior to application including taking financial advice.• There is a direct benefit to the ratepayer or the community or no adverse impact to other ratepayers or the community as a result of awarding relief and the cost to local Council Tax payers is proportional to the benefits of the community.

	<ul style="list-style-type: none"> The ratepayer's business has been detrimentally affected by circumstances beyond the ratepayers control and that do not constitute part of the normal risks in running a business.
1.08	By reducing the rate burden on businesses, it is acknowledged that rate relief can sometimes play an important role in ensuring the existence of local employment and community facilities and contribute towards the Councils Corporate Objectives.
1.09	<p>The Council will therefore look favourably, where finances permit, on those applications where :</p> <ul style="list-style-type: none"> exceptional hardship is demonstrated; the business is responsible for providing a local amenity and/or employment to local residents; the business has a credible future short term award of hardship relief will materially serve to ensure the future of the business, the continued provision of the amenity and/or employment opportunities

2.00	RESOURCE IMPLICATIONS
2.01	The funding mechanism for Hardship Rate Relief is jointly funded by Welsh Government (WG) and the Council, with WG contributing 75% of the cost and the Council contributing 25%.
2.02	Given that the Council makes a 25% contribution towards Hardship awards, there is a cost to the Council's General Fund, and therefore to the local Council Taxpayers, in awarding Hardship Rate Relief and the Council must give due consideration to the interests of local residents when making awards.
2.03	Hardship relief will usually only be granted if there is sufficient budget available for the financial year in which an application is determined.
2.04	If there are extreme circumstances where hardship relief may need to be awarded beyond the Council's budget provision for discretionary rate awards, this will be considered as a one-off budget pressure and determined by delegated powers by the Cabinet Member for Corporate Management and Chief Officer, Community & Enterprise.
2.05	The award of Hardship Relief must also comply with the European Union law on State Aid. Under the De Minimis Regulations (EC 1407/2013) the ratepayer should not receive more than €200,000 (approximately £165,000) in total of De Minimis aid over a three year period.

3.00	CONSULTATIONS REQUIRED / CARRIED OUT
3.01	The introduction of this policy framework has been considered by Community & Enterprise Overview and Scrutiny Committee.

4.00	RISK MANAGEMENT
4.01	The approval of this framework will ensure there are clear guidelines in place to determine applications for hardship; this will ensure transparency throughout the decision making process. Furthermore, businesses will also have knowledge of the Council's approach to determining applications and the various factors that would be taken into account as part of the adjudication process.

5.00	APPENDICES
5.01	Appendix 1 to this report sets out the policy framework for determining awards under the Hardship Rate Relief scheme.

6.00	LIST OF ACCESSIBLE BACKGROUND DOCUMENTS
6.01	<p>Hardship Rate Relief – section 49, Local Government Finance Act 1988</p> <p>Contact Officer: David Barnes Revenues Manager</p> <p>Telephone: 01352 703652</p> <p>E-mail: david.barnes@flintshire.gov.uk</p>

7.00	GLOSSARY OF TERMS
7.01	Business Rates: is the commonly used name of non-domestic rates, a tax on the occupation of non-domestic property including shops, offices, pubs, warehouses, factories etc.
7.02	Mandatory Rate Relief: Where a business property is occupied by a charity or a Community Amateur Sports Organisation and the property is put to use 'wholly or mainly' for charitable purposes, there is an automatic entitlement to a 80% reduction in the rate bill, the cost of which is picked up by Welsh Government.
7.03	Discretionary Rate Relief: Voluntary Groups and 'Not for profit' organisations which are not registered charities are not eligible to receive Mandatory Rate Relief, but they are eligible to receive discretionary rate relief up to 100%.
7.04	State Aid: is any advantage granted by public authorities through state resources on a selective basis to any organisations that could potentially

	<p>distort competition and trade in the European Union (EU). The definition of state aid is very broad because 'an advantage' can take many forms. It is anything which an undertaking (an organisation engaged in economic activity) could not get on the open market.</p>
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