

Bristol City Council

National Non-Domestic Rates

Policy document

**Section 44a of the
Local Government Finance Act**

1st August 2017

1. Introduction

Business Rates, also known as Non-Domestic Rates, are normally charged on the whole premises, even where part of the property is unoccupied.

Under section 44a of the Local Government Finance Act 1988, ratepayers can apply for the rateable value of a partly occupied property to be split, so that they only pay rates on the part of the property that they are using for their business.

The Council has discretion to accept or refuse such a request. This policy outlines the Council's approach to these requests and the factors taken into account in the decision making process.

2. The law

Section 44a of the Local Government Finance Act 1988 provides that where part of a business premises appears to be unoccupied, and is expected to remain so for a short time only, the authority may ask the Valuation Officer to certify the relevant rateable values for the occupied and unoccupied parts.

The Authority therefore does not have to act on the request of a ratepayer but when it does, the certificate is binding on the Council as to the rateable value of the property used in calculating the business rates payable.

The legislation does not define the term 'short time'; for the purposes of this policy Bristol City Council interprets a 'short time' to normally be a period of three months, but in exceptional circumstances could be for as long as 12 months.

The apportioned rateable values apply for the period beginning with the day on which the premises became partly unoccupied and ending with the first day on which one or more of the following events occurs

- The occupation of any of the unoccupied part of the premises;
- The ending of the financial year in which the apportionment was required;
- The requiring of a further apportionment;
- The complete occupation of the premises; or
- The complete vacation of the premises.
- The expiration of the agreed period of apportionment

The authority may, if appropriate request a new certificate from the Valuation Officer at the start of a new financial year or where the occupied and unoccupied parts have changed.

3. The financial impact

In October 2015, the Government announced their intention that local authorities will be able to keep 100 per cent of the business rates they raise locally. This is a fundamental change to the way local government is financed and Bristol City Council is part of a pilot scheme which means from 1st April 2017, Bristol City Council and its precepting bodies will retain 100% of all business rates income.

Any relief granted therefore has a direct impact on the Council's income and ultimately on council tax payers in the city.

4. The application process

All applications for s44a discretionary relief should be made in writing, and accompanied by a plan which clearly identifies the location and size of the parts which are occupied and unoccupied. A visit may be made to the premises to confirm the accuracy of the submitted plan.

Independent evidence may also be requested and this may be in the form of, for example, surveyors' reports, dated photographs, solicitors' letters and estate or letting agents' records.

Applications will be considered by the Group Leader of the Valuation & Inspection team, Revenues Service, or another Group Leader within the Service as directed by the Revenues Manager.

A request for s44a relief will be considered where the granting of relief would be in the best interests of the taxpayers of Bristol, AND:

- partial occupation of a business premises is required to facilitate relocation of the company into another part of the city or to extend the current portfolio of occupied premises in the city; or
- Where fire, flood or other disaster prevents full use of the premises, or
- Some other wholly exceptional circumstance exists

A request for s44a relief would **not** normally be considered:

- For a period that has now passed;
- For consecutive periods;
- To support a business moving its operation outside of the city;
- Where the owner sublets part of the premises on a commercial basis;
- Where the part occupation is likely to continue for more than three months (six months if industrial premises)
- Where there appears to be no effort to let, sell or occupy the empty part; or
- Where part occupation is seasonal or cyclical in nature.

This is not an exhaustive list and each application will be treated on a case by case basis, and in accordance with the Regulations and any relevant case law.

Decisions will be given in writing, by email where possible.

6. Review process

If an applicant is dissatisfied with the outcome of their application they can ask for a review of the Council's decision. The applicant can submit additional or new information or evidence to support the application.

The decision will be reviewed by the Revenues Manager within 28 days of the receipt of the request. The decision to grant section 44A relief is discretionary, and any further challenge beyond the internal review mechanism would be by way of judicial review.