

TO EXECUTIVE – 30 APRIL 2001

SUBJECT: GUIDELINES FOR RATE RELIEF ON PART OCCUPIED PREMISES

FROM: COUNCIL TAX AND RATING

1 PURPOSE OF THE REPORT

- 1.1 To approve guidelines for dealing with requests for rate relief under section 44A of the Local Government Finance Act 1988 where non-domestic premises are partly unoccupied for short periods.

2 BACKGROUND

- 2.1 The Council receives requests from ratepayers asking that the rateable value of specific premises be apportioned between the occupied and unoccupied portions and that the Council then only charge rates on the occupied portion. This is permitted under the above regulations however the Council does have a discretion to accept or refuse such a request. If the request is accepted then the Valuation Office Agency is asked to supply a certificate indicating the relevant values for the occupied and unoccupied portions and this certificate is binding on the Council.
- 2.2 The Council has previously resolved that this discretion be delegated to the Head of Council Tax and Rating who must consider the relevant circumstances of each case before exercising this discretion.
- 2.3 The proposed guidelines are set out in Appendix A. I must emphasize that the Council is not permitted to have a *policy* in this matter as the exercise of a discretion must be based on the individual circumstances of each case.
- 2.4 Appendix B sets out the key points of the relevant legislation.

Christopher Lickorish
Head of Council Tax and Rating

Background Papers	Nil
Areas affected	All – Business Properties only
Key Issues affected	None

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WARWICK DISTRICT COUNCIL
GUIDELINES FOR CONSIDERATION OF REQUESTS FOR RATE RELIEF
UNDER S44A IN RESPECT OF PARTLY OCCUPIED PREMISES

- 1 All applications must be made in writing and be made by either the occupier or owner (if different) or persons acting on their behalf e.g. solicitors or accountants.
- 2 The applicant will be asked to submit a plan which clearly identifies the areas of occupation and areas unoccupied.
- 3 Application should be made in good time so that the premises can be inspected to confirm the applicant's plan.
- 4 It will not normally be possible for relief to be considered in retrospect 1.2. for a period after which full unoccupation has taken place. An exception to this would be when it was possible to obtain independent evidence to support backdated claim.
- 5 Applicants where favourable consideration would be likely would include (although not necessarily limited to) the following:
 - Where there is partial occupation of a warehouse, factory or commercial property to facilitate relocation of the company.
 - Where because of a temporary downturn in trade, there is part occupation of the premises.
 - Where fire, flood or other natural disaster prevents full use of the premises.
- 6 Applicants where favourable consideration would not normally be forthcoming would include (although not necessarily limited to) the following:
 - For a period that has now passed
 - Where the owner sublets parts of the premises on a commercial basis e.g. market hall or antiques centre
 - Where the part occupation is likely to continue year on year
 - Where there appears to be no effort to let, sell or occupy the empty part
 - Where part occupation is seasonal.
- 7 At all times regard will be had for the regulations contained within section 44a of the Local Government Finance Act 1988 and any relevant case law.
- 8 Any guidance from the Department of Environment, Transport and the Regions or the Institute of Revenues Rating and Valuation will be considered.

- 9 Although there is no definition of a “short time” within the legislation, the view has been taken that up to 12 months would normally be the limit for this relief.

LOCAL GOVERNMENT FINANCE ACT 1988

- 1 Section 44A of the above Act permits the billing authority to charge on the basis of apportioned rateable values certified by the valuation officer where a non domestic property is partly occupied and partly unoccupied, so long as this situation exists for “a short period only” – this phrase is not defined.
- 2 The section provides a discretionary power, but the decision whether to exercise it must be taken before the valuation officer’s certificate is requested since the apportioned values are those upon which the charge must be levied once it is supplied.
- 3 The effect of the apportioned values applies for the operative periods, which is defined as the period beginning with the day on which the hereditament became partly unoccupied and ending with the first day on which one or more of the following events occurs –
 - a) the occupation of any of the unoccupied part of the property
 - b) the ending of the financial year in which the apportionment was required
 - c) the requiring of a further apportionment; and
 - d) the complete occupation of the property.
- 4 The billing authority is required to terminate this relief in event of a change in the proportions of the property occupied and unoccupied or at the end of a financial year and may then, if appropriate, consider requesting the valuation officer to issue a further certificate.
- 5 The financial effect of awarding relief under S44A of neutral since there is no provision to do other than calculate the contribution to the rating pool on the basis of the total rateable value as shown in the rating list.
- 6 Any challenge relating to the exercise of this discretion would be in accordance with S.138 of the above Act by way of judicial review.