



# Cabinet (Resources) Panel

29 July 2014

<b>Report title</b>	Business Rates Discretionary Relief (Partly Occupied Properties) Policy	
<b>Decision designation</b>	AMBER	
<b>Cabinet member with lead responsibility</b>	Councillor Andrew Johnson Resources	
<b>Key decision</b>	Yes	
<b>In forward plan</b>	Yes	
<b>Wards affected</b>	All	
<b>Accountable director</b>	Keith Ireland, Delivery	
<b>Originating service</b>	Revenues and Benefits	
<b>Accountable employee(s)</b>	Sue Martin Tel Email	Head of Revenues and Benefits 01902 554772 <a href="mailto:Sue.martin@wolverhampton.gov.uk">Sue.martin@wolverhampton.gov.uk</a>
<b>Report to be/has been considered by</b>	Strategic Executive Board	3 July 2014

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## Recommendation(s) for action or decision:

The Cabinet (Resources) Panel is recommended to:

1. Approve the local policy for awarding discretionary business rates relief to partly occupied properties.

## **1.0 Purpose**

- 1.1 To seek approval of a local policy setting out the circumstances in which discretionary relief will be granted to business premises that are part occupied for a short period of time.

## **2.0 Background**

- 2.1 Section 44A of the Local Government Finance Act 1988 (Section 44A) 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.
- 2.2 Under Section 44A, where a clearly defined part of a property is empty for a short period of time which is not integral to the nature of the business (e.g. warehouses), the Council can ask the Valuation Office Agency to issue a certificate to split the rateable value between occupied and unoccupied parts of the assessment. The unoccupied rateable value is then used to calculate and apply relief for the period requested up to the maximum statutory exempt periods for empty properties (3 or 6 months). This reduces the overall rates bill for a short period.
- 2.3 Under the Constitution the decision whether to grant the relief is delegated to the Section 151 Officer.
- 2.4 This policy will join a suite of Business Rates Discretionary Relief policies that have previously been approved by Cabinet (Resources) Panel:
- a. Discretionary Relief (Charitable and Not for Profit Organisations) - approved June 2013
  - b. Discretionary Relief (Retail Reoccupation Relief) - approved April 2014
  - c. Discretionary Relief (New Build Empty Property) – approved April 2014
  - d. Discretionary Relief (Retail Discount) – approved April 2014
- 2.5 A further policy, Discretionary Relief (Hardship) is the subject of a separate report on this agenda.

## **3.0 Revising the Local Scheme for Business Rates Discretionary Reliefs**

- 3.1 Relief has been granted using the discretionary power under Section 44A Local Government Finance Act 1992 (Section 44A relief) for a number of years using guidance issued by the Office of the Deputy Prime Minister December 2002 and general principles established through consideration of a range of applications.
- 3.2 In order to ensure a level of consistency, a framework policy has been developed to support the decision making process.

- 3.3 Consultation has been carried out with officers of Education and Enterprise to ensure the policy supports the corporate aim of encouraging enterprise and business. The recommended scheme is included as Appendix A.
- 3.4 The scheme gives preference to new businesses moving into the City and existing businesses moving to other premises within the City to support regeneration. Each case will however be considered on its own merits.

#### **4.0 Financial implications**

- 4.1 Section 44A relief is not separately Government funded. From April 2013, with the localisation of business rates, all mandatory and discretionary reliefs are shared as a cost between central government (50%), the Council (49%) and the Fire Authority (1%). This has been confirmed in the Local Government Finance Act and in the detailed calculations to provide baseline funding for 2013/14. The Council now collects business rates and receives an amount from the Collection Fund which is 49% of the net income after appeals, and other losses incorporating an adjustment for mandatory and discretionary reliefs.
- 4.2 During 2013/14 an amount of £47,933 was granted in respect of Section 44A relief, which is part funded by Central Government, the Council and the Fire Authority. Awards were made on three applications from a total of four applications received.

[CF/08072014/A]

#### **5.0 Legal implications**

- 5.1 Section 44A of the Local Government Finance Act 1988 (Section 44A) 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.
- 5.2 When deciding whether to make an award of discretionary relief, consideration should be given to the fact that the Council must bear a percentage of the cost.
- 5.3 When granting relief the Council has to ensure that any relief granted does not transgress State Aid rules through asking whether the business receives any other Government relief which would take the total amount of relief granted beyond de minimis limits.

[KO/09072014/W]

#### **6.0 Equalities implications**

- 6.1 This policy has been looked at from an equalities perspective via an equalities initial screening. The policy is open to all businesses in the situation described by the report so there are no equality implications in this regard. Equalities considerations will be included in the monitoring of the policy to ensure that it is one that will be able to demonstrate that relief is awarded fairly. In this way councillors can be confident that the approach will

meet the requirements of the Public Sector Equality Duty as established by the Equality Act 2010.

## **7.0 Environmental implications**

7.1 There are no environmental implications.

## **8.0 Human resources implications**

8.1 There are no human resources implications.

## **9.0 Corporate landlord implications**

9.1 There are no Corporate Landlord implications.

## **10.0 Schedule of background papers**

10.1 Non Domestic Rates-Guidance on Rate Relief for Charities and other Non Profit Making Organisations issued by the Office of the Deputy Prime Minister December 2002.

## **Appendix A**

# **Wolverhampton City Council Business Rates Discretionary Relief (Partly Occupied) Policy**

- 1 Introduction**
- 2 Purpose and principles of the policy**
- 3 Requirements for Applications**
- 4 Decision Making Framework**
- 5 Duration of Awards**
- 6 State Aid**
- 7 Review process**

## **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.