

RECORD OF EXECUTIVE DECISION TAKEN BY AN EXECUTIVE MEMBER

This form **MUST** be used to record any decision taken by the Elected Mayor or an individual Executive Member (Portfolio Holder).

The form must be completed and passed to the Service Manager (Committee & Administrative 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 Service Manager (Committee & Administrative Services) has confirmed the decision has not been called in.

1. Description of decision

- i. That relief from payment of £9,436.50 in non-domestic rates is awarded to Bedford Town Football Club Limited in respect of the amount due for the property at Football Ground, The New Eyrie, Meadow Lane, Cardington, Bedford, MK44 3LW for the period 1 April 2017 to 31 March 2018 on the grounds of hardship.
- ii. That to the extent that the award may constitute state aid the award is made under the EU "De Minimis" regulations for awards of state aid.

2. Date of decision

15 September 2017

3. Reasons for decision

- i. It is considered that the ratepayer would suffer hardship if no award of rate relief is made and it is considered reasonable to grant hardship rate relief having regard to the interests of person's subject to the Borough's Council Tax because there are exceptional circumstances that support a decision to award rate relief including;
 - a. The organisation is considered to benefit local residents by providing an opportunity within Bedford town to watch football at this level;
 - b. The organisation's activities are considered to enhance opportunities for social interaction and participation in watching and playing football to the benefit of local residents;
 - c. The benefits to the Borough's Council Taxpayers are considered to outweigh any detriment to those interests including the effect of the reduction in retained non-domestic rates yield.
 - d. Based on the applicant's latest financial statements the amount awarded would not be sufficient to enable the company to record a profit.
- ii. The organisation has confirmed that it has not received any other state aid under the "De Minimis" regulation in the last three fiscal years and the amount awarded is below the current De Minimis threshold of €200,000. The award is made in respect of specific costs, non-domestic rates, and therefore does not need to be cumulated with other awards of state aid;
- iii. An award is in accordance with the Council's agreed policy for the award of rate relief.

4. Alternatives considered and rejected

The alternatives of refusing rate relief or awarding a lesser amount were considered and rejected.


5. How decision is to be funded

The effect of the award of rate relief will be taken into account in determining the Non-Domestic Rates yield for the year.

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)	Did the Chief Executive give a dispensation for that conflict of interest? (If yes, give details and the date of the dispensation).

The Mayor has been consulted on this decision



Signed M P Headley Date: 15 September 2017 Name of Decision Taker CLL R M HEADLEY

This is a public document. A copy of it must be given to the Service Manager (Committee & Administrative Services) as soon as it is completed.

Date decision published: 18th September 2017

Date decision can be implemented if not called in: 27th September 2017

(Decision to be made exempt from call in.....NO)

Bedford Borough Council – Report to the Finance Portfolio Holder

September 2017

Report by the Assistant Chief Finance Officer

Subject: NON DOMESTIC RATES – HARDSHIP RELIEF APPLICATION

1. Executive Summary

This report requests the Finance Portfolio Holder to consider an application for relief from Non-Domestic Rates on the grounds of hardship from Bedford Town Football Club Limited.

2. Recommendation

- i. **That relief from payment of £9,436.50 in non-domestic rates be awarded to Bedford Town Football Club Limited in respect of the amount due for the property at Football Ground, The New Eyrie, Meadow Lane, Cardington, Bedford, MK44 3LW for the period 1 April 2017 to 31 March 2018 on the grounds of hardship.**
- ii. **That to the extent that the award may constitute state aid the award is made under the EU “De Minimis” regulations for awards of state aid.**

3. Reasons for Recommendation

- i. It is considered that the ratepayer would suffer hardship if no award of rate relief is made and it is considered reasonable to grant hardship rate relief having regard to the interests of person's subject to the Borough's Council Tax because there are exceptional circumstances that support a decision to award rate relief including;
 - a. The organisation is considered to benefit local residents by providing an opportunity within Bedford Town to watch football at this level;

- b. The organisation's activities are considered to enhance opportunities for social interaction and participation in watching and playing football to the benefit of local residents;
 - c. The benefits to the Borough's Council Taxpayers are considered to outweigh any detriment to those interests including the effect of the reduction in retained non-domestic rates yield.
 - d. Based on applicant's latest financial statements the amount awarded would not be sufficient to enable the company to record a profit.
- ii. The organisation has confirmed that it has not received any other state aid under the "De Minimis" regulation in the last three fiscal years and the amount awarded is below the current De Minimis threshold of €200,000. The award is made in respect of specific costs, non-domestic rates, and therefore does not need to be cumulated with other awards of state aid;
 - iii. An award is in accordance with the Council's agreed policy for the award of rate relief.

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 application 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.

The award of discretionary rate relief to an organisation involved in economic activity is likely to constitute state aid and to be subject to European Union regulation. The "de minimis" regulations (Commission Regulation) (EU) No 1407/2013, however, allow a business to receive up to €200,000 in state aid from each EU Member State over any period of three fiscal years without the need to notify the European Commission of the award.

