

**Watford Borough Council**  
**Hardship Rate Relief**  
**Policy and Procedure**

**Effective 1<sup>st</sup> April 2016**

# Hardship Rate Relief

## Policy and Procedure

<b>POLICY</b>
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### **POLICY**

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## 1 BACKGROUND

- 1.1 The government published guidance on NNDR Rate Relief for Charities and other Non-Profit Making Organisations. Councils have the discretion to reduce or remit up to 100% of the business rates on the grounds of hardship.
- 1.2 50% of the cost of funding for this relief is met centrally, with Watford Borough Council meeting the remaining 50%.
- 1.3 Councils must be aware that European Union competition rules generally prohibit Government subsidies to businesses. Hardship relief can constitute state aid depending up on the type of business and if the relief exceeds the de minimis level both are discussed briefly below.
- 1.4 In practice aid to small businesses, as long as they are independent, family-owned businesses, because they are deemed incapable of affecting intra-Community trade, will not be covered by the state aid rules, Any manufacturing operation, however small-scale, is normally deemed to be capable of affecting intra-Community trade; so rate relief for butchers and farmers for example, producing cheese, sausages, cider and other foodstuffs would be regarded as state aid.
- 1.5 There are general exceptions from the state aid rules where the aid is below a "de minimis" threshold of €200,000 (c £70,000) to any one business over three years. The "de minimis" threshold applies to all de minimis aid received, including other Government subsidies or grants, in addition to any rate relief.
- 1.6 This "de minimis" threshold does not apply in certain excluded sectors, including agriculture, fisheries, transport, coal and steel, and aid to export-related activities, where any amount of rate relief is state aid. As far as agriculture is concerned, rate relief for farmers would not be eligible for "de minimis" aid. Rate relief for farm diversification projects, which do not involve the production, processing and marketing of agricultural goods, would be eligible. [http://europa.eu.int/cgi-bin/make\\_inforeuro\\_page/en/gbp](http://europa.eu.int/cgi-bin/make_inforeuro_page/en/gbp)
- 1.7 Guidance on State aid is available at <http://www.dti.gov.uk/ccp/stateaid/>

## 2 POLICY

- 2.1 The purpose of this policy is to specify how the Revenues Service will operate the relief scheme and to indicate some of the factors that will be considered when deciding whether an organisation should be granted Hardship Rate Relief. Each case will be considered strictly on its own merits and all organisations will be treated equally and fairly.

### **3 STATEMENT OF OBJECTIVES**

- 3.1 The Revenues Service will consider granting hardship rate relief on an individual basis to all organisations who meet the qualifying criteria as specified in this policy. The Revenues Service will treat all applications on their individual merits, and will seek through the operation of this policy to:
- *Provide financial assistance by way of rate relief to organisations, who for exceptional reasons cannot meet their Non-Domestic Rates liability.*
  - *Ensure that when considering Hardship Rate Relief the best interests of the Council Tax Payers are taken into account.*
  - *Support the vulnerable organisations and people within the community.*
- 3.2 The Revenues Service considers that reduction or remission of Hardship Rate Relief will be an exception rather than the rule.
- 3.3 Hardship Rate Relief is not and should not be considered by organisations a way out of paying any current or future liability for Non-Domestic Rates.

### **4 GRANTING RELIEF**

- 4.1 In cases of hardship, each application should be considered on its own merits. To receive a reduction of rates under the grounds of hardship, exceptional circumstances will have to be demonstrated by the organisation and the person making the application.
- 4.2 The impact on the community in the area that surrounds the premises will be taken into account such as when employment will be affected by the company going out of business or a reduction in local services which would have negative effects on the population.
- 4.3 When interpreting the “interests of its Council Tax payers” the Government advises that this may go further than direct financial interests. For example where a company going out of business would worsen the employment prospects in the area, or the amenities of an area might be reduced by, for instance, the only provider of a service in that area.
- 4.4 An example of what may constitute hardship include is where a business has been affected by severe loss of trade, due to external factors such as natural disasters. However, the Revenues Service will ask the applicant to provide clear evidence to demonstrate the loss of trade or business by for example providing accounts, order books, till receipts or VAT returns to show a marked decline in trade compared to previous years

4.5 The Revenues Service will review the most recent accounts of the organisation making the application to gain a clear understanding of their current financial status and the hardship experienced. This will include :

- reviewing the last three years accounts
- identifying surpluses on the organisations balance sheet
- what funds are “restricted”

## **5. CHANGE OF CIRCUMSTANCES**

5.1 If an organisation has a change of circumstances within the financial year, the Council must be notified and appropriate action taken.

5.2 A review of a previous decision can be made on the basis of the new application and information provided.

## **6 LENGTH OF RELIEF**

6.1 In all cases, the Discretionary Hardship Rate Relief will only be granted for one financial year.

6.2 Hardship Relief will be granted from the 1<sup>st</sup> of April of the applying year, until the 31<sup>st</sup> of March of that financial year.

6.3 A review of the Discretionary Hardship Rate Relief granted will be undertaken on a yearly basis. A new application form and evidence will need to be submitted by the organisations concerned. The relief will remain on the account unless the new application is refused, then the relief will be removed from the beginning of that financial year and a bill issued for the full year’s liability of Non-Domestic Rates.

## **7 BACKDATING**

7.1 An application for Discretionary Hardship Relief can be made at any time. It is at the discretion of the Council to consider granting relief for a backdated period.

