



**National Non-Domestic Rates
Section 44a Local Government Finance Act 1988**

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1.0 Introduction and Scope

- 1.1 The Council receives requests from ratepayers asking that the rateable value of a hereditament that is charged non-domestic rates, is split between the occupied and unoccupied portions and that the Council then only charges rates of the occupied portion. This is permitted under Section 44a of the Local Government Finance Act 1988.
- 1.2 The Council has 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.
- 1.3 This document outlines the Council's approach to these requests and the issues that will be considered as part of the decision-making process.
- 1.4 Any relief granted has a direct impact on the Council's income and ultimately on Council Tax payers in the North Yorkshire area and, therefore, any applications will be carefully considered in this context.
- 1.5 The principle consideration is that any relief granted is in the best interests of the taxpayers of North Yorkshire Council as the Council must bear the costs of any relief granted.

2.0 Legislation

- 2.1 Section 44a of the Local Government Finance Act 1988 allows the Council to charge on the basis of apportioned rateable values certified by the Valuation Office Agency where a non-domestic hereditament is partly occupied and partly unoccupied so long as this situation exists for a 'short period of time'
- 2.2 The phrase 'a short period of time' is not defined in law. What is classed as a short period of time is for the authority to determine in view of the particular circumstances of each case.
- 2.3 The law provides a discretionary power, but the decision whether to exercise that power must be taken before the Valuation Office Agency's Certificate is requested, as the apportioned values are those upon which the charge must be levied once supplied.
- 2.4 The discretionary power does not alter the general rule that occupation of part of the hereditament constitutes occupation of the whole of the hereditament.
- 2.5 The effect of the apportioned values applies for the **operative period**, which is defined as the period beginning with the day on which the property 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 property;
 - The ending of the financial year in which the apportionment was required;
 - The requiring of a further apportionment;
 - The complete occupation of the property; or
 - The complete vacation of the property.

2.6 The authority is required to terminate this relief in the event of a change in the proportions of the hereditament occupied and unoccupied or at the end of a financial year, and then may, if appropriate, consider requesting the Valuation Office Agency to issue a further certificate.

3.0 The financial impact

3.1 Changes to local government finance now mean that the income from business rates directly impacts on the Council's financial position.

3.2 Any relief granted has a direct impact on the Council's income and ultimately on Council Tax payers of the North Yorkshire area. Any applications for relief made to the Council will be carefully considered in this context.

4.0 The Council's approach and considerations

4.1 Applications will be considered by the Revenues and Benefits Service.

4.2 Where the application is refused, any requests for a review of the decision will be considered by the Revenues Head of Service on behalf of the Council. That decision shall be final.

4.3 The Council will consider the application and other supporting evidence from ratepayers, based on its own merits, on a case-by-case basis.

4.4 The use of Section 44a is intended to apply to those properties where there are practical difficulties in either occupying the property or vacating the property. Therefore, it is not intended that all hereditaments which temporarily become partly unoccupied should have their liability reduced.

4.5 The circumstances when it appears that Section 44a should apply are, in the Council's opinion reasonably infrequent, but often where there is difficulty in vacating or occupying the whole hereditaments.

4.6 Where there is a gradual occupation of such a property, the part which remains unoccupied could be subject to Section 44a reduction. By definition the lack of occupation is a short-term measure in that the intention is soon for the property to be either wholly empty or wholly occupied.

4.7 Relief will not be granted when there is a clear ability to have the hereditament split by the Valuation Office Agency in to two or more separate assessments.

4.8 In determining the application, the following matters will also be taken into account:

- There is a partial occupation of a warehouse, factory, or commercial property to facilitate relocation of the business into the North Yorkshire area or to extend the current portfolio and associated occupation levels in the North Yorkshire area; or
- Where fire, flood or other disaster prevents full use of the hereditaments.

4.9 Favourable consideration would **not** normally be given (but not limited to):

- For a period that has now passed;
- For consecutive periods;
- To support a business moving its operation outside of the North Yorkshire area;

- Where the owner sublets part of the property on a commercial basis;
- Where the part occupation is likely to continue for more than three months (6 months if it is considered an industrial hereditament);
- Where there appears to be no effort to let, sell or occupy the empty part;
- Where part occupation is seasonal or cyclical in nature;
- Where the unoccupied area is subject to maintenance, modernisation, or other building works; or
- Where occupation within a warehouse, office or commercial property has been reduced because of general trading conditions.

4.10 The Council will, at times have regard to the legislation (Section 44a of the Local Government Finance Act 1988) any relevant caselaw.

5.0 The application process

- 5.1 All applications for discretionary discounts should be made in writing or by email.
- 5.2 The ratepayer will be required to submit a scaled plan, which clearly identifies the areas of occupation and areas unoccupied.
- 5.3 In considering the application, a visit may be made to the premises to confirm the accuracy of the submitted plan and to obtain supplementary evidence.
- 5.4 Independent evidence may also be submitted, and this may be in the form of surveyors' reports, dated photographs, solicitors' letters and estate or letting agents' records (the list not exhaustive).
- 5.5 Because the decision to grant a Section 44A relief is discretionary, any challenge relating to the Council not granting the relief would be in accordance with Section 138 of the Local Government Act 1988 by way of judicial review.

6.0 Award periods

- 6.1 The period of any relief will be dependent on the circumstances of the case concerned; however, initially it will not normally be granted for longer than three months.
- 6.2 The Council reserves the right to review the award should the circumstances of the ratepayer change during the period of the award.

7.0 Subsidy Control

- 7.1 The Council will be mindful of its legal obligations under the Subsidy Control Act 2022 and will ensure compliance with the legal requirements and any permitted exemptions. Each case will be considered based on the ratepayer's individual circumstances in full consideration of the Act and any Government guidance.

8.0 Policy Review

- 8.1 This policy will be reviewed on an annual basis or sooner if there is a change in legislation that would affect its operation.