

Wolverhampton City Council

Business Rates Discretionary Relief

(Partly Occupied) Policy

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1. Introduction

- 1.1. This policy sets out the circumstances in which reductions in rate liability will be granted due to part occupation.
- 1.2. Section 44A of the Local Government Finance Act 1988 provides councils with discretion to grant rate relief where part of a property is unoccupied, provided it “will remain so for a short time only”.
- 1.3. The amount of any relief awarded is calculated by reference to the rateable value attributed to the unoccupied area by the Valuation Office Agency.
- 1.4. This is a discretionary provision and full rates will remain payable on a partly occupied property if the Council chooses not to exercise its power in this respect.

2. Purpose and principles of the policy

- 2.1. The purpose of this policy is to:
 - ensure that all applications are treated in a fair, consistent and equal manner
 - set a framework for how ratepayers can apply for this relief
 - make clear the limited criteria under which relief will be awarded
 - set out the delegated authority for dealing with applications
- 2.2. Each application will be considered on its individual merit but in making a decision on the award the decision maker will give due consideration to the requirements of the Policy Framework.
- 2.3. For the purpose of this policy a period of no more than three months, or six months in the case of industrial properties, in any 12 month period will be considered to be “a short time”.

3. Requirements for Applications

- 3.1. Applications will only be considered where a written application is received from the ratepayer, or where the ratepayer is an organisation, a person properly authorised to make an application on behalf of the organisation.
- 3.2. Applications will only be considered in respect of unoccupied parts of a property that can be clearly defined and are reasonably segregated from the occupied part of the property.
- 3.3. Applications must include the following information:
 - the period for which relief is requested

- a plan of the premises which clearly shows the occupied and unoccupied areas and the estimated size of those areas
- the reason why relief is requested
- a business plan to show the intention to reach full capacity of/vacate the premises including timescales
- contact details of the relevant officer
- a signed declaration setting out any amount of State Aid received within the preceding three years

- 3.4. The Council will request any supporting evidence it considers necessary to properly assess the merits of the application.
- 3.5. The ratepayer must allow a Council Officer access to the property by appointment during normal working hours within two weeks of the Council receiving the application in order to verify the occupation of the property. The Council Officer may take photographs as evidence.
- 3.6. A Council Officer may visit the premises from time to time, without prior appointment, to check that the certified unoccupied area is not in use.
- 3.7. Ratepayers must continue to pay any amount of rates that fall due whilst an application is under consideration.

4. Decision Making Framework

- 4.1. When considering an application for relief the following factors will be taken into account:
 - the circumstances leading to the partial occupation
 - the intention of the business in relation to the unoccupied parts
 - the availability of evidence that the unoccupied part will be empty for a short term only
- 4.2. Applications will be considered where the premises are part occupied due to:
 - Full occupation being phased in over a period of time.
 - Full vacation occurring in stages over a period of time.
- 4.3. Relief will not normally be awarded where:
 - part occupation is likely to exceed a short time
 - the area is not clearly defined
 - the owner of the premises sublets part of the premises on a commercial basis
 - there appears to be no attempt to let, sell or occupy the empty part of the premises

- part occupation is seasonal or due to the nature of the business
 - the premises are empty due to essential maintenance or upgrading
 - the company is moving out of Wolverhampton
- 4.4. Relief will not normally be awarded in respect of any day prior to the day that an application is received. In exceptional circumstances consideration may be given to awarding relief for a retrospective period where the ratepayer can demonstrate good cause for not submitting the application earlier.
- 4.5. Relief will not be granted where it appears to the Council that the reason for part occupation is wholly or mainly for the purposes of applying for rate relief.

5. Duration of Awards

- 5.1. If awarded, relief will normally start from the date of application.
- 5.2. The maximum period of award is three months (or six months for industrial property).
- 5.3. The period of relief will end on the day on which any of the following happens:
- there is a change in the extent of partial occupation
 - the end of the financial year
 - a new period of relief under a new application starts
 - the premises become completely occupied or completely unoccupied
 - there is a change in the rateable value
 - the ratepayer ceases to be the person or organisation liable to pay rates in respect of the premises
 - the Council is unable to verify, following reasonable notice, that the area remains unoccupied
- 5.4. Ratepayers will be notified of the decision in writing.
- 5.5. Ratepayers are required to notify the Council immediately of any change in circumstances that may affect their entitlement to relief.

6. State Aid

- 6.1. Relief will not be awarded in any circumstances where it appears that an award will result in the ratepayer receiving state aid that is above the current de minimis level. Each application must be accompanied by a statement signed by the appropriate person representing the business setting out the amount of state aid, including but not limited to

discretionary rate relief, which the ratepayer has received within the previous three years. Applications will not be considered until this statement is received.

7. Review Process

- 7.1. There is no statutory right of appeal against a decision made by the Council regarding discretionary rate relief. However, the Council recognises that ratepayers should be entitled to have a decision reviewed if they are dissatisfied with the outcome.
- 7.2. The letter notifying of the outcome of an application for relief will include instructions on how to request a review and the address where any request for review should be sent.
- 7.3. The council will accept a written request for a review of its decision. The request should include the reasons for requesting a review and any supporting information.
- 7.4. A request for review must be made within one calendar month of the date of the decision letter.
- 7.5. Reviews will be considered by an officer independent of the original decision maker.
- 7.6. The applicant will be notified of the outcome of the review in writing.
- 7.7. This review process does not affect a ratepayer's legal right to seek leave to challenge a decision by way of Judicial Review.