7.2 When an application is received for the previous financial year, reasons as to why an application for relief was not made earlier and individual circumstances will be considered when granting a backdated period of relief.

## **8 PUBLICITY**

8.1 The Revenues Service will publicise the Hardship Rate Relief Scheme A copy of this policy statement will be made available for inspection and will be posted on the Council’s website.

# **Procedure for Administering National Non Domestic Rates Hardship Relief**

<b>PROCEDURE</b>
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- 10 How does an organisation apply for Hardship Rate Relief?
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- 12 How are Hardship Rate Relief applications dealt with?
- 13 Organisation granted Hardship Rate Relief
- 14 Organisation not granted Hardship Rate Relief
- 15 Keeping a record of Grants
- 16 The right to Appeal

## PROCEDURES

### 9 WHO CAN APPLY FOR HARDSHIP RATE RELIEF?

- 9.1 "The billing authority' has 'power to reduce or remit the amount a person is liable to pay under the provisions of either s.43 (occupied rate) or s.45 (unoccupied rate) 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 person subject to its council tax.
- 9.2 Any organisation suffering Hardship and trading within the Borough can apply for Hardship Rate Relief.

### 10 HOW DOES AN ORGANISATION APPLY FOR HARDSHIP RATE RELIEF?

- 10.1 In order to be considered for Hardship Rate Relief, an organisation is required to complete and return an Application for Hardship Relief form. Attached to the application must be a certified copy of the organisation's last three years accounts, a copy of the organisation's constitution and a copy of their charitable status certificate, if appropriate. These documents are required to ensure that a full assessment can be undertaken.

### 11 HOW DO WE RECEIVE HARDSHIP RATE RELIEF APPLICATIONS?

- 11.1 Applications can be emailed directly to the business rates department ([ndr@watford.gov.uk](mailto:ndr@watford.gov.uk)) or sent in by post.
- 11.2 An electronic spreadsheet of applications is kept and the progress of the application is recorded on the sheet.

### 12 HOW ARE HARDSHIP RATE RELIEF APPLICATIONS DEALT WITH?

- 12.1 The form will be checked to ensure it has been signed and all relevant questions answered. The last three years accounts must be attached, along with the organisations Constitution.
- 12.2 An assessment of the organisation will then be done based on the 'Granting Relief' Section of the Policy for Hardship Rate Relief as above. A checklist will be completed for each application.
- 12.3 Brief reasons for the decision will be noted at the bottom of the checklist and the decision clearly marked. This must be signed and dated by the Officer making the decision.

### **13 ORGANISATION GRANTED HARDSHIP RATE RELIEF**

- 13.1 A Notification letter will be sent to the organisation.
- 13.2 Finance will be notified of award made, the amount is agreed and signed off.
- 13.3 Relief is loaded onto the councils NNDR Academy system for the appropriate financial year.

### **14 ORGANISATION NOT GRANTED HARDSHIP RATE RELIEF**

- 14.1 A notification letter will be sent to the organisation, advising it of the decision and the of the appeal procedure. The organisation will have a month to reply with the reasons for their request.

### **15 KEEPING A RECORD OF GRANTS**

- 15.1 An electronic record is kept of all accounts that have Hardship Rate Relief applied to their account on Academy. A check will be done on a regular basis to ensure that no unauthorised relief has been applied to an account.

### **16 THE RIGHT TO SEEK A REVIEW**

- 16.1 There is no right of appeal against a Hardship Rate Relief decision, and although there is Guidance for how authorities should deal with appeals against their decisions of Hardship Rate Relief, the Revenues Service has no legal obligation to review the decision unless it is challenged as not being made against the written procedure that the Council has adopted. This would be carried out by Judicial Review.
- 16.2 The Revenues Service will operate the following policy for dealing with requests to review a decision not to grant Hardship Rate Relief, a decision to grant less than full Hardship Rate Relief or a decision not to backdate Hardship Rate Relief.
- 16.3 An organisation (or their appointee or agent) that disagrees with a Hardship Rate Relief decision may dispute the decision. A request for review shall be made in writing within one calendar month of the written Hardship Rate Relief decision being issued to the customer.
- 16.4 The first step is for an Officer from the Revenues Service to explain the decision to the customer by telephone, or at interview or in writing to seek to further resolve the matter.

- 16.5 Where agreement cannot be reached, the Head of Revenues & Benefits will consider the case; review all the evidence held and will make a decision within 14 days of referral or as soon as is practicable.
- 16.6 Where the Head of Revenues & Benefits decides not to revise the original decision, he/she will notify the customer of their decision in writing, setting out the reasons for such a decision.
- 16.7 Where the organisation is still not satisfied, it will be entitled to a further and final review, provided this is requested in writing within one calendar month of the date on the decision letter sent by the Head of Revenues & Benefits. The Director of Finance will review the case and make a final decision.
- 16.8 The decision made by the Director of Finance will be notified in writing to both the Revenues Service and to the organisation concerned. The decision will be final and binding and may only be challenged via the judicial review process or by complaint to the Local Government Ombudsman. The Head of Revenues and Benefits or the Director of Finance may extend the time periods for a review in exceptional circumstances. In deciding to extend, they will take into account any delay in seeking independent advice that was outside the control of the organisation.
- 16.9 Unless a change of circumstances has occurred, a review may not recommend a reduction in an award already notified for the applicable financial year.