



Hardship Relief Policy

SUMMARY

- 1.1 Hardship Relief (HR) is a means by which Derby City Council (DCC) can use its discretionary powers to reduce the amount of business rates a business has to pay. In order to consider awarding HR the Council must be satisfied that;
 - a) The ratepayer would sustain financial hardship if HR was not awarded, and
 - b) It is in the interest of its council taxpayers to do so.
- 1.2 Currently the Council does have a formal policy for determining applications for HR and awards are made based upon a set of Government guidelines. Having a formal policy will ensure transparency in the Council's decision making process, enhance the Council's governance reputation and by ensuring awards are only made in exceptional cases will naturally limit expenditure.
- 1.3 Any award of HR may constitute state aid and therefore adherence to European Union regulations must be followed. Therefore, to ensure proper governance arrangements are in place, any business ratepayer requesting help through HR will be asked to complete a state aid declaration as part of the application process.
- 1.4 An Equalities Impact Assessment (EIA) has been completed and is attached at appendix three. The EIA has highlighted positive impacts for the citizens and businesses of Derby; its content should be taken into account as part of considering the proposed HR policy. The revised HR policy is attached at Appendix two.

RECOMMENDATION

- 2.1 To approve the introduction and application of the Hardship Relief policy attached at appendix two.

REASONS FOR RECOMMENDATION

- 3.1 To ensure that the Council has a proper framework in place for considering applications for HR.
- 3.2 To minimise the possibility of any claims made against the Council for maladministration or judicial review being successful and therefore protecting the Council's reputation and financial position.



SUPPORTING INFORMATION

- 4.1 Section 49 of the Local Government Finance Act 1988 gives power to Billing Authorities to award HR where it is satisfied that;
- The ratepayer would sustain financial hardship if HR was not awarded, and
 - It is in the interest of its council taxpayers to do so.
- 4.2 Applications for hardship relief are relatively rare. In 2015/16 the Council received one application and so far in 2016/17 four have been received. None of these applications have been successful.
- 4.3 The Council's proposed HR policy incorporates the Government's guidance on awarding relief including;
- That within a broad framework each case should be assessed on its merits,
 - That any award of hardship should be the exception and not the rule,
 - That in deciding whether to make an award 'interests' of council taxpayers may go wider than direct financial interests. For example, where the employment prospects in the area would be worsened or the amenities of an area reduced by a business ceasing to trade.
- 4.4 Under the business rates retention scheme the Council will have to fund 49% of any award made. The Council's scheme has been designed to ensure that awards are only made in exceptional cases and as such will naturally limit the amount of expenditure.
- 4.5 Awarding HR may constitute state aid and is therefore subject to state aid limits. The current state aid limit is €200,000 over a rolling three year period and any business reaching this limit will have their HR withdrawn immediately. To ensure proper governance in this area any business ratepayer requesting HR will be asked to complete a state aid declaration as part of the application process.
- 4.6 Having an approved policy in place will provide a transparent framework under which applications will be considered. As well as further enhancing the Council's governance arrangements it will minimise the potential for successful claims being made against the Council for maladministration or judicial review.
- 4.7 An EIA for this policy has been undertaken and is included at appendix three. The EIA highlighted positive impacts for the equality groups, but nevertheless should be taken into account as part of considering whether to approve the policy.

OTHER OPTIONS CONSIDERED

- 5.1 Do not have a policy. Taking this option will mean the Council miss an opportunity to improve its reputation for governance and transparency.

This report has been approved by the following officers:

Legal officer Financial officer Human Resources officer IT Officer Service Director(s) Other(s)	Olu Idowu, Head of Legal Services Toni Nash, Head of Finance David Cox, Head of HR Liam Salmon, Information Software Systems Manager Martyn Marples, Director of Finance Ann Webster, Equality and Diversity Lead
For more information contact: Background papers: List of appendices:	John Massey 01332 643774 john.massey@derby.gcsx.gov.uk None Appendix 1 – Implications Appendix 2 – Hardship Relief policy Appendix 3 – Equality Impact Assessment document (separate document)

IMPLICATIONS

Financial and Value for Money

- 1.1 If HR is awarded it takes the form of a reduction in the amount of business rates payable. Under the business rates retention scheme the Council will bear 49% of this loss of income. It is not possible to forecast any future loss of income as this will be based upon applications received in the future.

This policy will ensure that awards are only made in exceptional cases and therefore expenditure will be naturally limited.

Legal

- 2.1 The rules governing the award of HR are contained within section 49 of the Local Government Finance Act 1988.

Personnel

- 3.1 None.

IT

- 4.1 Awards of HR can be managed within existing software.

Equalities Impact

- 5.1 An EIA has determined that there were positive impacts for the equality groups

Health and Safety

- 6.1 None.

Environmental Sustainability

- 7.1 None.

Property and Asset Management

- 8.1 None.

Risk Management

- 9.1 The policy mitigates the risk of any reputational damage to the Council.

Corporate objectives and priorities for change

- 10.1 Awarding DRR will support the Council's aim to have "A safe, strong and ambitious

city to live, for citizens working life. It will indirectly lead to the creation of more jobs and therefore a higher GDP for the city.

