

REVENUES AND BENEFITS SERVICE

Non Domestic Rates Hardship Relief Policy

2018 / 2019

Policy Statement

Sandwell MBC's objective is to treat each and every application for Section 49 Hardship Relief on its individual merits.

Background

The Council is aware of its duties and powers in accordance with section 49 of the Local Government Finance Act 1988. This Policy sets out how the Council will use its powers and the criteria that must be satisfied.

Section 49 of the Local Government Finance Act 1988 gives a Billing Authority the ability, if it so wishes, to reduce amounts due for Non Domestic Rates.

An Authority may reduce or remit the amount payable, to do so it must be satisfied that:

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

Section 49 Policy

Purpose

The purpose of this policy is to specify how Sandwell MBC will administer requests for relief from payment of Non Domestic Rate and to indicate **some** of the factors that will be considered when deciding if relief may be granted. Each case will be treated strictly on its merits and all applicants will be treated equally and fairly.

Statement of objectives

Sandwell MBC will consider applications for relief from payment of Non Domestic Rate under the provisions of Section 49 of the Local Government Finance Act 1988. In administering applications Sandwell MBC will ensure that each application will be given due regard on its own merits in accordance to the criteria and process laid down by the Council.

Applications

Applications will need to be made in writing by any ratepayer wishing to apply for assistance. In all cases evidence will be required from the ratepayer. Where this is requested, the authority would expect the required evidence to be provided within 14 days of the request unless otherwise stated by the authority.

Where no or insufficient information is provided by the ratepayer, no relief shall be granted.

Criteria for using powers

The Council will consider using its powers to reduce or remit Non Domestic Rate liability for any Non Domestic Rate payer. Each case will be considered on 'its merits' however the following criteria should be met for each case:

- Reduction or remission of rates on the grounds of hardship should be the exception rather than the rule.
- The test of hardship will not be confined strictly to financial hardship. All relevant factors affecting the ability of a business to meet its liability for rates should be taken into account.
- There is a cost implication of any relief awarded which is borne locally and met from the authority's general fund.
- The interests of council tax payers in an area 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, or the amenities of an area might be reduced by, for instance, the loss of the only shop in the vicinity.

- Where the granting of relief would have an adverse effect on the financial interests of council tax payers, the case for a reduction or remission of rates payable may still, on balance, outweigh the costs to council tax payers.
- The financial position of the business ratepayer be established by requiring that audited accounts for the three years preceding the date of the application for remission / reduction are produced except in the case of a new business where the previous twelve months should be produced.
- The fact that a ratepayer suffers a trading loss in one year should **not** be construed as evidence that the ratepayer would suffer hardship if the rates were not remitted or reduced.
- In considering the general interests of other council tax payers, non-domestic rates should only be reduced or remitted where failure to do so would lead to a direct cost falling on the council tax payers.
- Any other factors put forward by the ratepayer would be considered on their specific merits.
- In order to minimise the cost of administering the applications for reductions or remissions that would fall to be met from council tax payers, applicants should be instructed to provide an analysis of the firms financial position and future prospects made by a qualified accountant.
- Consideration must be given to the amount of relief that can be granted and the effect this will have on a business's ability to continue to trade.
- Regard will be given to the European Commission's rules in respect of State Aid.
- Where a business is making a repeat application, this will only be considered if it can be shown that the circumstances surrounding the application have changed, the details of the application differ and the business has taken reasonable steps to improve its situation.

Period of relief

Relief will only be granted (as a maximum) to the end of a tax period in which the reduction or remission is requested.

Responsible officers

- **Executive Director of Resources**

Delegation of authority to reduce or remit non domestic rates under the provisions of Section 49 has been granted to the Executive Director of Resources for amounts up to and including £20,000. The responsibility for making decisions regarding amounts above £20,000 lies with the Cabinet Member for Core Services.

The Revenues and Benefits Service Manager will liaise with the customer in each case to obtain sufficient detail (in line with the criteria as laid out in this policy) to make a decision in their case.

Decision making process

The Council will decide every application for relief where the customer has satisfied the required criteria as laid out in this policy.

The decision making process will involve:

Stage1. The Revenues and Benefits Service Manager making a recommendation to the Executive Director of Resources after considering each case on 'its merits' against the information provided by the customer.

Stage 2. The Executive Director of Resources will decide whether to award a reduction or remission.

Stage 3. Where the reduction or remission is greater than £20,000, the Executive Director of Resources will make a recommendation to the Cabinet Member for Core Services.

Changes of Circumstances

The customer has a duty to notify the Council where a change in circumstance would affect the granting of relief. The change in circumstances must be notified to the authority within 14 days of its occurrence.

The Council can revise relief to take account of a change in circumstance.

Notification

The Council will notify a customer of its decision within 14 days of receiving sufficient information to make a decision.

The right to seek a review

Under the Local Government Finance Act 1988, there is no right of appeal against the Council's use of discretionary powers. However, the Council will accept a customer's request for a re-determination of its decision.

The review process will involve consideration of the request on 'its merits' by the Assistant Chief Executive. The Council will consider whether the customer has provided any additional information against the required criteria that will justify a change to its decision.

Notification of review / re-determination decision

The Council will notify a customer of its decision within 14 days of receiving a request for a review/re-determination.

State Aid

State Aid law is the means by which the European Union regulates state funded support to businesses. Providing discretionary relief to ratepayers is likely to amount to State Aid. However any relief will be State Aid compliant where it is provided in accordance with the De Minimis Regulations (1407/2013)

The De Minimis Regulations allow an undertaking to receive up to €200,000 of De Minimis aid in a three year period (consisting of the current financial year and the two previous financial years).

Certain organisations may be excluded from the state aid rules.

To administer De Minimis it will be necessary for the authority to establish that the award of aid will not result in the undertaking having received more than €200,000 of De Minimis aid. All undertakings will be required to certify that they fall within the De Minimum rules prior to the relief being granted.

Equalities

This policy has been produced in line with the Council's obligation to the Public Sector Equality Duty provided by the Equality Act 2010. No adverse impact on any protected characteristic has been identified as a result of this policy.

Policy review

The policy will be reviewed annually, or sooner if appropriate, to take account of operational adjustments and or changes to legislation.