



Business Rates

Mandatory and Discretionary Rate Relief Policy

February 2022



We speak your language

Polish

Mówimy Twoim językiem

Slovak

Rozprávame Vaším jazykom

Chinese

我们会说你的语言

If you require this publication in
large print or another format
please call us on **01246 242424**

CONTROL SHEET FOR Mandatory and Discretionary Rate Relief Policy

Policy Details	Comments / Confirmation (To be updated as the document progresses)
Policy title	Business Rates Mandatory and Discretionary Rate Relief
Current status – i.e. first draft, version 2 or final version	Final draft
Policy author (post title only)	Revenues & Benefits Manager
Location of policy (whilst in development)	
Relevant Cabinet Member (if applicable)	Cllr Moesby
Equality Impact Assessment approval date	
Partnership involvement (if applicable)	
Final policy approval route i.e. Executive/ Council	Customer Service Scrutiny Committee then to Executive
Date policy approved	
Date policy due for review (maximum three years)	
Date policy forwarded to Performance & Communications (to include on Extranet and Internet if applicable to the public)	

1. Introduction

The purpose of the document is to set out the Council's Policy on the awarding of mandatory and discretionary rate relief.

2. Scope of the Policy

The policy applies to Non Domestic ratepayers within the Bolsover District Council area that are requesting the authority use their discretion to reduce the organisation's Non Domestic Rates liability.

Awards of discretionary rate relief can be made to various categories of ratepayer. These include:-

- Charitable organisations
- Community Amateur Sports clubs
- Non-profit making organisations
- Qualifying properties within approved rural settlements
- Occupiers of partly occupied premises
- Organisations suffering severe hardship

3. Principles

This policy relates to the business rate relief that the Council has a power to award under Section 44a, Section 47 and 49 of the Local Government Finance Act 1988.

The law governing the granting of discretionary rate relief is found in Section 47 of the Local Government Finance Act 1988 and subsequent amending legislation and Section 69 of the Localism Act 2011.

The policy will support the delivery of the Council's Ambition under the 'Customer' key objective and the priorities of:

- Increasing customer satisfaction with our services.
- Improving customer contact and removing barriers to accessing information.

4. Policy Statement

4.1 Charities & Other Not for Profit Organisations

Mandatory Business Rate Relief

This rate relief is available to:-

- Any organisation which is a registered or excepted charity or trustees for a charity and the property is used wholly or mainly for charitable purposes.*
- Community Amateur Sports Clubs (CASC) registered with HMRC.

Mandatory rate relief for these organisations is funded by the government and gives a recipient an 80% reduction in their business rates.

*In order for Charity shops to be eligible for this relief all goods must have been donated

Discretionary Rate Relief

Section 47 of the Local Government Finance Act 1998 and subsequent amending legislation and Section 69 of the Localism Act 2011, gives billing authorities the discretion to award discretionary rate relief in the following circumstances:

- Where the ratepayer is a registered charity or certain other charitable organisation and the property is wholly or mainly used for charitable purposes
- Where the ratepayer is an organisation which is not established or conducted for profit and whose main objectives are:

(a) Either,

- Charitable
- Philanthropic
- Religious

(b) Or are concerned with:

- Education
- Social Welfare
- Science
- Literature
- Fine Arts

Discretionary rate relief of up to 100% may be granted, after taking into consideration all other reliefs an organisation may qualify for. The amount of any award is at the discretion of the Council.

For Charities and CASC's that are eligible for the 80% mandatory relief the Council has powers to award discretionary rate relief, as a 'top-up' of up to 20%.

Discretionary Rate Relief 'Top Up'

A 'top up' of up to 20% discretionary relief may be applied to charities, but only where the charity/CASC is a local one, which operates within the Bolsover District Council area and whose objectives primarily benefit residents of Bolsover District Council and is not affiliated to a national charitable organisation.

The amount of 'top up' relief will also be restricted to a maximum of the amount of money that an organisation could demonstrate that the Council saves as a result of the service they provide.

