

CABINET November 2014

1. **HARDSHIP RELIEF - BUSINESS RATES**

Submitted by: Revenues Manager

Portfolio: Finance and Resources

Ward(s) affected: All

Purpose of the Report

To consider an application for hardship relief in relation to business rates liabilities.

Recommendations

That the application for hardship relief detailed at appendix (b) be dealt with in accordance of the reasons stated.

Reasons

Section 49 of the Local Government Finance Act 1988 gives the local authority power to reduce or remit business rates on the grounds of hardship. Each application needs to be assessed with regard to its own individual merits.

1. **Background**

Section 49 of the Local Government Finance Act 1988 gives the local authority power to reduce or remit the amount of business rates a charge payer is liable to pay under the provisions of either Section 43 (occupied rate) or Section 45 (unoccupied rate) of the same act, where it is satisfied that:

- (a) the ratepayer would sustain hardship if the authority did not do so; and
- (b) it is reasonable for the authority to do so, having regard to the interests of persons subject to its Council Tax.

2. **Issues**

- 2.1 There is no statutory definition of hardship for the purposes of this relief. Each application needs to be assessed with regard to its own individual merits.
- 2.2 In December 2002, the Office of the Deputy Prime Minister issued guidance on granting rate reliefs and this is reproduced at appendix (a) to this report.

3. **Options Considered**

- 3.1 Business rates are long established statutory charges levied in respect of premises or other units occupied for non domestic purposes. The rateable value of a property is set by the Valuation Office Agency, an agency of Her Majesty's Revenue and Customs and is refreshed on a regular basis to keep pace with prevailing market conditions, normally every five years, although the values used on the current valuation list have been extended to seven years (up to 31 March 2017) by central government.

- 3.2 The principles used in making decisions on valuations are complex and may vary for a variety of reasons. However, different premises used for similar purposes will be valued on the same basis. For example, all petrol filling stations will be valued using the same principle, whilst all car parks will be valued using the same principle but a different principle to that used for petrol filling stations, etc.. This means that business that may be in direct competition from a commercial aspect are being charged businesses rates in an equitable manner, differences in value only dependant upon the size or other significant aspect of their premises.
- 3.3 In view of 3.1 and 3.2 above, it should be noted that the payment of rates in itself should not be considered a hardship. It is a legitimate business expense that all businesses need to be aware of and meet. Central government have recognised that there may be additional pressures on some businesses caused potentially by their size or location and have put in place and in some cases enhanced schemes such as small business rates relief and rural rate relief. However, Section 49 hardship relief also enables local authorities to recognise on an individual basis that some businesses may from time to time experience temporary set backs or difficulties or that a particular business may be important to the overall viability or wellbeing of its location. The payment of hardship relief should not be a mechanism to mitigate poor business decisions but it should provide a safety net to provide assistance in exceptional circumstances.
- 3.4 It is undoubtedly true to say that the general economic conditions of recent years have put financial pressure on many business enterprises. Although hardship relief provides a mechanism to give some financial assistance, it should not be used to give a competitive advantage to one business compared to another. It is reasonable to assume that businesses of the same general type will experience overall similar costs. Hardship relief should therefore be used for some unexpected or exceptional circumstances and not necessarily to mitigate changing economic conditions, although these are likely to have a negative impact on business viability.
- 3.5 Actual applications for hardship relief included potentially sensitive information in respect of the business operations affected. There is the potential that this information could be used by other similar enterprises to the applicants further detriment if it were general disclosed. For this reason, the detail of each application should be considered confidentially.

4. **Financial and Resource Implications**

- 4.1 The cost of granting the relief is shared in accordance with the Business Rates Retention Scheme local and central share arrangements, which are (as we are currently in excess of the baseline set by Central Government) 50% by central government, 28% by the billing authority (Newcastle-under-Lyme Borough Council), 12% to the Stoke and Staffordshire Rating pool, 9% by the County Council and 1% by the Fire and Rescue Authority.
- 4.2 The Council does not currently have a budget to cover the cost of any hardship relief, having never considered any applications in the past, although this in itself would not be a justifiable reason for refusal. Any cost directly to the Council will need to be met from elsewhere within existing budgets. The pooling arrangements of the Stoke-on-Trent and Staffordshire Business Rates Pool do not cover the treatment of this type of cost and are something that will need to be resolved at some point. However, again this would not be a reason to refuse an application and any costs are likely to be relatively insignificant in terms of the pool size in general.

5. **Earlier Cabinet/Committee Resolutions**

None

6. **Recommendations**

That the applications for hardship relief detailed at appendix (b) be dealt with in accordance of the reasons stated.

7. **List of Appendices**

7.1 Appendix A – Guidance on Rate Reliefs

7.2 Appendix B – Application for Hardship Relief (confidential item)