



REVENUES & BENEFITS (SHARED SERVICE)

PRESTON CITY COUNCIL & LANCASTER CITY COUNCIL

BUSINESS RATES ADMINISTRATION AND COLLECTION POLICY

POLICY

Administration and collection of Non Domestic Rates

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1. Introduction

Non - domestic rates (also known as business rates) is an increasingly important revenue stream for local authorities, and they are duty bound to ensure that the public purse is properly protected.

This policy has been written in response to each Council's need to ensure that the administration and collection of non domestic rates by Revenue Services Shared Service, whose responsibility it is to administer and collect non domestic rates for each authority, is carried out in a fair and consistent manner.

It has been written in conjunction with legal advisors and internal auditors.

The Policy aims to:-

- Provide consistency in the way that taxpayers are dealt with.
- Ensure openness and transparency.
- Be a guide to all staff with responsibility for administering non domestic rates.
- Be a source of information for councillors, local advice agencies, Landlords, rating advisors and all those responsible for the payment of non domestic rates.

The guidelines are not intended to slow down procedures or make them less effective.

All staff should be aware of the policy and new staff should be acquainted with it as part of their training.

2. Customer Care

As part of its commitment to excellent customer service, Revenue Services will:

- Ensure that accounts are administered in an efficient and effective way.
- Consider the financial circumstances of the customer when recovering debts.
- Encourage constructive comments from customers about how we can improve our services.

- Make services physically accessible to people with disabilities.
- Ensure that services are delivered in line with each Council's equal opportunities policies

3. Help & Advice

Information regarding reliefs and exemptions for non domestic rates will be available on each authority's website and a link to the information provided with all bills. Potential qualifiers for small business rate relief will be issued with an application form with their opening bill as standard.

The service will also:

- Ensure customers are aware of where help and advice is available.
- Invite and encourage customers to make contact with the Council in person, by email or by telephone, as soon as they experience difficulties paying their accounts.
- Ensure that all written communications use "Plain language"
- Assist people with language and sensory communication difficulty, by offering a translation service where appropriate.
- Invite and encourage customers to utilise digital communication channels where appropriate.
- Ensure that advice and information given to customers by members of staff is consistent and that customers are treated fairly and equally.

4. Liability for Non Domestic Rates

The legislation governing the administration and collection of Non Domestic rates is:-

Local Government Finance Act 1988, (LGFA 1988) and:-

The Non Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989 SI 1989/1058; (as amended).

Section 65(2) LGFA 1988, deals with issues of liability in respect of property owners and property occupiers. Specifically, it addresses whether a billing

authority should bill on an occupied or unoccupied basis and deals with the identification of liable parties

In determining liability under section 65 of the LGFA 1988, a billing authority is to take into account the rules which would have applied for the purpose of The General Rate Act 1967 (GRA 1967) and any case law on the issue.

The term hereditament is used within this policy document as this is quoted throughout the legislation. A hereditament means property which is or may become liable to a rate, being a unit of such property which is, or would fall to be, shown as a separate item in the rating list. (GRA 1967)

The case of *John Laing & Son Ltd v Kingswood Area Assessment Committee (1949)*, established that the essential features of rateable occupation are:-

- a) There must be actual occupation
- b) The occupation must be exclusive to the occupier;
- c) The occupation must be of some benefit to the occupier; and
- d) The occupation must not be for too transient a period.

Actual occupation concerns the physical use of the hereditament no matter how slight that use may be. The mere intention to occupy or the ownership of a legal title to the land is not sufficient to satisfy actual occupation. Actual occupation is a question of fact. Whether actual occupation is established may vary depending on the type of hereditament being used.

Exclusive occupation is where the rateable occupier has the right to exclude others from using the hereditament in the same way but it does not mean that another person may not have a distinct, separate and independent use of the premises.

Beneficial occupation whether the occupation is of value to the occupier, and benefit does not have to be purely of a financial nature.

Transience of occupation does not relate to short occupations of established hereditaments which would generate a charge on a daily basis, but refers essentially, to the time for which a hereditament exists.

Whether on the balance of probabilities, the four elements of rateable occupation are satisfied is a matter for the billing authority to determine in the first instance.

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Each case is assessed on its own facts. As a result of this, Revenue Services may need to make reasonable enquiries (where information is lacking) of relevant parties in order to determine rateable occupation.

Revenue services may request documentary evidence in various formats to support any claims of rateable occupation.

Property inspections may also be carried out in some cases, which may require access to premises and the taking of photographic evidence.