Each case will be considered on its own merits with priority given to efficient and well managed organisations that:

- Primarily benefit Bolsover District Council residents;
- Have a strong link with the Corporate aims of the Council;
- Relieve the Council of providing facilities or services;
- Maximise the use of their premises for the community;

Consideration will also be given to:

- The financial cost to the Council incurred in awarding relief;
- The organisation's ability to pay its rates (where the levels of reserves and other funding are substantial, relief will not normally be awarded);
- The level of membership fees, where appropriate, and how accessible this would be to the general community;
- The funding of the organisation and if mainly locally funded;
- The level of reliance on volunteers to deliver the service provided;
- Organisations that recognise diversity and serve particular equalities groups.

Level and period of award

Discretionary relief for non-charitable organisations will normally be limited at 80%. As with the discretionary rate relief 'Top up' for non-charitable organisations to receive discretionary relief above 80%, the organisation must demonstrate that the Council saves as a result of the service they provide and this part of the relief will only be payable up to a maximum of these savings.

Relief will be awarded as a fixed sum or calculated as a percentage of the rates bill subject to the maximum award limits.

The period of the rate relief award will generally be open ended. However, the Council reserves the right to award for a fixed period at the end of which any award will end.

The Council will review all open-ended awards every 3 years to ensure that each application continues to be awarded in line with the current policy.

Application /decision making process

In order to ensure there is a fair and consistent approach to the award of relief, all applications will be considered within the guidelines of this policy.

Applications are required to be made in writing. Whilst the regulations do not specifically require organisations to complete an application, in order for the council to be able to fully consider a request for any relief then the applying organisation should complete the appropriate application form and submit any relevant documentation in support of the application.

Applications will be considered on an individual basis by: The Executive Director of Resources under delegated authority for determining discretionary rate relief. The Executive Director of Resources to be given advice from an Officer/Member group who will consider the applications in detail against the policy criteria.

The advice group to be:

Portfolio Holder for Finance

Assistant Director of Finance & Resources (Chief Finance Officer)

Revenues & Benefits Manager

4.2 Section 44A - Partial Occupation Relief

Authorities have discretion, under Section 44A of the Local Government Finance Act 1988, to reduce the rates on a property which is partly occupied for a short period of time only.

The amount of relief is calculated on a statutory basis based on the rateable value of the empty portion of the property. This value is provided by the Valuation Office.

The granting of this relief is entirely at the discretion of Bolsover District Council and each case will be considered on its merits. It must be in the interests of Bolsover District Council Taxpayers and the applicant will be required to set out in writing why it would be in taxpayer's interest.

Relief can only be awarded where the partial occupation is of a temporary nature.

Where the area or part of the area is expected to be unoccupied for a period in excess of 1 year the Council will not consider this to be of a temporary nature. The Council will not consider Section 44A relief where the period of partial occupation is less than 6 weeks.

The relief will cover the full rateable value of the empty part of the premises for the first 3 months of it being empty (or, if it is industrial, for the first 6 months). After this period in most cases the apportionment of the property will cease to have effect and the occupied business rates for the whole property will apply.

Section 44A relief may be applicable in the following circumstances: and where the occupied and unoccupied parts of the property can be easily segregated:-

- Where the business has short term practical or financial difficulties in occupying.
- Phased occupation or vacation when moving within the BDC area.
- Where the business takes on larger premises to expand into at a later date.
- Temporary occupation due to remedial building or refurbishment works.

In all of the above cases, the period of part occupation must be for a temporary period and relief will not be awarded where it appears to the Council that the reason that part of the property is empty is in any way for the purpose of applying for partial empty rate relief.

Section 44A relief will not be awarded where:

- There is no reasonable intention to fully occupy the vacant part of the premises.
- The vacant part of the premises is used by the Landlord.
- The part occupation is permanent or where temporary not short term.
- The vacant area is sub-let.
- The area is vacant due to seasonal trends/requirements of the business.
- The part occupation is due to the normal day to day operation of the business e.g. due to the fluctuations in stock level of a warehouse.

- The part occupation is due to the business being in the process of moving out of the BDC area.
- Applications will not be considered for retrospective periods.
- Section 44a relief has previously been awarded on the same hereditament within a 12 month period.
- The part occupation is due to a process of refurbishment/modernisation of the premises.

Applications must be made in writing by the ratepayer and a plan of the property with the unoccupied portions clearly identified must be supplied.

