

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 Charles Finch trading as The Flower Shed in respect of the premises at 1a Lime Street, Bedford, MK40 1LD;
- Glow Beauty Studio Ltd in respect of the premises at 63 Midland Road, Bedford, MK40 1PW.

2. Date of decision

8 May 2013

3. Reasons for decision

- In respect of the application from Mr Charles Finch trading as The Flower Shed it is not considered reasonable to award rate relief, having regard to be in the interests of local Council Taxpayers because;
 - The business has not provided a business plan
 - The business does not appear to offer any specialist services and there are other business providing similar services in the locality
 - It is considered unlikely, based on the information provided by the ratepayer, that an award of rate relief would significantly affect the financial viability of the business
- In respect of the application from Glow Beauty Studio Ltd it is not considered to be reasonable to award rate relief, having regard to be in the interests of local Council Taxpayers because;
 - The ratepayer is a limited company and, therefore, any losses that may be incurred by individual shareholders are limited
 - The business operates in a highly competitive business sector with a number of competitors in the area offering similar or identical services including four competitors on the same road
 - The business does not appear to offer any specialist services or offer any unique selling points
 - It is considered unlikely that an award of rate relief would significantly affect the financial viability of the business

4. Alternatives considered and rejected

The alternatives of awarding of rate relief were 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



Signed Shanhu Date 8 May 2013

Name of Decision Taker SAAN 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: 8th May 2013

Date decision can be implemented if not called in: 20th May 2013

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

May 2013

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

Subject: NON DOMESTIC RATES – HARDSHIP RELIEF APPLICATIONS

1. Executive Summary

This report requests the Portfolio Holder to consider two applications 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 have regard to the interest of Council Taxpayers.

2. Recommendations

The Portfolio Holder is invited to consider the applications for hardship rate relief from the ratepayers shown below and to determine the amount of relief, if any, to be awarded.

- i. Mr Charles Finch trading as The Flower Shed in respect of the premises at 1a Lime Street, Bedford, MK40 1LD;**
- ii. Glow Beauty Studio Ltd in respect of the premises at 63 Midland Road, Bedford, MK40 1PW.**

3. Reasons for Recommendation

- i. In respect of the application from Mr Charles Finch trading as The Flower Shed it is not considered reasonable to award rate relief, having regard to be in the interests of local Council Taxpayers because;**
 - a) The business has not demonstrated it has an effective business plan**
 - b) The business does not appear to offer any specialist services and there are other business providing similar services in the locality**

- c) The business has not sought advice from a suitably qualified accountant or financial adviser in determining the anticipated cash flow and profit or loss
 - d) It is considered unlikely, based on the information provided by the ratepayer, that an award of rate relief would significantly affect the financial viability of the business
- ii. In respect of the application from Glow Beauty Studio Ltd it is not considered to be reasonable to award rate relief, having regard to be in the interests of local Council Taxpayers because;
- a) The ratepayer is a limited company and, therefore, any losses that may be incurred by individual shareholders are limited
 - b) The business operates in a highly competitive business sector with a number of competitors in the area offering similar or identical services including four competitors on the same road
 - c) The business does not appear to offer any specialist services or offer any unique selling points
 - d) There is no evidence provided to demonstrate that the business has sought advice from a suitably qualified accountant or financial adviser in determining the anticipated cash flow and profit or loss
 - e) It is considered unlikely that an award of rate relief would significantly affect the financial viability of the business

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 rate payer would sustain hardship if the Council did not do so, and it is reasonable to do so having regard to the interests of the Council taxpayers. The Council must act reasonably in exercising the discretion and consider each one on its own individual merits. As there is no other right of appeal any ratepayer wishing to challenge a decision would have to do so by commencing proceedings for a judicial review of the decision in the High Court.

An award of rate relief will reduce the non-domestic rates yield, and, therefore, the central government share of the yield. This central government share is accounted for through an annual return to the Department for Communities and Local Government, which 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 the Council required to meet the shortfall in the central Government share of the rates yield.

