

North Tyneside Council
National Non-Domestic Rates
Guidance for Application of Part Occupied Relief
S44A Local Government Finance Act 1988.

Introduction

A ratepayer can submit a request to the Council to consider an application for part occupied relief.

North Tyneside Council has the discretion to refuse or accept any request and, if accepted, submit a report to the Valuation Office Agency requesting an apportioned Rateable Value for the occupied and unoccupied part(s).

If successful, the ratepayer can receive an amended charge so that the unoccupied rateable value certified by the Valuation Office Agency can receive an unoccupied rates reduction.

The Legislation & Considerations

This relief is contained in section 44A of the Local Government Finance Act 1988.

Each application will be considered on a case-by-case basis as, although this is a discretionary consideration, it is not an unfettered discretion.

The relief can only be applied for a 'short period' of time. This is not prescribed in law but it has been determined that for North Tyneside Council this should fall into line with the time limits prescribed for empty relief, this being up to a maximum of 3 or 6 months depending on the description of the property.

The relief will be awarded from the date that the property becomes partly occupied. However, any application for part occupied relief will not be considered where the claim is retrospective, and the circumstances of part occupation no longer exist. North Tyneside Council may also choose to verify the information with an inspection of the site if necessary.

No relief will be awarded where it is unlikely that the whole of the site will be occupied by the current ratepayer in the future, unless it is deemed reasonable to do so.

No relief will be awarded where part occupation is an 'inherent risk' to the nature of the business, such as warehouses (see R v Melladew), or for planned maintenance of a site, unless it is deemed reasonable to do so.

If successful, only 1 application will be considered within any 2 financial years. This is to prevent any ratepayer moving around the premises in order to attempt to receive multiple reductions as and when empty relief/exemption periods expire.

If successful, the relief will only be awarded up to a maximum of 3 or 6 months. The termination of relief date will be sooner if any of the following conditions apply: -

- Occupation of any part of the unoccupied part of the property so that further apportionment is required (this is up to the maximum time limits as previously indicated – not a further extension)

- The complete occupation of the property
- The complete vacation of the property

When considering an application, weight to support the request would be given (but not limited to) where: -

- The ratepayer is new to the property and there is part occupation of the site as they are expanding their portfolio within North Tyneside.
- Where there is a flood, fire or other disaster that prevents full occupation of the site, and the ratepayer is not covered by any insurances that would normally cover the rates/ loss of business due to the occurrence.

Weight would not usually be given to the application where: -

- Part occupation is of a seasonal nature or is typical for the type of business
- Part occupation is due to planned maintenance or modernisation
- Where there are consecutive periods for different areas of the property or there has been a previous application for the same area for of the property within the last 36 months or where it is a different area of the property to the original request within the last 24 months.
- To support a business moving out of the property to take up occupation outside of the North Tyneside area.
- There appears to be no effort to occupy, sell or let the unoccupied part where this is practicable.
- Where the property is one assessment but the owner sublets parts on a commercial basis.

The Application

The application and supporting information must be submitted in writing or electronically, together with a plan of the site clearly showing the unoccupied & occupied parts. Where occupation is phased, this should be clearly identified with expected timescales.

Decision

The application will be considered by the Client Manager for Revenues and Benefits.

Review

If a ratepayer is dissatisfied with the decision, they can submit further information within 21 days that may affect the original decision.

If no further information is available, or there is no change to the original decision, they can appeal to the Head of Service within 21 days of the decision. The application will be reviewed, and a final decision will normally be made within 14 days.

If still dissatisfied, any further challenge must be made by way of Judicial Review in accordance with s138 of the Local Government Finance Act 1988.