

Wiltshire Council

Cabinet

22 June 2010

Subject: Business Rate Relief: Hardship Relief Policy

**Cabinet members: Councillor John Brady
Economic Development, Planning and Housing**

**Councillor Fleur de Rhe-Philippe
Finance, Performance and Risk**

Key Decision: Yes

Executive summary

After a period of more than 15 years continuous growth, the UK economy is facing extreme economic hardship. As the world experiences an almost unprecedented economic recession, the combined effect of increased commodity prices, especially oil, and less readily available credit are hitting businesses and individuals hard.

In March 2009, the Wiltshire Assembly report on the impact of the Credit Crunch in Wiltshire was published. The report proposed 20 Action Points to help remediate the situation in Wiltshire and included reviewing Business Rate Policies, specifically to introduce improved and consistent policies for small business rate relief, hardship relief and rural business relief for 2010-11.

This paper deals specifically with setting out the hardship rate relief policy and protocols. Work is being undertaken separately to review the policies for small business rate relief and rural business relief and will be submitted to cabinet as a separate agenda item.

Proposals

That Cabinet adopt the proposed process to manage applications for hardship rate relief to ensure that any award meets the Council's objectives and brings benefit to the community the business serves. Specifically that:

- a) Cabinet approves and adopts the proposed application and assessment process for hardship rate relief (Appendix 1).
- b) The decision on applications requesting hardship rate relief of up to £10,000 in total be delegated to the Chief Finance Officer of Wiltshire Council, in consultation with the Head of the Revenues and Benefits

Service.

- c) Cabinet establishes a committee of the Cabinet to determine business hardship rate relief applications in excess of £10,000 rate relief. This committee to comprise 3 members appointed by the Head of Democratic Services, to be drawn from Cabinet.
- d) The Appeals Panel determines cases where an application has been rejected and an appeal by the ratepayer is lodged.
- e) £100,000 (or an agreed sum set by Cabinet) is identified and allocated on an annual basis to specifically fund hardship rate relief applications.
- f) Cabinet members receive training on business hardship rate relief.

Reason for proposal

The need to agree policy and process relating to hardship rate relief to provide a framework for managing applications and ensure that any award meets the Council's objectives and brings benefit to the community the business serves.

Alistair Cunningham, Service Director Economy and Enterprise
Martin Donovan, Service Director Finance and Procurement

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Purpose of report

1. To seek approval for the adoption of policy and process relating to applications for hardship rate relief.

Background

2. Prior to the creation of Wiltshire Council, each district council had its own set of policies and guidance on the application of rate relief. In December 2008, local businesses were informed that discretionary rate relief would stay the same for 2009-2010 but that it would be reviewed during that period along with hardship relief. In fact the review has taken longer than expected and hardship rate relief forms the first part of the review of all discretionary relief awarded by Wiltshire Council. This report focuses solely on hardship rate relief.

Main considerations for the council

3. The main provision conferring the current discretionary power on billing authorities to grant rate relief is Section 49 of the Local Government Finance Act 1988. Under this provision billing authorities have discretion to grant rate relief to certain ratepayers from all or part of the amount of non-domestic rates payable. It must be noted that non domestic rating regulations, which cover rate relief, are subject to change on a frequent basis. The latest change was in the February 2010 budget which affected small business rate relief. The recent change in Government could prompt further regulatory changes.
4. Billing authorities have the discretion to grant relief of up to 100% to ratepayers who are experiencing hardship (under section 49). In total, 75% of the cost of all discretionary reliefs, including hardship relief, is met by Central Government, with the billing authority meeting the remaining 25%.

5. Guidance on the 1988 Local Government Finance Act states that although authorities may adopt rules for the consideration of hardship cases, they should not adopt a blanket policy either to give or not to give relief: each case should be considered on its own merits and the application process kept as simple and streamlined as possible to enable decisions to be made quickly.
6. There is no statutory definition of hardship and it is not confined to financial hardship alone. A general downturn in the economy, such as a recession should not be regarded as sufficient evidence of hardship as it impacts on all businesses. However recessionary effects may exacerbate pre-existing situations which will impact negatively on the economy of the local area.
7. On a general level, applications will need to be assessed on the basis of the business' benefits to local ratepayers and the impact on meeting the Corporate Plan targets e.g. safeguarding 8,000 jobs between 2010 and 2014. For example assessment criteria considered will comprise:
 - The impact of the loss of the business on the least resilient and most vulnerable communities;
 - The impact on local supply chains;
 - Whether the business has been responsible for contributing to the development of value added skills ;
 - The contribution to local distinctiveness; and
 - Whether rate relief would lead to displacement of production or employment.
8. During 2009/10, a total of 10 hardship rate relief cases were received, and cost the authority approximately £80,000. What is difficult to predict is:
 - the number of businesses that are likely to come forward for hardship relief each year;
 - the amount of relief requested; and therefore
 - the impact on the authority's finances on an annual basis.
9. Appendix 1 sets out the proposed hardship rate relief application and assessment protocol for Wiltshire which draws on the local knowledge and expertise of Business Link, Officers and Local Economic Partnerships in recommending cases for hardship rate relief awards.

