



City of York Council Non Domestic Rating - Hardship Policy

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1.0 Purpose of the Policy

- 1.1 The purpose of this policy is to detail the Council's provisions for reducing or remitting Non Domestic Rates liability where the ratepayer is suffering hardship.

2.0 General Explanation and Legislation

- 2.1. Section 49 of the Local Government Finance Act 1988 gives billing authorities discretion to reduce or remit the payment of rates whilst giving regard to the interests of its Council Tax payers. This legislation gave the power to reduce or remit rates on both occupied and unoccupied property rates.

- 2.2 The legislation states the following:

Reduction or remission of liability.

(1)A billing authority may—

- (a) reduce any amount a person is liable to pay to it under section 43 (occupied rates) or 45 (unoccupied property rating); or
- (b) remit payment of the whole of any amount a person would otherwise be liable to pay to it under section 43 or 45.

(2)But an authority may **not** act under this section unless 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 liable to pay council tax set by it.

(3)The amount as regards which a reduction or remittance may be made under subsection (1) above is the amount the person would be liable to pay (apart from this section) taking account of anything done under section 47 .

(4)Where an authority acts under this section, section 43 or 45 shall be construed accordingly as regards the case concerned.

3.0 How will the reduction or remission be provided?

- 3.1 In making decisions on whether to award the relief the Council generally takes into account the following criteria (not listed in any priority):

- Any reduction or remission of rates on the grounds of hardship should be the exception rather than the rule;
- Any reduction of the rates must be shown to be significant to the future viability of the business;
- The business must continue to trade;
- Cash flow forecasts for a minimum of the next twelve months must be provided together with a comprehensive Business Plan incorporating a brief history of the business;

- The test of "hardship" is not strictly confined to financial hardship and that this, in itself, is not a deciding factor;
- The loss of the business would reduce amenities of an area if it is the sole provider of a service in the area;
- The loss of the business would worsen the employment prospects in the area;
- The interests of the Council Tax payers of the area would be best served by awarding the relief;
- The business must demonstrate how it is beneficial to the local community and why it is currently suffering financial hardship;
- The business provides employment to local residents in an area where employment opportunities are limited;
- Independent advice given by banks or financial advisors should be sought to demonstrate the future viability of the business;
- Applications will only be considered where signed by the ratepayer, or, where an organisation is the ratepayer, an appropriately authorised representative of the organisation; and
- The ratepayer will provide additional information as deemed necessary by the Council to be essential in order for a fair evaluation of the application.

4.0 Applications and evidence

4.1 All applications must be made in writing to the Council.

4.2 Ratepayers should be able to demonstrate that they meet the criteria specified in Section A below **AND** at least one of the criteria in Section B.

Section A - (Hardship)

- The ratepayer must be able to display, (giving evidence and reasons), that the organisation/business has run into financial difficulties such that it is unable to meet its liability for Non Domestic rates and to prove that if the rates are not remitted, then the business will have to cease trading.
- The ratepayer must also be able to provide a business plan which indicates that the business can reasonably expect to continue if relief is granted.

Section B – (Interests of the Charge payers of the City)

- The ratepayer must be able to show that the cessation of the organisation's activities will involve one or more of the following:-
 - (a) Substantial reduction in amenities for the residents of City of York Council, or

- (b) Serious implications for employment prospects in the Council's area; or
- (c) Loss of a unique amenity within the Council's area.

5.0 Effect on the Council's Finances

- 5.1 The costs of any reduction or remission of liability will be borne equally between the Council and Government in line with the Business Rates Retention regime.

6.0 Scheme of Delegation

Granting, Varying, Reviewing and Cancellation

- 6.1 All powers in relation to reductions and reliefs are given under the Local Government Finance Act 1988, the Local Government and Rating Act 1997, the Local Government Act 2003, and the Localism Act 2011. However section 223 of the Local Government Act 1992 allows for delegation of decisions by the Council to Cabinet, Committees, Sub-Committees or Officers.
- 6.2 For the purposes of this policy, the Section 151 officer in consultation with the relevant Executive Member for Finance and Major Projects will be able to reduce or remit a ratepayers Non Domestic Rates liability.
- 6.3 Applications that are refused will, on request, be reconsidered if additional supporting information is provided or the refusal is subsequently considered to be based on a misinterpretation of the application.

7.0 Reviews

- 7.1 Where the Council receives an appeal from the ratepayer regarding the granting, of any reduction or remission, the case will be reviewed by the Head of Customer and Exchequer Services. Where a decision is revised, then the ratepayer shall be informed, likewise if the original decision is upheld.
- 7.2 Where the ratepayer wishes to appeal the decision, the case will be considered by the Council's Section 151 Officer whose decision on behalf of the Council will be final.
- 7.3 Ultimately the formal appeal process for the ratepayer is Judicial Review although the Council will endeavour to explain any decision fully and openly with the ratepayer.

8.0 Reporting changes in circumstances

- 8.1 Where any reduction or remission is granted to a ratepayer, the Council will require any changes in circumstances which may affect the reduction, to be reported as soon as possible or in any event within 21 days of the change. This will be important where the change would result in the amount of the reduction or remission being reduced or cancelled.
- 8.2 Where a change of circumstances is reported, the reduction or remission will, if appropriate, be revised or cancelled as appropriate. Where any reduction or remission is to be reduced or cancelled, the Council will look to recover the amount from the date the change of circumstances occurred.

9.0 Fraud

- 9.1 Where a ratepayer falsely applies for any relief, or where the ratepayer provides false information, makes false representation, or deliberately withholds information in order to gain a reduction or remission, prosecutions will be considered under the Fraud Act 2006.