

Mansfield District Council - National Non Domestic Rate Policy for Section 44a (Partly Occupied Property) Rate Relief

1. Introduction

Occupation of part of a property is occupation of the whole under current rating law.

There may be occasions where a property is partially occupied for a short temporary period of time.

Section 44a of the Local Government Finance Act 1988 allows the Council to exercise its discretion to award part empty rate relief.

2. Application

An application should be made using a form determined by the Council.

Application forms are available to download from the Council's website www.mansfield.gov.uk or by contacting the Revenues and Benefits Service at the Civic Centre on 01623 463463.

The application form requires the following details:-

- a. full details of the property which is not in use
- b. attachment of a scale map of the property clearly defining the areas in use/not in use
- c. the dates or approximate dates that the unused area will be empty for
- d. full reasons for the area being unused
- e. details of when it is anticipated the whole property is expected to be re-occupied including any additional information the applicant believes will assist the Council in making a decision

In relation to point (d) above, relief can be given where it is not practical to occupy the whole premises. The following list gives examples of reasons which could be taken into account. However, the list is not exhaustive and the Council will consider each application on its own individual merits:-

- a. flood, fire or storm damage
- b. building works
- c. phased occupation or vacation of the site

Relief is not normally awarded if the unoccupied area is empty because it is surplus to requirements or if under occupation is part of the normal operational running of the business. Downturn in business leading to surplus space is unlikely to lead to an award of relief.

3. Progressing the Application

When the details outlined in the application section overleaf (a to e) have been satisfied and a valid application form received, the Council will process the application.

Whilst the application is being processed full business rates remain payable.

The Council will undertake a site inspection of the property to which the application relates. An officer from the Revenues and Benefits Service will make an appointment to view.

If the Council accepts the application, the Valuation Office Agency (VOA) will be requested to make a formal assessment to advise what proportion of the rateable value applies to the used and unused area of the premises. This allows the Council to calculate the relief which will be awarded against the unused area.

If the application is successful a revised rate bill will be issued detailing the remaining payments due. If the account moves into credit a refund will be issued upon application by the ratepayer. Refunds are not automatically made.

The Council will progress the application within one month of receipt all the documents required. Within this timescale a site visit will be undertaken, if the Council supports the application the VOA will be asked to undertake an assessment. From this point onwards the matter is within the timescales of the VOA. When a valuation certificate has been received it will be processed within 21 working days.

4. State Aid

European Union competition rules generally prohibit government subsidies to businesses. Relief from taxes, including non-domestic rates, generally constitute State Aid.

The State Aid limits as defined by European Union legislation will not exceed €200,000 in any three year period.

All applicants for any form of rate relief will be required to declare through 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 across England and Wales.

5. Determination Factors

In addition to considering the reason why the unoccupied area is not in use and the practical difficulties of occupying the whole property the Council will have regard to other relevant factors which may include:-

- a) the financial effect of the award on the Council

- b) the interests of the local Council Tax payers (who fund the award)
- c) the effect of awarding/not awarding the relief (i.e. job loses, job creation opportunities, business may not be able to locate into the district).

The Council will decide, along with any other evidence, how much weight to place on the various factors.

For the purposes of this policy a period of up to 12 months will be considered to be temporary, any period in excess of this duration will not be considered temporary.

No award will be made where it appears to the Council that the reason that part of the property is unoccupied is wholly or mainly for the purpose of applying for rate relief.

6. Award Periods

Rate relief will be given for a temporary period.

Relief will be limited to a period of 3 months for commercial property and 6 months for industrial property.

An application may be made during the current financial year and the award may run into the following financial year subject to the maximum 3 and 6 month time limits.

Whist claims may be backdated in exceptional circumstances; applicants are requested to submit an application as soon as part occupation applies. If backdating is requested the expectation is that the applicant will supply sufficient evidence and explanation to the Council as to why the application was not made at the earlier date.

If the Council is not satisfied with the level of backdating proof submitted the application will be refused.

7. Additional Information

The Council may request access to the premises, after giving reasonable notice, to verify continuing entitlement to rate relief.

An award of relief will end if one of the following applies:-

- a. the end of the 3 or 6 month period for which relief was awarded
- b. all or part of the unoccupied area becoming occupied
- c. the applicant/organisation ceases to be the liable ratepayer for the business rates on the property
- d. the Council is unable to verify, following reasonable notice of re-inspection, that the area remains unoccupied

A further application may be submitted where:-

- a. there is a change to the area of the property which is unoccupied

- b. the 3 or 6 month relief period has expired, account will be taken in the evaluation of the potential period the space is likely to continue to be unoccupied

Situations where there is likely to be a favourable outcome to the relief application are:-

- a. where there is a partial occupation of a warehouse, factory or commercial property to facilitate relocation of the company
- b. where fire, flood or natural disaster prevent full use of the property

The following situations may lead to a refusal of the relief application:-

- a. the period when the property was empty has passed (see also backdating in the *award period* section above).
- b. where the owner sublets part of the premises on a commercial basis
- c. where part occupation is likely to continue year on year
- d. where in the opinion of the Council, there has been no attempt to let, sell or occupy the empty part of the property
- e. where occupation is seasonal

The Council will assesses each application on an individual basis to arrive at a decision.

8. Appeals

The award of Section 44a partly occupied rate relief is a discretionary power awarded by law to the Council.

The Council will determine the outcome of each application on its own merits after applying the guidance detailed in this policy document.

The decision on the application will be made by the Section 151 Officer in consultation with senior staff in the Revenues and Benefits Service.

The Section 151 will undertake a delegated decision to determine the outcome of the application.

If the application is refused the applicant will have a right of appeal.

The appeal must be submitted in writing outlining the reasons for disagreement with the refusal and may include any additional information to assist in the appeal.

The appeal must be made within 28 days of the date of the notification letter from the Council declining to award rate relief.

Appeals will be determined by the Chief Executive Officer of the Council.

The Council will determine the appeal within 56 days of its receipt by the Council.

If the organisation remains dissatisfied with the outcome of the appeal it has a route to challenge the decision by way of Judicial Review.

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