Hardship Relief

Background

1. Hardship relief is a discretionary scheme introduced in 2005 and administered by Land and Property Services (LPS)\(^1\).

2. The numbers qualifying for relief since the scheme’s inception have been extraordinarily low, at only 4 successful cases, out of almost 120 claims (including 23 appeals).

3. The Department did undertake an internal evaluation of the scheme in 2013 and notwithstanding concerns about its effectiveness to date the then Minister made the decision to keep it on the statute books in case of emergency.

4. Unsurprisingly, opinions were expressed during the main consultation earlier this year that the scheme has been ineffective. The Department accepts this, though has concerns that to relax the criteria would lead to either abuse of the system or could lead to ‘moral hazard’ where a party begins to take risks (e.g. does not take out insurance) because the impact could be absorbed through hardship relief. The Department also has concerns that significant relaxation could prove difficult to contain in terms of maintaining revenue for public services.

5. The scheme was originally set up to assist a business recover from temporary crisis, financial or otherwise. A crisis may be defined by the loss of trade resulting directly from the exceptional circumstances or the impact on business service provision resulting from the exceptional circumstances.

6. Exceptional circumstances will usually be:
   a. External to the ratepayer;
   b. Beyond normal business risk;
   c. Unavoidable; and
   d. Unforeseen.

7. As a general principle, external risk that would be covered either by commercial insurance or by the availability of compensation from public funding would not be considered ‘exceptional circumstances’ on the basis that an alternative means of assistance is already available. However, it may

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\(^1\) see LPS factsheet: https://www.nibusinessinfo.co.uk/sites/default/files/LPS_HardshipReliefFactsheetandApplication_V1.0_18Sep2015.pdf
be that such assistance may not be readily available particularly where the circumstances are sudden, e.g. in the case of severe flooding, and therefore Hardship Relief may therefore still be appropriate. Each case should be considered on its own merits.

8. While LPS need to take account of all of the evidence presented before reaching a decision, as a general principle the following circumstances are not considered as exceptional for the purposes of Hardship Relief:

   i. A general market downturn.
   ii. Strikes internal to a business.
   iii. Non-domestic property becoming vacant and liable to the unoccupied rate.
   iv. External market conditions.

9. External market conditions can include:

   i. Energy costs.
   ii. Insurance costs.
   iii. Increased interest rates.
   iv. Transportation costs.
   vi. Increased competition elsewhere.

10. Applications for Hardship Relief need to be supported by evidence. Failure or declining to supply sufficient information will result in the application for relief being refused. Given that Hardship Relief is intended to provide assistance to enable a business to recover from temporary crisis some form of recovery plan will generally be required before rates can be remitted or reduced.

11. Evidence that will be required to support an application will vary from case to case, depending on the particular circumstances giving rise to the application. This may include a combination of the following:

   a. A written statement of circumstances, signed by senior officers of the business or organisation, including details of those which have led to hardship and any social, economic, technological and environmental issues.
   b. A written ‘outline recovery’ plan.
   c. Evidence such as audited profit and loss accounts, copies of bank statements, the most recent Tax and Inland Revenue returns, details of assets.
   d. Evidence of other publically funded financial assistance.
   e. Evidence of any compensation, paid or payable.

12. Where an application for Hardship Relief has a wider impact on the locality, i.e. beyond the consequences to the business or organisation itself, District Councils may be asked by LPS to provide a view on the application. District
Councils do not, however, have any decision-making role in relation to applications for Hardship Relief.

13. The reason behind the extraordinary low number of successful applications is not entirely clear. However the following potential reasons were identified during the previous evaluation in 2013.

14. In recent years the majority of applications for hardship relief have cited the impact of the current economic situation, causing a general downturn in business, and other business factors or economic conditions, rather than exceptional circumstances.

15. It is for LPS to decide based on the available evidence, whether or not a business would suffer hardship if relief is not provided. In making this assessment evidence of potential closure may be a useful indicator.

16. LPS has also reported that many applications contain inadequate information in order to support an applicant’s claim for a downturn in business and/or a persistent loss of trade, potentially forcing a business to close. Indeed, this issue of proving genuine hardship appears to be a common failing with applications.

17. Although LPS take action to follow-up the applications to request additional information, it has advised that applicants rarely provide the information requested, or fail to provide any evidence at all in support of the claim. Therefore, these applications did not meet Hardship Relief Scheme information criteria and are rejected.

18. There may be several reasons why application numbers were low for example:
   
   a. It may be the case that the definition of ‘exceptional circumstances’ is too stringent or too ambiguous.
   b. It could be possible that the cause of business hardship could be covered by another Government scheme or by the private insurance sector.
   c. Businesses may lack knowledge of the availability and aim of the scheme, so those who would be eligible, because they are facing genuine hardship, are not applying.

Policy Proposal

19. The Department is not convinced that the definition of the scheme in legislation should be changed but its administration could be refined. There may be merit in increasing awareness of the scheme and providing more support for claimants, particularly in submitting evidence and requiring applications to be processed within a fixed time period.
20. Such changes are unlikely to improve matters significantly. The Department considers that the problems may be more fundamental than that. Casting LPS in the role of sole decision maker may not have been the most appropriate and tenable arrangement to operate such a scheme. LPS is primarily a revenue collection organisation that operates in a highly regulated environment; it is not a business support organisation and perhaps not best placed to operate a discretionary relief scheme effectively and consistently.

**Questions for Consultees**

- Do you consider that hardship relief is necessary?
- If so, what changes are needed?
- What criteria should be used?
- Please provide views on how this can be done without duplicating the coverage provided by insurance?
- Do you think hardship support should be administered differently?