4.2 Policy Issues

The Council does not have a formal policy for consideration of awards of hardship rate relief in respect of non-domestic rates due prior to 1 April 2013 but does have 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

Following changes to local government funding from 1 April 2013 the Council will retain 49% of the non-domestic rates yield for its area. The award of hardship rate relief will reduce the amount of the rates yield retained by the Council. The total estimated rates yield for 2013/14 is **£29.7 million**.

There is an agreed budget of **£12,670** for the current year to be used to offset the shortfall in rates yield due to awards of hardship relief.

4.4 Risk Implications

There is a fixed budget allocated to fund awards of hardship relief, therefore, there is a risk that there may be insufficient funds available for future applicants within this financial year.

4.5 Environmental Implications

There are no identifiable environmental implications.

4.6 Equality Analysis

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. An award of hardship rate relief will reduce the non-domestic rates yield and, therefore, the Council's retained share of 49% of the rates yield. In making a decision there is a legal duty for the Council to have regard to the interests of the local Council Taxpayers.

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 Applications for rate relief on the grounds of hardship have been received from the two businesses whose details are shown in the table below. Further and more detailed information in respect of each application is shown in **Appendix A**.

Item	Name of Ratepayer	Address of Property	Amount of Rate Relief Requested
1	Charles Finch trading as The Flower Shed	1a Lime Street, Bedford, MK40 1LD	£3,599.30
2	Glow Beauty Studios Ltd	63 Midland Road, Bedford, MK40 1PW	£6,148.49

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 Services)
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File Reference: L.6(d)

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: **Charles Finch trading as The Flower Shed**

Property Address	Period	Relief Requested	Potential Reduction in Retained Rates Yield
1a Lime Street, Bedford, MK40 1LD	23/04/2012 to 31/03/2013	£3,599.30	£1,763.68

Details of Application

The ratepayer commenced trading from 23 April 2012 and the application is in respect of the florist shop premises at 1a Lime Street, Bedford. The business sells plants, flowers and funeral arrangements to the general public from the shop, which is located in Bedford Town Centre.

The business has submitted estimated annual income and expenditure figures for 2012/13 and 2013/2014. The estimates do not appear to be independently verified. The information supplied predicts that the business will make a net operating loss of around 28% of turnover in 2012/13 after allowing for a further injection of capital.

The business has not provided a copy of a business plan to support its application and from the information provided the business it does not appear to offer any specialist services. There are other florists within the Bedford area and online offering the same or very similar service.

It is not unusual for new businesses to sustain losses in their first year of operation whilst they become established and there is no indication that business has sought advice from a suitably qualified accountant or financial adviser in determining the anticipated cash flow and profit or loss. It is considered unlikely, based on the information provided by the ratepayer, that an award of rate relief would significantly affect the financial viability of the business

ITEM 2

Name of Ratepayer: **Glow Beauty Studio Ltd**

Property Address	Period	Relief Requested	Potential Reduction in Retained Rates Yield
63 Midland Road, Bedford, MK40 1PW	30/07/2012 to 31/03/2013	£6,148.49	£3,012.60

Details of Application

The business is a limited company which commenced trading from 30 July 2012 and the application is in respect of the beautician shop premises at 63 Midland Road, Bedford. The business offers a full range of beauty treatments to be expected of a business of this type located within Bedford Town Centre.

The company has submitted estimated accounts for the year ending 31 March 2013 which do not appear to have been independently verified. The information supplied predicts that the business will make a net operating loss of **£4,420.97** on a turnover of **£30,452.03**.

The ratepayer is a limited company and, therefore, any losses that may be incurred by individual shareholders are limited. It is not unusual for new businesses to sustain losses in their first year of operation whilst they become established and it could be expected that a limited company would make allowances for this possibility when determining its initial business plan.

The business operates in a highly competitive business sector with a number of competitors in the area offering similar or identical services including four on the same road. The information provided in support of the application does not indicate that the business offers any specialist services or offer any unique selling points compared to other similar businesses in the area.

There is no evidence provided to demonstrate that the business has sought advice from a suitably qualified accountant or financial adviser in determining the anticipated cash flow and profit or loss. It is considered unlikely that an award of rate relief would significantly affect the financial viability of the business.