Where the billing authority is not satisfied that rateable occupation has been proven then legal opinion may be sought on a case by case basis. The legal opinion, if obtained, will advise the authority on what position it may take in respect of non domestic rates liability and whether Court action should be taken in the event of non-payment.

Where any information requested by the Council is not provided or inspections have been refused, then should the matter be brought before the Courts this refusal to assist the Council with their enquiries will be brought to the Court's attention.

5. Notifying the Council of a Change of Occupation

Changes of Occupation can be notified to the Council by downloading a "Change of Occupation" form from the website, or by emailing Lancaster CC at lccnldr@preston.gov.uk , or ringing the Business Rate Section on 01524 582920. For Preston, email ndr@preston.gov.uk , telephone 01772 906972.

Telephone lines will be busy at peak periods therefore customers are advised to utilise digital channels in the first instance.

In the event you are a Landlord/3rd Party notifying us of a new tenant we will require a copy of the tenancy agreement/lease, as a minimum, before any changes to an account will be considered. More information may be needed following the receipt of tenancy agreements/licences/leases.

If it is a Limited company notifying us of a change of address we will require the notification to be on company letter headed paper with the name and number of the company clearly displayed.

Each council has access to commercial insight data to assist in the administration and collection process.

6. Payment of Rates

Once a bill has been issued, if payment is not made in accordance with the bill reminders/final notices will be issued in accordance with *Regulation 9 of Non Domestic Rating (Collection & Enforcement) (Local Lists) Regulations 1989*.

It is in the best interests of both the Council and the ratepayer to come to mutually agreeable payment arrangements, at any stage of the process, where possible. However, in the event of continued non- payment/non- contact a summons may well be issued.

7. Payment Methods

The Council's preferred method of payment for non domestic rates is by ten monthly instalments by direct debit.

Ratepayers do have the right to request payment by twelve monthly instalments, but twelve instalments can only run from April – March in the financial year the debt is due.

Payment by direct debit is recognised as being the most cost effective means of collection for both the Council and the customer. Every effort will be made to guide customers to pay by this method.

All other available payment methods are detailed on bills as standard.

8. Reliefs and Exemptions

The Council has a duty to protect the public purse not only when determining rateable occupation but with regard to the award of any reliefs or exemptions applicable under non domestic rating legislation.

In all cases where a ratepayer considers they are entitled to small business rate relief they will be required to complete a form. It may be that we require further information such as trading accounts for example, and if requested an application will not be considered without this supporting information.

Applications for mandatory/discretionary or hardship relief will also require the completion of a relevant form and the provision of supporting information.

Details of all reliefs and exemptions are on each council's website, and relevant application forms are available to be downloaded.

Where supporting evidence is requested, applications will not be processed unless and until it is provided, as awards of reliefs and exemptions are subject to audit checks.

9. Rate Mitigation

Each council is aware that in certain cases efforts are made to avoid the payment of non domestic rates. We recognise that whilst these efforts may not be illegal, each council has a duty to protect the public purse and in doing so challenge and be seen to challenge what may be perceived as improper attempts to avoid the payment of non domestic rates.

Where Revenue Services has concerns that some form of rates avoidance is being operated or attempted, it reserves the right to exercise increased scrutiny of representations and documentation put forward.

The provision of a signed lease/licence may not (in itself) be sufficient to establish a party's liability or non-liability for non domestic rates. This often results in further information and enquiries being made.

Each case will be assessed on its own facts. Enquiries will focus on whether or not rateable occupation has been established and may include requests for:-

- Inspections within 7 days of occupation or vacation.

- Leases/licences
- Evidence of rent passing
- Evidence of occupation or vacation (including photographic evidence)
- Evidence showing how occupation is beneficial
- Meta-data supporting any evidence relied upon.

N.B. The above list is not exhaustive.

Upon consideration of all the relevant evidence available, Revenue Services will determine who it considers to be properly liable for non domestic rates in respect of the hereditament concerned, and bills will be raised or amended accordingly. Ultimately, in the event of any dispute, it will be a matter for the court to determine who the liable party is.

10. Prevention and Detection of Fraud

Where there is any suspicion of fraudulent activity, or a deliberate attempt to mislead the Council, then Revenue Services reserves the right to pass these cases to the Corporate Fraud Team for further investigation.

Each Council will also participate in data matching exercises to assist in the prevention and detection of fraud, where appropriate, and in line with the requirements of the General Data Protection Regulations 2017.