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Derby City Council

Organisation & Governance
Finance Department

DERBY CITY COUNCIL NATIONAL NON-DOMESTIC RATES POLICY FOR THE AWARD OF HARDSHIP RELIEF

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Date Issued	Version	Status	Reason for change
20 October 2016	1.0	Draft	Initial policy
20 October 2016	2.0	Draft	Following review with Derby Advice
21 October 2016	3.0	Draft	Tidied up and marked for EIA
26 October 2016	4.0	Draft	Changes following EIA on 25 Oct 2016
2 November 2016	5.0	Draft	Changes following legal input

Equality impact assessment record	
Date of assessment	25 October 2016
Summary of actions from EIA	Promoting this Policy to the business owners within the equality groups, via the Derby Diversity Forum

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1. Background

The Policy set out below applies to any application for Hardship Relief (HR) made from 1st September 2016. This Policy is written in line with the most recent guidance from Government.

Section 49 of the Local Government Finance Act 1988 gives Derby City Council (the Council) power to reduce or remit business rates where:

- The Council is satisfied that the business ratepayer would sustain hardship if it did not reduce or remit business rates; and
- It is reasonable to make such a decision having regard to the interests of local Council Tax payers.

2. Purpose and Aim

The purpose of this Policy is to specify how the Council will operate its HR scheme and to indicate the factors that will be considered when deciding whether to make an award. The Council aims to treat all ratepayers equally when administering this Policy.

3. Priorities

The Council will make awards of HR to business ratepayers who meet the qualifying criteria as specified in this Policy. The Council will treat all applications on their individual merits, but will seek through the operation of this Policy to meet its aims and objectives as set out in the Derby Plan and the Council Plan.

4. Applications

All applications for HR shall be in writing (including e-mail) either on the relevant application form or in a written format, which provides all of the information required by the form. Where the applicant is a disabled person we will make a form accessible to them to meet their specific needs. Applicants will also need to provide the following supporting evidence;

- a) audited accounts for the last two financial years (new businesses that are unable to produce two years audited accounts will need to provide business projections and financial forecasts);
- b) cash flow forecast for the current financial year;
- c) details of all measures that have been/are being taken to keep the business sustainable.

The Council may also request from the applicant any other information which in its sole discretion it deems reasonable in support of the businesses application.

If the ratepayer does not provide the required information, the Council reserves the right to either treat the application as withdrawn or to determine the application in the absence of the missing evidence. The Council may disregard any unsubstantiated statements or draw its own conclusions from other evidence available.

The Council may verify any information or evidence provided by the ratepayer by contacting third parties, other organisations and the ratepayer, subject to Data Protection principles.

5. Period of HR Award

HR is designed to give short term help. The start date for HR will be the start of the financial year or the liability start date for the financial year in which the application is made.

Generally HR will be awarded retrospectively. However, where the business ratepayer can show that the circumstances will remain the same for a period up to

the end of the current financial year HR may be awarded for the remainder of the financial year.

In all cases an award of HR will end:

- At the end of the financial year in which the award is made;
- When there is a change in business ratepayer (if sooner than the financial year end);
- The business ratepayers' financial circumstances change substantially (if sooner than the financial year end).

6. Consideration and authorisation of HR

The Local Taxation Manager or Business Rates Team Leader will consider the application and make a recommendation to the Head of Revenues, Benefits & Exchequer (HRBES). The HRBES will be responsible for:

- Making a decision whether or not to award HR;
- If awarding HR, the amount of HR to award;
- If awarding HR, the period of award.

The Council reserves the right to refer the accounts accompanying an application to the Council's Accountancy Service for analysis. This will provide for an expert opinion on the organisations financial position.

Following a referral the accountancy team will provide a written opinion (including email) as to whether the audited accounts demonstrate financial hardship.

7. Key Criteria to consider when considering HR applications

- Each case must be considered on its own merits;
- Granting HR should be the exception and not the rule;
- That demonstrable financial hardship will be caused to the business ratepayer if the business rates is not reduced or remitted;
- The effect on employment and amenities provision in the City if HR is not granted. For example will the employment prospects in the City worsen or will the residents of the City lose a key amenity if a business is forced to close;
- The financial effect on Council Tax payers if HR is granted. Under the current Business Rates Retention scheme the Council will have to fund 49% of any HR granted. However, even if granting HR may have an adverse effect on the City's Council Tax payers it may still be awarded if the case for HR outweighs the cost to Council Tax payers;
- HR may constitute state aid and therefore adherence to EU regulations must be followed where appropriate.

8. Change of Circumstances

Any business ratepayer who is in receipt of an award of HR has a continuing duty during the period for which relief has been awarded to notify the Council of any change of circumstances that may affect their entitlement, within 7 days of the change.

9. Notification of an award

The Council aims to inform business ratepayers of the outcome of the application in writing within 7 days of the decision.

The Council will notify:

- Those whose application is unsuccessful giving full reasons why, including their right to request a review
- Those whose application is successful including the amount of relief awarded and their revised liability.

10. Reviews

There is no statutory appeal against a decision made by the Council regarding HR. However, the Council recognises that a business ratepayer should be entitled to have a decision reviewed if they are dissatisfied with the outcome. Reviews can be initiated in two circumstances:

(i) In the light of additional evidence not provided with the original application. Any such additional information must be in writing and will be passed to the Head of Revenues, Benefits & Exchequer Services for re-consideration.

(ii) If new information is not available a ratepayer may still appeal against the Council's decision to refuse an award of HR. These appeals must:

- be in writing (including email); and
- specify the reasons why the ratepayer feels the decision is incorrect; and
- be received by the Council within **four weeks** of the business ratepayer being notified of the Council's decision not to award HR.

In (ii) the review will be referred to the Council's section 151 officer for a decision.

In both cases the Council aims to notify the business ratepayer in writing of the outcome within 14 days. If the ratepayer remains dissatisfied then their right of redress is by way of Judicial Review.