4.2 Policy Issues

Following public consultation the Council's Executive agreed an updated policy for the award of discretionary rate relief, including relief awarded on the grounds of hardship, at its meeting on 8 March 2017 (minute 102). The recommendations made in this report are in accordance with the requirements of this policy.

4.3 Resource Implications

The Council retains 49% of the non-domestic rates yield for its area and the award of hardship rate relief will reduce the amount of the rates yield retained by the Council. The Council's share of the estimated rates yield for 2017/18 is **£29.7 million**.

An award of rate relief would reduce the overall rates yield by the value of the amount of rate relief awarded and the Council's retained share of the yield by 49% of the value of the relief awarded. Therefore, an award of rate relief would reduce the overall level of financial resources available to the Council. The award of rate relief of **£9,436.50** as requested would reduce the Council's share of the overall rates yield by **£4,623.89**.

4.4 Risk Implications

There are no significant risks to the Council identified as arising from the recommendations in this report.

The rates bill is a significant expense for the club amounting to around 10% of turnover. The club has recorded an annual loss since 2009/2010 and there is a risk that the company may become insolvent if the losses continue. An award of hardship rate relief will assist the company in its efforts to achieve a stable and sustainable financial position.

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 in this instance 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 rate relief in cases of hardship. The amount of relief awarded may be any amount up to 100% of the rates payable at the Council's discretion. An award of rate relief will reduce the overall rates yield by the same amount and the Council's 49% retained share of the rate yield will be reduced according by an amount equivalent to 49% of the amount of rate relief awarded. In making a decision there is a legal duty to consider 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. It further states that reduction or remission of rates should be the exception rather than the rule.
- 5.3 The application is from Bedford Town Football Club Limited which is a limited company that operates as a football club in Bedford playing in the Evostik League South. The rates payable for the Club's football ground at the New Eyrie, Meadow Lane for 2017/18 are £9,436.50 and the Club has asked for consideration to be given to an award of rate relief to reduce the amount payable to nil.
- 5.4 The Club is operated on a commercial basis and the most recent accounts available are the draft accounts for the year ending 30 May 2017. The company advises that it has operated at a loss since 2009/10 and the most recent accounts show there was a loss for the year, after meeting the cost of rates for the year, and that there is a significant accumulated loss to date. A reduction in the rate liability would assist in reducing losses and supporting progress towards financial viability of the club to the benefit of local Council Taxpayers.
- 5.5 The organisation is a local employer with 25 part time staff (of which 16 employees live in Bedford).
- 5.6 The Club provides a sporting outlet that many young players may not otherwise enjoy and supporting the team is an important pastime for local residents.

6. **Summary of Consultations and Outcome**

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

Management Team
Head of Economic Development

No adverse comments have been received.

Report Contact Officer: Lee Phanco, Assistant Chief Finance Officer
e-mail: lee.phanco@bedford.gov.uk

File Reference: L.6(d)

Previous Relevant Minute: Minute 102 – Executive - 8 March 2017

Background Papers: Application Form

Appendices: None

**BACKGROUND PAPERS
AS SET OUT IN THE
REPORT ARE
ATTACHED**



Bedford Borough Council

Local Taxation Office, Borough Hall, Cauldwell Street, Bedford, MK42 9AP
Telephone (01234) 718097 Email localtax@bedford.gov.uk

NATIONAL NON-DOMESTIC RATES - APPLICATION FOR HARDSHIP RELIEF

To apply for Hardship Relief please complete this application form in BLOCK CAPITAL LETTERS. The form is also available as an Eform at www.bedford.gov.uk/business/business_rates. Please return a signed copy of the application form to the above address together with copies of the following documents:-

- (i) Your audited accounts or independently verified accounts for the past two years (or in the case of a new business established for less than twelve months, estimates of annual income and expenditure),
- (ii) A copy of your original Business Plan incorporating a brief history of the business
- (iii) A cash flow forecast for a minimum of the next twelve months.
- (iv) Copies of your organisation's last three bank statements

If you require any assistance in completing this form, please contact the Local Taxation Office on (01234) 718097 or by email to localtax@bedford.gov.uk.

If there is insufficient space to fully answer any question, please use a separate sheet of paper.

1. Name of Ratepayer and Address of Property on which Relief is claimed	BEDFORD TOWN FOOTBALL CLUB THE EYRIE, MEADOW LANE, CARDINGTON BEDFORD MK44 3LW
2. Ratepayer's address (if different to 1)	
3. Please state the period for which Relief is claimed and the amount of Relief requested	2017/18 FULL RELIEF (£9,430.50)
4. What date was your organisation established? Please state month and year.	1908 (RE-FORMED IN 1990)
5. How is your business set up? e.g. sole trader, partnership, limited company, other (please specify)	LIMITED LIABILITY COMPANY
6.. What goods or services does your business provide and which area of Bedford Borough does it serve?	YOUTH AND ADULT FOOTBALL FROM UNDER 8S UPWARDS ACROSS THE WHOLE OF BEDFORD BOROUGH
7. Does your business provide a unique service to the local community?	YES / NO If YES, where is the nearest business providing the same service? THERE ARE OTHER YOUTH AND ADULT CLUBS IN BEDFORD BUT NOT WITH THE HISTORY, TRADITION AND SUPPORT OF THE EAGLES
8. How many people do you employ in this business?	Full-Time: NIL Part Time: 25
9. How many of these employees live in the Bedford Borough Council administrative area?	Full-Time: NIL Part-Time: 16 (INCLUDING STUDENTS AT BEDFORDSHIRE UNIVERSITY)

