

RECORD OF EXECUTIVE DECISION TAKEN BY AN EXECUTIVE MEMBER OR OFFICER

This form can be used for any decision but **MUST** be used to record:

- any decision taken by the Elected Mayor or an individual Councillor
- a key decision taken by a Council Officer

In these circumstances the form must be completed and passed to the Head of Members' Services no later than NOON on the second working day after the day on which the decision is taken. No action may be taken to implement the decision(s) recorded on this form until 7 days have passed and the Head of Members' Services has confirmed the decision has not been called in.

1. Description of decision

That rate relief on the grounds of hardship is not awarded to Mr Gohar Iqbal, trading as Pound Savers, in respect of the premises at Saxon Centre, 240 Bedford Road, Kempston, Bedford, MK42 8PP.

2. Date of decision

4th March 2013

3. Reasons for decision

It is not considered to be in the interests of local Council Taxpayers to make an award of rate relief taking into account the cost to Council Taxpayers and the availability of similar services in the locality.

4. Alternatives considered and rejected

The alternative of making an award of rate relief was considered and rejected.

5. How decision is to be funded

There is no cost associated with the decision.

6. Conflicts of interest

Name of all Executive members who were consulted AND declared a conflict of interest.	Nature of interest	Did Standards Committee give a dispensation for that conflict of interest? (if yes give details and date of dispensation)

The Mayor has been consulted on this decision 2013 4 March 2013 DRH

Signed Shan Hunt Date 4 March 2013

Name of Decision Taker SHAN HUNT

This is a public document. A copy of it must be given to the Head of Members' Services as soon as it is completed.

Date decision published: 7th March 2013

Date decision can be implemented if not called in: 15th March 2013

Bedford Borough Council – Portfolio Holder for Revenues and Benefits, Customer Service and ICT

February 2013

Report by the Assistant Director (Revenues, Benefits and Customer Service)

Subject: NON DOMESTIC RATES – HARDSHIP RELIEF APPLICATION

1. Executive Summary

This report requests the Portfolio Holder to consider one application for relief from Non-Domestic Rates on the grounds of hardship as detailed in **Appendix A**.

In order to consider an application for rate relief on the grounds of hardship the Portfolio Holder must be satisfied that the ratepayer will suffer hardship if relief is not awarded and in making a decision must give consideration to the interests of Council Taxpayers.

2. Recommendations

That rate relief on the grounds of hardship is not awarded to Mr Gohar Iqbal, trading as Pound Savers, in respect of the premises at Saxon Centre, 240 Bedford Road, Kempston, Bedford, MK42 8PP.

3. Reasons for Recommendation

It is not considered to be in the interests of local Council Taxpayers to make an award of rate relief taking into account the cost to Council Taxpayers and the availability of similar services in the locality.

4. Key Implications

4.1 Legal Issues

Section 49 of the Local Government Finance Act 1988 gives the Council a discretionary power to reduce or remit the Non Domestic Rate liability of any ratepayer. In order to award hardship relief the Council must be satisfied that the ratepayer is suffering hardship and must give consideration to the interests of the Borough's Council Taxpayers.

The Wednesbury principle requires local authorities to exercise their discretion in a fair, consistent and reasonable manner. In order to meet these requirements each application should be considered on individual merit.

This is a discretionary power and there is no legal right of appeal against the Council's decision. However, a ratepayer dissatisfied with a decision may seek a judicial review on the basis that the Council has not acted reasonably in the exercise of its discretion.

75% of any relief awarded is funded from the national non-domestic rating pool. This is accounted for through the annual return to the Department for Communities and Local Government. The return is subject to audit by the External Auditor. If an auditor were to determine that the Council has not acted within its legal powers in making an award of rate relief the return could be qualified and the Government contribution withheld.

4.2 Policy Issues

The Council has not agreed a formal policy but the Council has well established guidelines for assessing each application as follows:

- (a) The ratepayer must be liable for payment of Non Domestic Rates to Bedford Borough Council;
- (b) The Council must be satisfied that:
 - (i) The ratepayer would sustain hardship if the Council failed to grant Hardship Relief; and
 - (ii) It is reasonable to grant Hardship Relief having regard to the interest of person's subject to the Council Tax.

The test of "hardship" need not be confined strictly to financial hardship and applicants should disclose all relevant factors affecting the ability of the business to meet its rate liability.

The "interest" of local Council Taxpayers may go wider than direct financial interests; for example, where employment prospects in an area would be worsened by a ratepayer going out of business, or the amenities of an area might be reduced by, for instance, the loss of a neighbourhood shop.

