

Woking Borough Council

National Non-Domestic Rates

Guidelines for considering Hardship Relief
Section 49 Local Government Finance Act 1988

When considering applications for hardship relief the following factors will be taken into account together with guidelines contained in ODPM Practice Note of August 1990 :

- 1 That any decision is in the interests of the Council taxpayers of Woking as a whole. The “interests” of the taxpayers may go wider than direct financial interests. For example, where the employment prospects in the area would be worsened by a company going out of business.
- 2 The hardship need not be confined strictly to financial hardship but may include other factors that might affect the ability of a business to meet its liability for rates.
- 3 (i) That if hardship is claimed up-to-date trading accounts are produced as supporting evidence of failure to achieve reasonable return on capital employed.

(ii) As a guide, for hardship assessment purposes a reasonable return on capital employed is assumed to be at least equivalent to the rateable value shown in the 2017 Rating List, adjusted for inflation, i.e. since the rateable value is defined as the annual rental value of a business premises it could be assumed for hardship purposes to be equivalent of an annual investment income if the premises were offered to let. Where the business has more than one premises, the total rateable value of all premises is used.
- 4 A trading loss or evidence of new competition is not sufficient in itself to prove hardship in the rate relief context.
- 5 As a rule, the business should be the only one of its type providing a unique service and its loss would severely diminish amenities if it ceased to trade.
- 6 Each applicant will be considered on its own merits.
- 7 The maximum amount of rates remitted can be up to 100% of the rate liability.
- 8 Applications will be effective from the start of the financial year in which they are made and will be reviewed annually or where circumstances change. Relief will be withdrawn on disposal of the business.

1.0 Previous Advice on Hardship Relief from Office of The Deputy Prime Minister's

- 1.1 The ODPM issued a Practice Note advising of matters Councils may wish to bear in mind when considering hardship cases. Part of that advice is that, although Councils may adopt rules for the consideration of hardship cases (which this Council has – based on the ODPM advice) they should not adopt a blanket policy either to give or not to give relief; each case should be considered on its merits.

2.0 Publicity

- 2.1 The existence of the hardship provisions is advertised. Application forms and Guidance Notes are available but to date the take up remains minimal. However that is in line with ODPM expectations that reductions or remission of rates on hardship grounds should be the exception rather than the rule.

3.0 Definitions of Hardship

- 3.1 The concept of hardship relief has featured in rating legislation for many years, although not exactly in the current form under the 1988 provisions. In the absence of a formal definition of hardship, previous court decisions, even if given under slightly different provisions, are still relevant as the only guidance available – apart from the ODPM Practice Note.
- 3.2 Decisions in previous cases have included the following points :-
- hardship can apply to a company (as well as to a sole proprietor of a small business) ;
 - it is reasonable to ask for the accounts of a company to appreciate the capacity to pay without hardship or to judge the degree of hardship established ;
 - not every reduction of trading income through payment of rates will, in all the circumstances, be considered hardship, e.g. empty rate levied on speculative building ; and
 - Councils are not obliged to take account of hardship resulting from imprudence of the ratepayer.

4.0 Interests of the Council's Taxpayers

- 4.1 In effect the Council has to consider what effect the grant of relief would have on the amount of its council Tax.
- 4.2 However, "interests" of Council Taxpayers may go wider than direct financial interests. The ODPM Practice Note gives an example relating to the amenities of an area being reduced by, for instance, by the loss of the only shop in a village. It is suggested that to grant relief on such a shop, it must be of significant value to the local community, e.g. containing a sub-post office.
- 4.2 Another ODPM example cites the case where employment prospects in the area would be worsened by a company going out of business.