

East Devon District Council

Discretionary Rate Relief for Partly Occupied Premises

1 Why has the Council introduced this policy?

- 1.1 This policy sets out the criteria, the conditions that need to be met and the type of information to be provided when a ratepayer applies for a reduction in their rates bill due to part occupation.
- 1.2 Section 44A of the Local Government Finance Act 1988 allows the Council to grant rate relief on property that is partly unoccupied, so long as the situation exists for a short time only.
- 1.3 The Council has the power to request the Valuation Officer to apportion the rateable value of a property between the occupied and unoccupied parts where it appears to the Council that part of it is unoccupied but will remain so for a short time only. This is a discretionary power and full rates will remain payable on a partly occupied property if the Council chooses not to exercise its power in this respect.
- 1.4 The decision to exercise our discretion must be taken before a certificate is requested from the Valuation Officer because the 'occupied value', once certified, becomes the Section 42 rateable value for the purpose of the Act
- 1.5 The discretion given to the Council only extends to deciding whether or not to allow relief and what is a short period in relation to the premises or ratepayer.
- 1.6 Discretion does not extend to selecting categories of property or ratepayer where relief will be favoured.
- 1.7 Unoccupied is where a property is empty. In certain circumstances fixtures and fittings, equipment & machinery can remain.
- 1.8 The purpose of this policy is to:
 - Ensure that all ratepayers making application for this discretionary rate relief 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
 - Highlight that it only granted for a short period.
 - Set out the delegated authority for dealing with applications.

2 What is the Council's policy?

2.1.1 When considering an application for S.44A relief the following factors will be taken into account:

- The circumstances leading to the partial occupation
- What is the intention of the business in relation to the unoccupied parts
- What evidence is there that the unoccupied part will be empty for a short term only.

2.1.2 The Council will not normally give relief under this provision where:

- Part occupation is likely to exceed a short time
- Part occupation is seasonal
- It appears there is no effort being taken to let, sell, re-occupy or totally vacate
- It is for a retrospective period

2.1.3 Any relief awarded will end when either:

- There is a change in the partial occupation (more or less); or
- It is the end of the financial year (though we can use our discretion to request a further certificate if the circumstances permit it); or
- There is a change in the rateable value (through revaluation or an appeal).

2.1.4 Ratepayers are required to notify the Council of any change in circumstances that may affect entitlement to this relief.

2.2 Administering the rate relief

2.2.1 Relief must be applied for in writing (including email) and will need to include the following:

- The period for which relief is claimed
- The reasons why relief should be given and the circumstances leading to the partial occupation
- A plan of the rated premises which clearly identifies the occupied and the unoccupied areas.
- Its declaration as to the amount of financial assistance it will receive in the current and previous 2 years, for the purpose of subsidy control compliance (see section 2.4)

2.2.2 The premises will need to be inspected in order to verify the information that has been provided

2.2.3 The maximum period relief will be granted for is normally up to 3 months, 6 months for qualifying industrial property (this mirrors the statutory exemption for empty property).

2.2.4 The Assistant Director for Revenues, Benefits, Corporate Customer Access, Fraud & Compliance will determine applications for this relief and in their absence will fall to the Council's S151 officer.

2.2.5 The Council will aim to make a decision within 14 days of receiving all the information required.

2.2.6 Unsuccessful applicants will be notified in writing together with the reason for the decision.

2.3 Right of Appeal

2.3.1 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.

2.3.2 A review of a decision will be dealt with by the Director of Finance in consultation with the Council's Monitoring Officer. There is no further right of appeal.

2.3.3 A request for review must be made within one calendar month of the date of the decision notice .

2.3.4 This review process does not affect a ratepayer's legal right to seek leave to challenge a decision by way of Judicial Review.

2.4 Subsidy Control

2.4.1 The Council must ensure that it is complying with the Subsidy Control Act 2022 when awarding this relief.

2.4.2 The vast majority of subsidies awarded in the UK are unlikely to raise concerns under our international commitments. The risk of challenge is likely to be small apart from subsidies to sensitive sectors operating at scale on international markets. The level of analysis required to satisfy the Council that there are no, or minimal appreciable risks, will need to be decided on a case-by-case basis.

2.4.3 The Subsidy Control Act fully incorporates the definition of a subsidy in the UK-EU Trade & Co-operation Agreement allowing up to £315,000 of financial assistance in any 3 year period.

2.5 Funding

2.5.1 The cost of funding discretionary rate relief is based on the Business Rates Retention Scheme and East Devon's share is currently 40%.

3 Policy Adminstraion

- 3.1 The Assistant Director for Revenues, Benefits and Corporate Customer Access is delegated to update the policy to take account of technical or administrative changes.

Links related Policies/Strategies, Procedures and Legislation

Related Policies

- Corporate Strategy
- Corporate Debt Policy 2021-2026

Legislation

- Local Government Finance Act 1988
- Localism Act 2011
- Subsidy Control Act 2022
- Data Protection Act 1998

Data Protection

Trading and business information like company accounts, profit and loss and cash flows along with documentation on personal circumstances for sole traders and partnerships will be requested. This data will be stored and used in line with the [Council's Data Protection Policy](#).

Policy consultation

Consultation on this policy has been undertaken with the Growth, Development & Prosperity Team.

Policy review

No later than April 2027 by the Assistant Director for Business Rates.