

## Non Domestic Rates - Hardship Relief

1. Under section 49 of the LGFA 1988 the billing authority is given discretionary powers to reduce or remit the amount a ratepayer is required to pay in respect of either an occupied or unoccupied hereditament where the authority is satisfied that:
  - a. The ratepayer would sustain hardship and;
  - b. It is reasonable for the authority to do so having regard to the interests of the persons subject to council tax in its area.
  
2. Unfortunately there is no statutory definition of hardship and therefore each authority must arrive at its own decision in relation to any application. Guidance was provided by the Government in December 2002 as to the considerations that authorities might apply when exercising their discretion in determining applications for hardship relief. These are as follow:
  - a) Although rules may be adopted for considering hardship cases a blanket policy whether or not to grant relief should not be adopted.
  - b) Each case should be determined on its own merits and the application process as simple as possible so that decisions can be made quickly.
  - c) Reduction or remission of rates on the grounds of hardship should be the exception rather than the rule.
  - d) All relevant factors affecting the ability of the business/ratepayer to meet their liability for business rates should be taken into account
  - e) 25% of any reduction or remission must be met locally the remaining 75% can be offset against the authorities payment into the NDR pool.
  - f) The “interests” of council tax payers in any area can go wider than direct financial interests. E.g. employment prospects, or availability of amenities in and area or the business is the only provider of a service in the area.
  - g) Where the granting of relief may have an adverse financial effect on the financial interests of the council tax payers the case for a reduction or remission may still on balance outweigh the cost to taxpayers.
  - h) In some cases the hardship will be self evident, e.g. loss of trade through natural disasters such as severe flooding. However the authority may wish to consider how the business can demonstrate loss of business or trade. For example do accounts, order books, till receipts, VAT returns etc show a marked decline in trade compared to corresponding periods in previous years.
  - i) Authorities should be clear in granting relief that it will be granted only for the period in which there is clear evidence of hardship for the ratepayer concerned.
  - j) To guard against fraudulent claims, authorities should satisfy themselves that the claim is from a ratepayer suffering genuine hardship.
  - k) The relief granted in some cases may constitute state aid and may need to be notified to the European Commission. E.g. any manufacturing operation however small scale is normally deemed to be capable of affecting intra-Community trade so any relief would be state aid, likewise relief for butchers and farmers producing cheese, sausages and other foodstuffs would also be state aid. Where the relief constitutes state aid there would need to be legal clearance from the European Commission before it can be granted. There is a de-minimus aid ceiling of €200,000 over a period of 3 years, however this is not in respect of each award this is cumulative aid given by ALL public bodies to the business/ratepayer in question.

3. The guidance also recommends that hardship relief should only be granted for short periods and be reviewed regularly when the relief can be renewed, rather than granted for extended periods.