Environmental impact of the proposal

10. There are no known environmental impacts of this proposal.

Equalities impact of the proposal

11. The assessment of hardship rate relief will be taken on a case by case basis so that all aspects of an individual business' circumstances can be

appraised as opposed to taking a fixed check list of criteria. This individual approach to assessment is set by Government.

Risk assessment

12.

I. Risk	Impact
<p>II. The assessment protocol is not approved and adopted</p>	<p>There will be no formal approach to assessing rate relief applications for partner organisations to sign up leading to potentially haphazard and inconsistent delivery and potential inequalities.</p> <p>The commitment by Wiltshire Council to review and set business rate relief policies will continue to slip.</p> <p>The reputation of Wiltshire Council will be damaged amongst the business community</p>
<p>III. The delegated limit to the Chief Finance Officer is not agreed</p>	<p>The smaller hardship rate relief applications will take longer to approve as they will all need to go to a committee of the Cabinet.</p> <p>The committee of the Cabinet could become clogged with small applications</p>
<p>IV. Cabinet does not agree to engage in the decision making process</p>	<p>Cabinet members will not be aware of strategically significant business hardship issues.</p> <p>The reputation of Wiltshire Council will be damaged amongst the business community.</p>
<p>V. Resources are not identified and allocated to pay for hardship Rate Relief</p>	<p>No hardship rate relief can be awarded as no service has a budget allocated for awards. The impact is that the fabric of the local economy and communities will be damaged.</p> <p>Unemployment will rise and businesses will close.</p> <p>Corporate Plan targets for 8,000</p>

	<p>safeguarded jobs will be impacted.</p> <p>The reputation of Wiltshire Council will be damaged amongst the business community.</p>
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Financial implications

13. During periods of economic stability, applications have tended to be rare with only a handful (less than 10) received by each billing authority per year. The total amount of relief granted in Kennet for example was less than £2,000 per annum and total relief granted by West Wiltshire District Council in 2008/09 was £12,524.52. In 2009, however the hardship rate relief awards totalled some £80,000.
14. Currently, there is no specific budget set aside for the payment of hardship rate relief. In anticipation of an increase in applications, it is proposed to establish a hardship rate relief pot each year. This pot would provide a finite amount available annually for granting hardship rate relief.

Legal implications

15. The protocol at Appendix 1 ensures that the consideration and decision-making processes, which will be applied to all applications, are transparent and fair and accord with Government guidance. The process also provides unsuccessful applicants with an appeal mechanism. Any challenge to the decision of the Appeals Panel would be by way of judicial review in the High Court.

Options considered

17. **Option 1: No hardship rate relief is awarded.**
Rejected: Given the recession, this option is not regarded as feasible as strategically significant business, their supply networks and associated settlements are already stretched and under pressure. In addition, this approach would damage the reputation of the Council.
18. **Option 2: Funding is ring-fenced on an annual basis for hardship rate relief awards.**
Proposed: It is proposed that a sum of funding is identified and ring fenced for hardship rate relief in 2010/11, and annually thereafter, as no budget currently exists for these awards within the authority.
19. **Option 3: Rely on Revenues and Benefits Service to deal with all application assessments, awards and appeals.**
Rejected: Revenues and Benefits do not appreciate fully the economic impact of businesses within their supply networks and communities and as such this option is inadvisable.

20. **Option 4: A committee of the Cabinet to review all assessments and determine applications.**
Rejected: Committee meetings could be clogged with applications, which would be unfeasible.
21. **Option 5: Cross service and partnership approach to application assessment and recommendation for approval/rejection.**
Proposed: By linking in the expertise and knowledge of Business Link Advisers, Local Economic Partnership Managers, the Economic Development Service and the Revenue and Benefits Service, a clearer understanding of individual business hardship can be appreciated and recommendation made whether to support or reject an application.
22. **Option 6: Chief Finance Officer has delegated power to approve awards up to £10,000**
Proposed: Following a joint assessment of applications and recommendation by a Hardship Rate Relief Assessment Panel, the final decision on approval or rejection is delegated to the Chief Finance Officer, in consultation with the Head of Revenues and Benefits.
23. **Option 7: A committee of the Cabinet to determine awards above delegated limit**
Proposed: Due to the potentially significant financial sums involved in granting rate relief, the committee of the Cabinet needs to be aware of, and decide on, the level of support to be awarded in larger applications.
24. **Option 8: Appeals Panel to determine all appeals.**
Proposed: Where an application has been rejected and an appeal lodged by the business rate payer, the Appeals Panel will review the decision and decide whether to uphold the decision or overturn it. The decision of the Appeals Panel will be final and there will be no right of further appeal.

