

Discretionary rate relief (partly occupied) policy framework

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Introduction

- 1.1 If Luton is to continue to prosper the council needs to remove barriers to business growth, enable disadvantaged communities to share the benefits of sustainable economic growth and offer a pleasant and safe place to live and work. The Partly Occupied Relief policy framework supports this statement; enabling the council to use its discretionary powers to award relief from payment of non-domestic rates.
- 1.2 The council has discretion under section 44a of the Local Government Finance Act to award rate relief where part of a property is unoccupied for a temporary period. The amount of rate relief that is awarded is determined by statute and is calculated by reference to the rateable value ascribed to the unoccupied area by the Valuation Office Agency.
- 1.3 Application 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.
- 1.4 Applications for rate relief from charities and not-for-profit organisations shall be considered under the separate policy ('Charitable and Non Profit Making Organisations Discretionary Rate Relief') agreed by the executive.
- 1.5 Each application for partly occupied relief shall 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.

Exceptions to the policy framework

- 1.6 In accordance with the council's constitution, the portfolio holder with responsibility for Finance may determine partly occupied relief applications which fall outside the scope of the approved policy framework.

Definition

- 2.1 All decisions in respect of applications for partly occupied relief must be taken in accordance with statutory requirements and give due consideration to any guidance issued by the secretary of state.
- 2.2 Decisions shall be taken in accordance with the council's constitution.
- 2.3 In addition to these requirements the following shall apply in respect of all requests for partly occupied relief under the powers set out above.

Requirements for applications

- 2.4 Applications will only be considered where a written application is received from the ratepayer, or where the ratepayer is an organisation, or a person properly authorised to make an application on behalf of the organisation. Where the council provides an application form the application must be made on that form.
- 2.5 The council shall request such supporting evidence as it considers necessary to enable the council to properly assess the merits of the application.

Publication of decisions and applications

2.6 All decisions taken in respect of an application for discretionary rate relief will be published.

Timescale for decisions

2.7 The council will aim to make a decision regarding the application within four weeks of receiving the application and all supporting evidence considered necessary to enable the application to be considered.

Requirement to make payment of amounts falling due

2.8 Ratepayers must continue to pay any amount of rates that falls due whilst an application is pending. In the events that the payments are not received as due the council may continue with its normal procedures to secure payment.

Awards for retrospective periods

2.9 Partly occupied relief will not normally be awarded in respect of any day prior to the day that an application is received. However, in exceptional circumstances consideration may be given to awarding discretionary rate relief for a retrospective period where the ratepayer can demonstrate good cause for not submitting the application earlier.

2.10 No consideration shall be given to an award for a retrospective period where the council is not able to verify to its satisfaction that the circumstances giving rise to the application pertained for that period.

State aid

2.11 Partly occupied relief shall 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 shall not be considered until this statement is received.

Maximum amount of award

2.12 The Localism Act allows scope for the council to award up to 100 per cent rate relief in any one year for qualifying businesses. The maximum amount awarded shall normally be limited to no more than 45 per cent of the rate liability except where there are exceptional circumstances which justify a greater amount.

Duration of awards

2.13 All awards shall terminate at the end of the financial year if the award has not ended earlier.

2.14 For the purposes of the policy framework a period of no more than a maximum of three months, or six months in the case of industrial properties in any 12 month period shall be considered to be temporary and longer periods will not be considered as temporary.

2.15 There is no minimum award period.

Further applications

2.16. A follow on application may be submitted where:

- a. where there is a change in the area of the property that is unoccupied
- b. the commencement of a new financial year

2.17 Luton Council will require a business case submitted supporting such applications. This will need to explain clearly why such changes to the business are required and the reason for this leading to another part of the premises now being temporarily unoccupied.

Qualification criteria for an award

2.18 No award shall be made where it appears to the council that the reason that the part of the property is unoccupied is wholly or mainly for the purposes of applying for rate relief.

2.19 The effective start date of section 44a relief will normally be the date of the initial request is received with the floor plan depicting the occupied and unoccupied areas or where this is unclear the date of the visit by a council officer.

2.20 Partly occupied relief under this section will not be awarded in respect of part occupied property where the partial occupation of the property may be considered to arise due to ordinary day to day nature of the business, (for example the operation of a warehouse).

2.21 Applications will be considered where the premises are part 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

2.22 The ratepayer is responsible for notifying the business rates office immediately if the unoccupied area comes into use.

2.22 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.

Verification of unoccupied areas

2.24 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.

2.25 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.

Termination of awards

2.26 Awards for section 44a rate relief shall end at the earliest occurrence of one of the following:

- a. the end of the statutory period for which rate relief may be allowed
- b. the end of the financial year
- c. all or part of the unoccupied area being occupied
- d. the ratepayer ceasing to be the person or organisation liable to pay non-domestic rates in respect of the property
- e. the commencement of a further award in respect of the property
- f. the council is unable to verify, following reasonable notice, that the area remains unoccupied

Reviews and appeals

2.27 Decisions on the award or otherwise of partly occupied relief will be taken by the delegated officer and the decision will be final. There will be no automatic right to appeal. However, if you disagree with the decision you should write to the council within one month of the decision letter, clearly setting out the reasons why you think the decision is wrong.

2.28 Disagreements of this nature will be considered by an officer independent of the assessment process. There will however, be no further right of appeal following such a reconsideration.