

**REPORT TO:** Executive Board

**DATE:** 17 September 2020

**REPORTING OFFICER:** Strategic Director Enterprise Community & Resources

**PORTFOLIO:** Resources

**SUBJECT:** Business Rates Section 44A Discretionary Rate Relief Policy Statement

**WARD(S):** Borough-wide

## **1. PURPOSE OF REPORT**

- 1.1 To seek approval to the Business Rates Section 44A Discretionary Rate Relief Policy Statement, to allow discretionary relief for a short term period for unoccupied or partly unoccupied business premises

## **2. RECOMMENDED: The Business Rates Section 44A Discretionary Rate Relief Policy Statement, as presented in Appendix A, be approved.**

## **3. SUPPORTING INFORMATION**

- 3.1 On 28 July 2020 the Corporate Policy & Performance Board received a report regarding the Section 44A Discretionary Rate Relief Statement. Corporate Policy & Performance Board recommended that Executive Board approve the Section 44A Discretionary Rate Relief Statement, as presented in the Appendix.
- 3.1 Section 44A of the Local Government Finance Act 1992 (as amended) provides the Council with discretionary powers to allow discretionary rate relief for unoccupied or partly unoccupied business premises for a short term period.
- 3.2 The provision of Section 44A relief is aimed at situations where there are practical difficulties in occupying or vacating part of a property. Therefore it is not intended that all properties which temporarily become unoccupied should have their liability reduced.
- 3.3 Whilst the Council recognises that awarding relief is beneficial to local businesses, it must also consider the benefit to the local community. The principle consideration is that any relief granted is in the best interests of the taxpayers of Halton.
- 3.4 The Section 44A Discretionary Rate Relief Policy Statement is presented in the Appendix.

#### **4. POLICY IMPLICATIONS**

- 4.1 The Policy Statement presented within the Appendix would meet the requirements of Section 44A of the Local Government Finance Act 1992 (as amended).

#### **5. FINANCIAL IMPLICATIONS**

- 5.1 Under the current business rate retention scheme the Council retains 99% of all business rate income generated during the year. The cost of any relief will impact directly on the finances of the Council. Approved relief under this scheme must demonstrate the wider benefit to the community within Halton.
- 5.2 The total cost of the relief proposed cannot be determined precisely, it is dependent on the value of each relief given and the number of approved applications.

#### **6. IMPLICATIONS FOR THE COUNCIL'S PRIORITIES**

##### **6.1 Children and Young People in Halton**

##### **6.2 Employment, Learning and Skills in Halton**

##### **6.3 A Healthy Halton**

##### **6.4 A Safer Halton**

##### **6.5 Halton's Urban Renewal**

Depending upon the specific circumstances, the award of discounts under the Section 44A Policy have the potential to affect all of the Council priorities above.

#### **7. RISK ANALYSIS**

- 7.1 The total cost of awards granted may become significant. The number and cost of awards will therefore be monitored and included in the quarterly performance monitoring reports to the Board.

#### **8. EQUALITY AND DIVERSITY ISSUES**

- 8.1 The eligibility criteria and application process in relation to the Section 44A Policy will ensure that no particular groups of business are excluded.

In accordance with our equality duty, this proposal will remove some financial barriers, resulting in increased opportunities for employment and local economic growth.

**9. LIST OF BACKGROUND PAPERS UNDER SECTION 100D OF THE LOCAL GOVERNMENT ACT 1972**

<b>Document</b>	<b>Place of Inspection</b>	<b>Contact Officer</b>
Section 44A Local Government Finance Act 1992 (as amended)	Revenues & Financial Management Division Stadium Widnes	Louise Bate Business Rates Manager

Business Rates  
Section 44A Discount  
Policy Statement

## **1. INTRODUCTION**

- 1.1 Section 44A of the Local Government Finance Act 1992 (as amended) provides the Council with discretionary powers to allow discretionary rate relief for unoccupied or partly unoccupied business premises for a short term period.
- 1.2 The definition 'short term period' is not prescribed by law and therefore the Council has the discretion to decide the period relief should be awarded.
- 1.3 The discretionary power does not alter the general rule that occupation of part of a premises constitutes occupation of the whole premises.