Whilst the Council can consider an application for Hardship Relief from any ratepayer who satisfies the qualifying criteria, applications are particularly welcome from ratepayers in respect of the following categories of properties:

- Village Shops
- Starter Units
- Small specialists shops unique to an area
- New ventures filling gaps in the market
- Areas facing a decline in trade
- Neighbourhood shopping parades

4.3 Resource Implications

The Council must fund 25% of any relief that is awarded with the remainder being funded from the national non-domestic rating pool. A budget of **£12,670** has been allocated for awards of hardship relief for the current financial year. A total cost of **£4,918** has been incurred in the year to date leaving a balance of **£7,752** available to fund awards.

4.4 Risk Implications

There is a fixed budget allocated to fund awards of hardship relief, therefore, there is a risk that the remaining funds may prove insufficient to fund future applications within this financial year that the Council wishes to support.

4.5 Environmental Implications

There are no identifiable environmental implications.

4.6 Equality Implications

In preparing this report, due consideration has been given to the Borough Council's statutory Equality Duty to eliminate unlawful discrimination, advance equality of opportunity and foster good relations, as set out in Section 149(1) of the Equality Act 2010.

A relevance test for equality has been completed. The equality test determined that the award of hardship rate relief has no relevance to Bedford Borough Council's statutory equality duty to eliminate unlawful discrimination, advance equality of opportunity and foster good relations. An equality analysis is not needed.

5. Details

5.1 Section 49 of the Local Government Finance Act 1988 gives the Council a discretionary power to reduce or remit the payment of rates by granting hardship relief where it is satisfied that the ratepayer would sustain hardship if relief were not awarded. The amount of relief awarded may be any amount up to 100% of the rates payable, at the Council's discretion. The Council is required to fund 25% of the cost of any Hardship Relief granted. Therefore, in making a decision there is a legal duty to consider the interests of the local Council Taxpayers who will effectively fund part of the relief.

5.2 The Government has provided guidance which states that a billing authority can reduce or remit the payment of rates where it is satisfied that the ratepayer would sustain hardship if it did not do so and it is reasonable for it to do so having regard to the interests of its Council Taxpayers. The guidance further states that reduction or remission of rates should be the exception rather than the rule.

- 5.3 An application for rate relief on the grounds of hardship has been received from the following business. Detailed information regarding the application is shown in **Appendix A**.

Item	Name of Ratepayer	Address of Property	Amount of Rate Relief Requested
1	Mr Gohar Iqbal trading as Pound Savers	Saxon Centre, 240 Bedford Road, Kempston, Bedford, MK42 8PP	£7,554.72

6. **Summary of Consultations and Outcome**

The following Council Units or Officers and/or other organisations have been consulted in preparing this report:

Management Group
Head of Economic Development

No adverse comments have been received.

Report Contact Officer: Lee Phanco, Assistant Director (Revenues, Benefits & Customer Service)
E-mail: Lee.phanco@bedford.gov.uk

File Reference:

Previous Relevant Minutes: None

Background Papers: None

Appendices: Appendix A: Details of Hardship Rate Relief Applications

DETAILS OF HARDSHIP RATE RELIEF APPLICATIONS

ITEM 1

Name of Ratepayer: **Mr Gohar Iqbal trading as Pound Savers**

Property Address	Period	Relief Requested	Potential Cost to the Council
Saxon Centre, 240 Bedford Road, Kempston, Bedford, MK42 8PP	15/1/12 to 31/3/12	£1,254.72	£313.68
	1/4/12 to 31/3/13	£6,300.00	£1,575.00
Total		£7,554.72	£1,888.68

Details of Application

The ratepayer commenced trading from 15 January 2012 by taking over a going concern located in retail shop premises at Saxon Centre, 240 Bedford Road, Kempston, Bedford. The business sells household goods, confectionary and stationery items to the general public.

The business has submitted incoming and expenditure figures for the period 1 April 2012 to the 30 June 2012. No statement has been provided to demonstrate that the information has been subject to any independent examination. The information supplied indicates that the business has made a net operating loss in the period. The ratepayer has not provided a business plan or projected cash flow statements to support the application.

It is not considered unusual for new businesses to sustain losses in their first year of operation whilst they become established and it should be expected that the business would make allowances for this possibility when determining its initial business plan.

There are other retail businesses in the surrounding area that offer similar products for sale to the general public. In view of the availability of similar services in this local area and taking into account the cost to Council Taxpayers in making an award of rate relief, it is not considered to be in the interests of the Borough's Council Taxpayers to grant hardship relief on this occasion.