

Business Rates Policy 2016-17 onwards

**Partially Unoccupied (Temporary
Period) Rate Relief - Section 44a**

Rate Relief for Properties that are Partially Unoccupied for a Temporary Period

1.0 Legal Background

- 1.1 Occupation of part of a property is occupation of the whole in rating law. There may be occasions where a property is only partly occupied for a short period of time. This may be due to a business moving in or relocating to a new property. In certain circumstances, the Council may use its discretion to award a part empty relief; also known as Section 44A (s.44a of the Local Government Finance Act 1988).
- 1.2 The granting of this relief is entirely under the discretion of Slough Borough Council and each case will be considered on its merits and be referenced to the interests of Slough Council Tax payers.
- 1.3 Section 44A relief may be applicable in the following circumstances: and where the occupied and unoccupied parts of the property can be easily segregated
 - a) Short term practical or financial difficulties in occupying.
 - b) Phased vacations may be considered when moving within the SBC area
 - c) Where the business is relocating machinery
 - d) Temporary occupation due to remedial building or refurbishment works.
 - e) Where Fire/Flood has rendered a part of the assessment unoccupied for a short period

2.0 Calculation of Rate Relief

- 2.1 The amount of relief is calculated on a statutory basis based on the rateable value of the empty portion of the property. The appropriate rateable value is provided by the Valuation Office Agency.

3.0 Cost to the Council

- 3.1 The Localism Act 2011 has changed the financial cost of awarding charitable relief. This means that with effect from the 1st April 2013 for every pound collected in business rates 49p is retained by Slough Borough Council. Consequently the cost of awarding relief is 49% of the total amount awarded in relief, subject to possible tapers.
- 3.2 The Council recognises that awarding partially occupied rate relief (also referred to as Section 44a Relief) is beneficial to local businesses

and can contribute to the Sustainable Community Strategy, priority of Economy and Skills.

4.0 Policy

- 4.1 A ratepayer is liable for the full business rate whether a property is wholly occupied or only partly occupied. Where a property is partly occupied for a short time, the local authority has discretion to award relief on the unoccupied part
- 4.2 The Council recognises the important part this relief can play in the economic regeneration of the borough and will give serious consideration to each complete application submitted
- 4.3 Relief can only be awarded where the partial occupation is of a temporary nature. Where the same area, or part of the same area, is, or is expected to be, unoccupied for a period in excess of one year the Council will not consider this to be of a temporary nature. Periods which exceed this time period will be treated as a permanent change and will not attract an award of section 44A. A period of less than 6 weeks will not be considered for Section 44A purposes except in exceptional circumstances.
- 4.4 From 1 April 2008, as a consequence of the reforms to empty property relief, the empty part will receive a complete exemption from business rates for the first 3 months it is empty (or, if it is an industrial property, for the first 6 months). After the initial rate-free period expires, in most cases the apportionment will cease to have effect and the occupied business rate will apply to the whole property.
- 4.5 The granting of this relief is entirely under the discretion of Slough Borough Council and each case will be considered on its merits and be referenced to the interests of Slough Council Tax payers.
- 4.6 Section 44A relief may be applicable in the following circumstances: and where the occupied and unoccupied parts of the property can be easily segregated
 - a) Short term practical or financial difficulties in occupying.
 - b) Phased vacations may be considered when moving within the SBC area
 - c) Where the business is relocating machinery
 - d) Temporary occupation due to remedial building or refurbishment works.
 - e) Where Fire/Flood has rendered a part of the assessment unoccupied for a short period
- 4.7 In all of the above cases, the period of part occupation must be for a temporary period only, and relief will not be awarded where it appears

to the Council that the reason that part of the property is empty is for the purpose of applying for partial empty rate relief.