Conclusions

25. Taking all of the above into consideration, it is imperative that Wiltshire Council adopts a considered policy and mechanism by which it awards hardship rate relief in order to support the development of resilient communities and a sustainable economic base. The Cabinet is therefore recommended to approve the proposals set out in this paper and its appendices.

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Background papers

The following unpublished documents have been relied on in the preparation of this report: None

Appendices

Appendix 1: Hardship Rate Relief Application and Assessment Protocol

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Pre Application

1. The Revenues and Benefits (R&B) team will forward all hardship rate relief enquiries to the relevant Local Economic Partnership (LEP) Manager and copy in the Economic Development Business and Enterprise team.
2. The Local Economic Partnership (LEP) Manager will then guide the business through the application process. The application enables all applications to be tracked and ensures that all relevant information is gathered. The application form will state the obligations on the applicant to make available relevant information e.g. applicants will be required to provide a minimum of 2 years accounts and where appropriate details of personal savings.
3. In the case of company visits, the LEP Manager will be accompanied by a local rating expert from the R&B team (if required) to guide the applicant through technical aspects of hardship rate relief
4. As a pre-requisite to applying for relief, every applicant will be required to have a session with a Business Link adviser. The adviser will undertake a viability assessment of the business as to whether it is in hardship as part of their business diagnostic service. Business Link will contact the business with 48 hours of the referral being made by the LEP Manager.
5. In cases where the LEP Manager does not consider the business to be in hardship, or it cannot meet the obligations for application (e.g. no accounts information), then the business will be referred to Business Link for advice and support.

Application and Assessment Stage

6. The Business submits their application to the R&B team.
7. The Business Link adviser and LEP managers* will provide an assessment report to the R&B team to assist with the decision making process.
* Each assessment is expected to take the equivalent of one day of the LEP manager's time.
8. In order to process applications quickly and in a consistent and fair manner a Hardship Rate Relief Assessment Panel will meet on a monthly basis (in exceptional cases of hardship, a special meeting of the panel can be convened at the request of the LEP Manager). The Hardship Rate Relief Assessment Panel will comprise representatives from R&B (local rating expert), the LEP Managers and the ED Business and Enterprise Team. In the case of large applications, a representative from the Spatial Planning Team will also be included. The R&B team will circulate the completed applications and assessment reports to panel members a week before the meeting.

9. The panel will meet and review each application and make recommendations for its approval or rejection based on the impact that supporting or not supporting the application will have on the benefits to local rate payers. This will include:
 - The impact of the loss of the business on the least resilient and most vulnerable communities;
 - The impact on local supply chains;
 - Whether the business has been responsible for contributing to the development of value added skills;
 - The contribution to local distinctiveness; and
 - Whether rate relief would lead to displacement of production or employment

Award Stage

10. The Hardship Rate Relief Assessment Panel's recommendations for hardship rate relief approval/rejection will be referred to the appropriate decision maker.
11. For applications for rate relief of less than £10,000, the Chief Finance Officer at Wiltshire Council, in consultation with the Head of Revenues and Benefits, will determine the application.
12. For applications for rate relief in excess of £10,000, the decision whether to make an award will rest with a committee of the Cabinet.
13. In all cases, hardship rate relief would be granted for a maximum of 12 months.

Appeal

14. In cases where applications for rate relief have been rejected and the rate payer appeals, the Appeals Panel will consider the appeal. The Appeals Panel will comprise 3 members drawn from the existing Appeals Committee. The decision of the Appeals Panel will be final.

Time Frame

15. For applications which are under the delegated limit of £10,000, the target for notification of award/rejection to be received within a maximum of 5 weeks of the application being received by Wiltshire Council.
16. For applications referred to a committee of the Cabinet, the target for notification of award/rejection to be received within a maximum of 6 weeks of the date of the Hardship Rate Relief Assessment Panel meeting.
17. For appeals, the target for notification of award/rejection to be received within 6 weeks of the appeal being received by Wiltshire Council.

Monitoring

18. On a quarterly basis, the Wiltshire Strategic Economic Partnership will monitor the number and progression of hardship rate relief applications

and awards and feed the hardship issues being raised in their economic strategy development and review programme for Wiltshire.