## **2. STATEMENT OF OBJECTIVES**

- 2.1 The provision of Section 44A relief is aimed at situations where there are practical difficulties in occupying or vacating part of a property. Therefore it is not intended that all properties which temporarily become unoccupied should have their liability reduced.
- 2.2 The circumstances when it appears that Section 44A should apply are reasonably infrequent but generally are found in respect of large manufacturing hereditaments. In these cases it is often difficult to vacate the property quickly due to the size and nature of the equipment used. Conversely there are often difficulties in occupying a property for the same reason.
- 2.3 Whilst the Council recognises that awarding relief is beneficial to local businesses, it must also consider the benefit to the local community. The principle consideration is that any relief granted is in the best interests of the taxpayers of Halton. Changes to local government finance now mean that income from business rates directly impacts the Council's finances. Any relief granted has a direct impact on the Council's income and ultimately on Council taxpayers in the area.

## **3. QUALIFYING FOR SECTION 44A**

- 3.1 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 properties which temporarily become partly unoccupied should have their liability reduced.
- 3.2 **Some examples where it may be deemed reasonable to award the relief are:**
  - Where full occupation is being phased in over a period of time, this may be due to relocation to the area.
  - Where there are difficulties in occupying the whole of the property due to short term practical or financial restraints.

- Temporary occupation, for example due to remedial building works or refurbishment, fire damage or similar.

### 3.3 **The following conditions are unlikely to be awarded relief:**

- Full vacation occurring in stages over a period of time, taking the business out of the area.
- Where there is no intention to occupy the whole of the property.
- Where the property has already received the benefit of the relief for the same area
- Where unoccupied areas are continuously rotated to consecutively apply for the relief.

If a ratepayer is moving to different parts within the same property more than once, the Council will require a business case to be submitted in support of this approach. The business case will need to explain clearly why such changes to the business are required and the reason this results in another part of the premises being temporarily unoccupied.

## 4. **RETROSPECTIVE CLAIMS**

4.1 Relief will only be considered if the Council has the opportunity to conduct an inspection during the period requested.

4.2 Relief will not normally be granted for retrospective claims, however, consideration will be given where:

- The applicant is newly liable for business rates and an application is received within 1 calendar month of the new liability arising or;
- There are exceptional circumstances and the ratepayer can demonstrate good cause for not submitting the application earlier.

4.3 No consideration shall be given to an award for a retrospective period where the Council is not able to verify to its satisfaction that the circumstances giving rise to the application pertained for that period.

## 5. **MAXIMUM AWARD**

5.1 A maximum of 3 months relief will be awarded for a non-industrial hereditament and 6 months relief for an industrial hereditament. Amendments to any existing reliefs will be carried out at the time of the award being approved.

The relief will cease on the day the following arises;

- The occupation of any of the area of the unoccupied parts of the premises.
- The ending of the rate period in which the apportionment was requested.
- A further apportionment is required.
- The area becomes reoccupied completely.

## **6. APPLICATION PROCESS**

- 6.1 The Council will consider applications for changes to the amount charged under the Section 44A legislation from ratepayers, based on their own merits, on a case by case basis.
- 6.2 The Council will require a written application and the applicant must supply a plan of the property, with the unoccupied portions clearly identified.
- 6.3 If the application is successful, then the Council will request a certificate from the Valuation Office Agency indicating the relevant values for the occupied and unoccupied portions and this certificate is binding upon the Council.
- 6.4 Section 44A applications will be considered by a panel made up of:
- Revenues Manager – Business Rates
  - Divisional Manager – Revenues and Financial Management

## **7. REVIEW PROCEDURE**

- 7.1 Where an application is refused, any requests for a review of the decision will be considered by the Operational Director, Finance.
- 7.2 The Applicant will be allowed to submit additional information or evidence to support the review of the application.
- 7.3 As the decision to grant a Section 44A relief is discretionary, any challenge relating to the Council from not granting relief would be in accordance with Section 138 of the Local Government Finance Act 1988 by way of judicial review.

## **8. NOTIFICATION**

- 8.1 A letter of notification will be sent to the ratepayer and an amended bill to show;
- The period of the award; and
  - The amount of relief
- 8.2 The letter will also inform the ratepayer that regular unannounced visits to the premises will be made by Council inspectors and that the Council must be informed immediately of any changes of circumstances that may affect the relief.

8.3 Where the Applicant is not successful, the notification will provide full reasons for the decision.

## **9. FRAUD**

9.1 The Council is committed to prevent fraud. Any applicant who tries to fraudulently claim a Section 44A rate relief might have committed an offence under the Fraud Act 2006. If the Council suspects that fraud may have occurred, the matter will be investigated as appropriate and this could lead to criminal proceedings.