

**NORTH LINCOLNSHIRE COUNCIL**

**POLICY AND RESOURCES CABINET MEMBER**

**NATIONAL NON-DOMESTIC RATE  
PART OCCUPATION RELIEF**

**1. OBJECT AND KEY POINTS IN THIS REPORT**

- 1.1 To approve a policy to allow rate relief to ratepayers of partly occupied premises under the provisions contained in Section 44a of the Local Government Finance Act 1988.

**2. BACKGROUND INFORMATION**

- 2.1 In rating law a partly used property is viewed as occupied, though section 44a of the Local Government Finance Act 1988 enables the Council to grant rate relief on a property that is partly unoccupied, so long as this situation exists for a short time only. This is a discretionary power and the Council has set guidelines, Appendix A, based on Government advice, for the operation of the scheme.
- 2.2 Each application for relief is considered and after consulting the guidelines a decision is made whether to allow relief.
- 2.3 The amount of relief is not discretionary as the sum awarded is calculated on the apportioned rateable value supplied by the valuation officer.
- 2.4 Clarification was recently sought from Government on whether part occupation relief is subject to state aid limits, similar to discretionary rate reliefs. The state aid rules limit the relief a ratepayer may receive to not more than 200,000 euros in any three year period. The Government's view is whilst there is a good argument that part occupation relief is not state aid in some circumstances, in general it is, and the extent of this has not been tested by the Commission.
- 2.5 If granting relief is later found to breach the state aid rules, the Council will be required to recover the relief plus interest from the ratepayer. Additionally the Commission may impose a fine on the Government which is likely to be passed down to the Council to meet.
- 2.6 Some recent applications are likely to be rejected if the current guidelines are applied. Future applications from large organisations may meet the guidelines but exceed the de minimis state aid limit, and a decision

will need to be made in each case whether the state aid rules allow the relief to be granted. .

### **3. OPTIONS FOR CONSIDERATION**

3.1 The Cabinet Member has the following options to consider.

3.1.1 Option 1 – To award relief in line with the Council's guidelines for the time being and restricting the amount to be within the state aid de minimis limits.

3.1.2 Option 2 – To award relief without set guidelines.

### **4. ANALYSIS OF OPTIONS**

- 4.1 Option 1 - Applying guidelines, in accordance with Government advice would allow relief to be awarded in defined scenarios. Relief awarded above the state aid limits will assist ratepayers in meeting their rate liability and assist in keeping the business in operation. This will mainly benefit larger companies.. Keeping relief awards within state aid limits will be consistent with the council's legal obligations and is the approach adopted by other billing authorities. This avoids leaving the council open to legal challenge, and puts less pressure on the council budget.
- 4.2 Option 2 – Decision making without reference to guidelines may lead to inconsistency and would be unlawful leading amongst other things to challenges from unsuccessful applicants, and also the European Commission.

### **5. RESOURCE IMPLICATIONS (FINANCIAL, STAFFING, PROPERTY, IT)**

5.1 Financial

To date the relief granted for 2013/14 is £116,449.

### **6. OUTCOMES OF INTEGRATED IMPACT ASSESSMENT (IF APPLICABLE)**

6.1 An Integrated Impact Assessment is not required.

### **7. OUTCOMES OF CONSULTATION AND CONFLICTS OF INTERESTS DECLARED**

7.1 No consultation is required.

7.2 There are no known conflicts of interest to declare.

## **8. RECOMMENDATIONS**

- 8.1 To agree the award of part occupation retail relief, under Section 44a of the Local Government Finance Act 1988, to be for eligible premises which meet the current guidelines and comply with the state aid limit.

DIRECTOR OF POLICY AND RESOURCES

Civic Centre  
Ashby Road  
SCUNTHORPE  
North Lincolnshire  
DN16 1AB  
Author: G Twidale  
Date: 15<sup>th</sup> May 2014

**Background Papers used in the preparation of this report**  
Local Government Finance Act 1988 – section 44a

## Appendix A

### North Lincolnshire Council Section 44A Guidelines

The following is to be used as a guideline when making a decision on whether to request a section 44a certificate from the valuation officer.

Recommend request a certificate if:

- (i) Temporarily out of action/use due to unforeseen circumstances such as fire, flood and damage caused by a failed production process.
- (ii) Part of the hereditament not in use can be separately assessed by the VO and
  - (i) the valuation process is likely to be delayed
  - (ii) it is administratively advantageous to NLC not to request a split assessment.
- (iii) Phased occupation or vacation over short period to move within area.
- (iv) Buildings on a manufacturing site temporarily redundant.

Recommend NOT requesting a certificate if:

- (i) Closed for economic reasons e.g. reduced orders
- (ii) Not in use due to "seasonal trade" e.g. warehouse
- (iii) Shut down for general repair and maintenance
- (iv) Backdated application when dates can't be verified.