10. What particular factors have led to your business suffering hardship? You need to demonstrate here that the hardship is temporary and will be relieved by one-off assistance in this financial year. (An example of how a business has been affected could be that footfall has been reduced for a limited period by an unforeseen event such as fire or flood).	THE STADIUM WAS LARGELY REBUILT 12 YEARS AGO AND WE ARE STRUGGLING TO MEET THE COST OF ONGOING REPAIRS TO MAINTAIN THE GROUND AS AN ALL YEAR ROUND FACILITY FOR THE COMMUNITY (PLAYERS, SPECTATORS AND CHARITY MATCHES)
11. What specific actions have you taken to improve the future viability of your business before contacting the Council for Relief?	WE TRIED TO INCREASE AWARENESS AND FOOTFALL WITH FREE ENTRY TO A LEAGUE MATCH ON 14 JANUARY. WE HAVE ALSO APPROACHED LOCAL BUSINESSES FOR SUPPORT.
12. What are the consequences for your business if the Council declined to grant some or all of the Relief requested?	THE CLUB HAS MADE A LOSS EVERY YEAR SINCE 2009/10 AND WILL STRUGGLE TO CONTINUE TRADING WITHOUT FULL RATE RELIEF.
13. What are the consequences for the local community if the Council declined to grant some or all of the Relief requested?	THE COMMUNITY WOULD LOSE ITS BEST-KNOWN AND BEST-LOVED FOOTBALL CLUB AND THE TOWN WOULD LOSE A PIECE OF ITS HISTORY. THE EAGLES MUST SURVIVE!
14. Is the business receiving (or in the process of seeking) financial assistance from any other source?	YES / NO If YES, please give details If NOT, why not? THERE ARE NO OTHER SOURCES AVAILABLE BECAUSE THE FA ONLY PROVIDES GRANTS FOR CAPITAL PROJECTS
15. Does the business have debts which may result in a creditor taking action to enforce recovery or commence insolvency proceedings?	YES / NO If YES, please give details
16. Do you or anyone with a financial interest in your business have unsatisfied debts with Bedford Borough Council?	NO
17. Do you or anyone with a financial interest in your business have unsatisfied County Court Judgments (CCJ's)?	NO
18. Have you or any of the persons connected with this business been made bankrupt or been disqualified through a court order or by an undertaking of the Insolvency Service in the last five years?	YES / NO If YES, please give details
19. Please state any other information which you consider is relevant to support your application for Hardship Relief	WE ARE A TENANT OF BEDFORD BOROUGH COUNCIL WITH 85 YEARS OF OUR LEASE REMAINING SO OUR SURVIVAL ALSO

MAINTAINS A RENTAL INCOME FOR THE BENEFIT OF OTHER RATE PAYERS WITHIN OUR COMMUNITY.

Declaration

I apply for Hardship Relief and declare that the information given on this form and any supporting documents is correct and that I have disclosed all information relevant to consideration of my application.

I authorise the Local Taxation Office to make any enquiries necessary to verify the information which may include a search of my credit file with a credit reference agency. The Council may use this information in conjunction with its own records.

I understand that all decisions may be published together with the application forms and supporting information (which include financial information) which were considered in reaching the decision.

I understand that without the relevant information, the Council cannot process this application and so I enclose the following documentation:

1.	Audited accounts or independently verified accounts for the past two years (or in the case of a new business established for less than twelve months, estimates of annual income and expenditure),	ENCLOSED
2.	A copy of my original Business Plan incorporating a brief history of the business	HISTORY ENCLOSED
3.	A cash flow forecast for a minimum of the next twelve months from the date of this application.	NONE AVAILABLE
4.	Copies of my organisation's last three bank statements	ENCLOSED

I undertake to continue to make payment of rates pending the outcome of this application.

I undertake to notify the Council immediately if the business' circumstances change.

I am the ratepayer or I am a person properly authorised to sign this application on behalf of the ratepayer in the capacity shown below.

I understand that the information I have provided may be shared with other organisations in accordance with Data Protection Act 1998 (see below).

Signed...

Name of Signatory..

Capacity in which signed (e.g. ratepayer) CHAIRMAN Date 28/03/17

Email address..... Telephone Number .

Warning – providing false, inaccurate or misleading information in connection with this application may result in the Council taking legal action against you including action under the Fraud Act 2006.

DATA PROTECTION - Personal information held for Business Rate purposes will be held and used in accordance with the requirements of the Data Protection Act 1998. To assist the Council in the prevention and detection of fraud so that it can protect the public funds it administers, the Council may use information provided for Business Rate purposes within this Authority for data matching purposes. It may also data match information provided for Business Rate purposes with other public bodies that regulate, administer or are in receipt of public funds for the purposes of the prevention and detection of fraud.

Form NNDR/Hardship/Mar13