- 4.8 The granting of relief must be in the interests of the Slough Council Tax payers, the council will consider all applications but where the rateable Value is more than £50,000, the council will insist that the ratepayer states why it is in the interest of the Council Tax payers to provide the relief and take this into consideration when making a decision.
- 4.9 Rate relief will not be awarded where the partial occupation is due to the normal day to day operation of the business i.e. a warehouse which has recently despatched a large order and has limited stock. Nor will relief normally be considered where the property is due for demolition.

5.0 Applications

- 5.1 To qualify for relief the ratepayer is required to make a written application and must supply a plan of the property with the unoccupied portions clearly identified.

6.0 Verification of Claim

- 6.1 The Council will require access to the property during normal working hours within four weeks of receiving the application, to verify the claim.
- 6.2 Further access may be required on at least one occasion each month, during normal office hours, during the period for which relief is being awarded.
- 6.3 Relief will not be awarded under any circumstance where it is not possible to verify the claim.
- 6.4 There will be no retrospective granting of relief where a request is made after the premises become fully operational or fully vacated.

7.0 The Decision Making Process

- 7.1 All applications will be considered on an individual basis.
- 7.2 In order to ensure there is a fair and consistent approach to the award of relief, all applications will be considered within the guidelines of this policy.
- 7.3 All applications will be considered on an individual basis by the Business Rates Manager who will provide an in depth report and

recommendations which will include but not be limited to review sheet, with findings and financial implications and initial recommendations to the Council's Section 151 officer.

- 7.4 A written record will be kept of the decision and of the factors considered in the process. This record will be available to the applicant free of charge on request.
- 7.5 The decision will be notified to the applicant in writing and where less than the maximum amount of relief is granted an explanation of the reasons why full relief was not granted will be given.
- 7.6 Appeals against awards to be determined by a Member Appeals Panel.
- 7.7 Details of the recipients and the amount of awards will be reported to the Cabinet annually.

8.0 Interest of Officer and Members

- 8.1 Officers and Members who have an interest in any aspect of an application for relief must not participate in the decision making process and must declare their interest.
- 8.2 Examples of interests include those in the following list. However, the list is not intended to be exhaustive.
 - An interest in the business making an application
 - A close relative who has an interest in the business making an application
 - An interest in the property for which the relief is being sought
 - In interest in a similar business

Where an officer is unsure whether they have an interest they should seek advice from the Section 151 Officer. Where a Councillor is unsure whether they have an interest they should seek advice from the Council's Monitoring Officer.

These three officers (i.e. Section 151 officer, Democratic Support & Legal) may in turn need to liaise with the Head of Revenue and Benefits on any case referred to them (e.g. where cases of conflict of interest will need to be monitored by Revenue Services on an on-going basis).

9.0 Appeals

- 9.1 The ratepayer may appeal against a decision to refuse relief within four weeks of being notified of the refusal.

- 9.2 Any appeal must be in writing and should set out the reasons for the appeal.
- 9.3 Appeals will be considered by the Members Appeal Panel whose decision will be final.

10.0 Duration of Relief

10.1 Relief will end under the following circumstances:

- a) At the end of a financial year
- b) All or part of the unoccupied area becoming occupied
- c) A change of liable person
- d) Where all or part of the unoccupied area has remained unoccupied for one year*

10.2 A new application may be submitted immediately if relief ends for any of the reasons numbered from (a) to (c) above.

11. Payment of Business Rates

- 11.1 Payment of Business rates cannot be withheld because an application has been submitted or pending the receipt of the Section 44a Certificate from the Valuation Office Agency.
- 11.2. Unless otherwise agreed, ratepayers are required to continue to pay, in accordance with the latest demand notice, pending the outcome of an application

12 State Aid

12.1 All amounts of relief awarded are subject to the state aid limits as defined by European legislation. Relief will not exceed €200,000 in any 3 year period. 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 across England and Wales.

13 Review of Policy

13.1 The policy will be reviewed, on a regular basis and will be presented to members when and if a change is required either because of legislation changes or another reason.