

Section 44a Relief (Partly occupied properties)

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Introduction

Section 44a of the Local Government Finance Act 1988 (LGFA 1988) enables the billing authority to grant relief on a hereditament that is partly unoccupied or not fully occupied, so long as this situation exists **for a short time only** (although in law there is no definition of how long this can be).

The billing authority's ability to grant relief in circumstances where a hereditament is not fully occupied is a **discretionary power**. The mechanism used to record the amount of relief is a certificate of apportioned value provided by the Valuation Office Agency. The decision to exercise discretion must be taken before a certificate is requested, because the 'occupied value' certified by the valuation officer becomes the Section 42 (4) rateable value for the purpose of the Act.

The decision whether to award 44a Relief

Birmingham City Council will only consider applications for this relief where it is satisfied the areas subject to the application will be unoccupied for a temporary period,

meaning no more than six months, in any 12 month period.

There will be no retrospective granting of relief where a request is made after the premises become fully operational or fully vacated.

Applications will be considered where the premises are partly unoccupied due to:

- a) Full occupation being phased in over a period of time.
- b) Full vacation occurring in stages over a period of time.
- c) Temporary occupation, for example due to remedial building or refurbishment works, fire damage or similar.

Criteria

- The effective start date of Section 44A relief will normally be the date of the initial request, or where this is unclear, the date of the visit by a BCC business rates inspector
- A floor plan must be provided showing the areas of occupation and non-occupation
- The liability to pay your business rates remains whilst your application is considered
- A business rates inspector may visit the premises from time to time, without prior appointment, to check that the certificated unoccupied area is not in use
- All applications must be made online:
https://www.birmingham.gov.uk/forms/form/208/en/business_rates_enquiry_form

The period of relief will end, effective from the date of one or more of the following:

- a change in the extent of partial occupation
- the ending of the rate period to which the apportionment relates
- the beginning of a new period of relief under a new certificate; or
- the hereditament becoming completely unoccupied/occupied

The ratepayer must notify the Council immediately if the unoccupied area becomes occupied.

Section 44a is only a temporary relief and should not be used in cases whereby the situation of partial occupation will be for a prolonged period. In these cases, the ratepayer should seek to get the property split in the rating list by the valuation office.

Decisions

The use of Section 44a is intended to apply to those properties where there are practical difficulties in either occupying the property or vacating the property. Therefore, it is not intended that all properties which temporarily become partly unoccupied would be eligible to have their liability reduced.

The Council has discretion to accept or refuse an application. Any relief granted has a direct impact on the Council's income and ultimately on Council taxpayers in the city and, therefore, any applications will be carefully considered in this context.

The principal consideration is that any relief granted is in the best interests of the authorities' taxpayers.

Favourable consideration will be given where there is:

- Partial occupation of a warehouse, factory, or commercial property to facilitate relocation of the company into the city, or to extend the current portfolio into the city
- Fire, flood, or other disaster prevents full use of the property

Favourable consideration would not normally be given (but not limited to) to:

- A retrospective period
- Consecutive periods
- Supporting a business moving out of the city
- Where the owner sublets on a commercial basis
- Where part occupation is likely to continue for more than three months (6 if industrial.)
- Where there appears to be no effort to let, sell or occupy the empty part
- Where part occupation is seasonal or cyclical in nature
- Where unoccupied area is subject to maintenance, modernisation, or other building work

Where the relief is granted, the Valuation Office will be notified and will issue a certificate to the authority apportioning the rateable value. A new bill will then be issued to the applicant.

Where the authority considers the application, and it is not able to support the claim there is no formal right of appeal. However, a request for the decision to be reviewed may be made in writing to the Business Rates section. A separate officer to the person who made the initial decision, shall review it. This review will look to ensure the original decision adhered to this policy.

Relief will be given for a period of up to a maximum of 3 months or 6 months in the case of industrial properties.

Fraud

The Council is committed to reducing fraud in all its forms. A ratepayer who falsely declares their circumstances or provides a false statement or evidence in support of an application for discretionary rate relief, may have committed an offence under the Theft Act 1968.

Where this is suspected to be the case, the matter will be investigated in line with the Council's [Anti-Fraud and Corruption Policy](#). This may lead to criminal proceedings being instigated.

Review

This policy will be reviewed periodically, at least every 5 years, considering other Council policies and priorities and any changes in legislation.