Wolverhampton City Council
Business Rates Discretionary Relief
(New Build Empty Property) Policy

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1. Introduction

1.1. This policy sets out the circumstances in which reductions in rate liability will be granted for newly built empty commercial properties.

1.2. In the Autumn Statement 2012 the Government announced its intention, subject to consultation, to exempt all newly built commercial property completed between 1 October 2013 and 30 September 2016 from empty property rates for the first 18 months. This intention was later confirmed.

1.3. The Government advised Councils to use discretionary powers under Section 47 of the Local Government Finance Act 1988 (as amended by the Localism Act) to develop a scheme for relief and agreed that provided Government guidance is followed, Councils would be reimbursed with the full cost of any relief granted.

1.4. This policy will continue for the period of reimbursement by the Government, which currently relates to properties completed between 1 October 2013 and 30 September 2016.

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. This policy has been written in line with Government guidance and awards will only be considered where the conditions to receive full reimbursement from Government are met. Any amendments to Government guidance that further restrict the scope of awards qualifying for full reimbursement will take precedence over this policy.

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. The Council will request any supporting evidence it considers necessary to properly assess the merits of the application.
3.3. 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 if it is necessary to verify the use of the property.

3.4. Ratepayers must continue to pay any amount of rates that fall due whilst an application is under consideration.

4. Decision making framework

4.1. Properties that will benefit from the relief will be all unoccupied non domestic hereditaments that are wholly or mainly comprised of qualifying new structures.

4.2. ‘Structures’ means:
- Foundations and/or
- Permanent walls and/or
- Permanent roofs.

4.3. ‘New’ means:
- Completed less than 18 months previously and
- Completed after 1 October 2013 and before 30 September 2016.

4.4. New structures are to be considered ‘completed’ when the building or part of the building of which they form part is ready for occupation for the purpose it was constructed. Where a completion notice has been served in respect of the building or part of the building, the effective date is that specified in the notice.

4.5. The term ‘wholly or mainly comprised’ means more than half. An authorised officer will interpret ‘mainly comprised’ using factors such as the area or volume of the property. The policy is not intended to capture properties that have been refurbished, it is intended to capture those that have been the subject of substantial structural construction e.g. properties that are built on existing foundations or built around a retained façade are likely to benefit from the relief.

4.6. Where a property is created as a result of a split or merger of other properties, or where the existing property is altered for example with an extension, the same test will apply i.e. the property must be wholly or mainly comprised of new structures completed within the necessary timeframes to benefit from the exemption. Examples are shown in Appendix A.

4.7. The relief will run with the property rather than the owner. So if a developer initially owns a property that qualifies for the relief he/she will be able to sell/lease the property with the benefit of the remaining term of the relief, subject to the ratepayer’s State Aid De Minimis limits.

4.8. If a property is in an Enterprise Zone and receiving Enterprise Zone relief, it will not able to claim this new build empty property relief. If the Enterprise Zone relief has ended or
the property is not entitled to that relief, the new build empty property relief can be granted.

4.9 Properties that qualify for the relief will be given relief of 100% for the relevant period.

5. **Duration of awards**

5.1 The Non Domestic Rating (Unoccupied property) (England) Regulations 2008 provide that empty property rates are not payable until a non-industrial property has been empty for 3 months or an industrial property has been empty for 6 months. This policy is to allow 100% relief for the remainder of the period up to a maximum of 18 months whilst the property is empty.

5.2 Where properties are occupied for short periods, the relief will be granted for the relevant empty period after the 3 months or 6 months exemption has applied.

   eg. A shop unoccupied for 8 months then occupied for 4 months before becoming unoccupied again will be treated as follows:
   - 3 months – no rates payable (exempt)
   - 5 months – new build empty property relief
   - 4 months – property occupied – occupied rates payable
   - 3 months – no rates payable (exempt)
   - 3 months – new build property relief
   - 18 months – total period, normal charges will then apply.

5.4 If a property has been subject to an apportionment under Section 44a of the Local Government Finance Act 1988 (partly occupied properties), the same principles may be applied to the unoccupied portion.

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.
Appendix A

Examples of Qualifying Properties in Relation to Splits and Mergers

Example 1 – A new build property and an existing property

Property A is an office block built from scratch, completed on 1 April 2014. Property B is an office block built in the late 1990s.

All of Property A’s structures comprise qualifying new structures - the foundations, permanent walls and permanent roof were completed on 1 April 2014. The structures would be considered ‘new’ until 30 September 2015 and as such the hereditament would be eligible for relief for any period for which empty property rates are payable up to then.

None of Property B’s structures comprise qualifying new structures - the foundations, permanent walls and permanent roof were completed in the late 1990s and as such, the hereditament would not be eligible for this relief.

Example 2 – A new build property splits and merges with an existing property

Property A is an office block built from scratch, completed on 1 April 2014. Property B is an office block built in the late 1990s.

Part of property A splits and merges with property B. Two new hereditaments are formed on 1 October 2014 – A1 and B1.

All of Property A1’s structures comprise qualifying new structures - the foundations, permanent walls and permanent roof were completed on 1 April 2014. The structures would be considered ‘new’ until 30 September 2015 and as such the hereditament would be eligible for relief for any period for which empty property rates are payable up to 30 September 2015.
Example 3 – three new build properties (with different completion dates) merge

Property A is an office block built from scratch, completed on 1 April 2014. Property B is an office block built from scratch, completed on 1 May 2014. Property C is an office block built from scratch, completed on 1 June 2014.

The properties subsequently merge to form a new hereditament on 1 July 2014 – property D. The structures of properties A, B and C equally make up Property D’s structure.

Until 30 September 2015 property D comprises wholly of qualifying new structures as the structures were completed less than 18 months previously, as well as being completed after 1 October 2013 and before 30 September 2016. Between 1 October 2015 and 31 October 2015 property D comprises mainly of qualifying new structures as two thirds of the structures were completed less than 18 months previously, as well as being completed after 1 October 2013 and before 30 September 2016. From 1 November 2015 property D does not comprise wholly or mainly of qualifying new structures as only one third of the structure was completed more than 18 months previously. On that basis Property D would be eligible for relief for any period for which empty property rates are payable up to 31 October 2015.

Example 4 – a single hereditament comprising a large site with 3 separate small single storey properties and a car park is redeveloped. One of the small properties is demolished and a new large office block is built on the site of the small property and the car park. The site continues to be a single hereditament.

The foundations, permanent walls and permanent roof of the new office block were completed on 1 April 2014 and comprise more than the aggregate amount of foundations, permanent walls and permanent roofs of the two remaining small properties. On that basis the hereditament would be eligible for relief for any period for which empty property rates are payable up to 30 September 2015.