The Council will require access to the property during normal working hours in order to verify the claim. This access must be provided within a 4 week period of the application being made. Further access may then need to be provided during the period for which the relief is being awarded, in order to verify ongoing eligibility.

Applications to be considered by the Revenues Section.

4.3 Section 49 – Hardship Relief

Authorities have the discretion, under Section 49 of the Local Government Finance Act 1988, to reduce or remit all or part of a rate liability of any organisation, which in the opinion of the Council, is suffering hardship.

In considering applications for hardship relief the Council must have regard for the interests of the local community as a whole. This includes the cost to the community and the benefits, impact on local employees and services to the community.

There is no statutory definition of hardship therefore the Authority must arrive at its own decision in relation to any application. Each case should be considered on its own merits and a blanket policy on whether or not to grant relief should not be adopted.

It is recognised that there may be occasional circumstances in which the award of hardship relief is beneficial to Local Council Taxpayers or the community. However, in accordance with Government guidelines hardship relief should be used sparingly and only in the most exceptional circumstances.

Exceptional circumstances would not include the impact of increased competition or running costs or the effects of strikes within a business or organisation.

As a general rule, circumstances that would be covered by commercial insurance or compensation would not be considered.

In all cases the Council must be satisfied that:

- All other eligible discounts/reliefs have been awarded to the ratepayer.
- The ratepayer will suffer hardship if the relief is not granted.
- There is a direct benefit to the ratepayer, or the community, and there is no adverse impact to other ratepayers or the community as a result of awarding relief.
- The cost to local taxpayers is proportional to the benefits to the community.

APPENDIX 1

- The relief is awarded as a result of a crisis (i.e. a serious loss of income/trade or a major effect on services that can be provided to the community) or exceptional circumstances which are outside the control of the business or organisation and are not considered 'normal' 'business risks'.
- If unoccupied, the liable person has made every effort to sell or let the property.
- The Council's finances allow for a reduction to be made and it is reasonable to do so in view of the impact on other charge payers and the community.
- The Council is satisfied that the Valuation Office has been asked to review the rateable value.

Applications must be made in writing by the ratepayer or someone authorised to act on their behalf. Sufficient information and evidence must be provided to support the application. Where insufficient information is provided then Bolsover District Council will be unable to consider an award of hardship relief.

Applications must provide the following information and supporting details, as appropriate:

- The reason for the application.
- Articles of Association.
- A full description of the business/organisation and the goods or services provided.
- A set of the most recent accounts.
- The last 2 years audited accounts.
- An up to date trading statement showing the current financial situation of the business.
- Details of the amount of relief requested and the period it relates to.
- A full explanation of the benefits to the community and local taxpayers which would arise from an award of relief.
- Details of the number of employees and the number which reside within the Bolsover District area.
- Any other relevant supporting information/evidence

Hardship relief may be awarded as a fixed sum or as a percentage of the rates bill.

In order to ensure there is a fair and consistent approach to the award of relief, all applications will be considered within the guidelines of this policy.

Applications will be considered on an individual basis by: The Executive Director of Resources under delegated authority for determining Discretionary Rate Relief. The Executive Director of Resources to be given advice from an Officer/Member group who will consider the applications in detail against the policy criteria.

The advice group to be:

Portfolio Holder for Finance

Assistant Director of Finance & Resources (Chief Finance Officer)

Revenues & Benefits Manager

4.4 Rural Rate Relief

Applications for rural rate relief can be considered from small businesses situated in a qualifying rural settlement area. A qualifying rural settlement must have a population not exceeding 3,000 and will usually be a small village or hamlet.

Mandatory relief and discretionary relief are both available under this scheme.

In considering applications for relief the Council must have regard for the interests of the community as a whole. This includes the cost to the community and the benefits or disadvantages of awarding relief.

Mandatory Rural Rate Relief

Mandatory relief of 50% may be granted to all of the following business types provided that they are situated within a designated rural settlement and meet the criteria as set out below:

- Post Office – the only such business in the rural settlement and with a rateable value of £8,500 or less.
- General Store – the only such business in the rural settlement with a rateable value of £8,500 or less.
- Public House – the only such business in the rural settlement and with a rateable value of £12,500 or less.
- Petrol Station – the only such business in the rural settlement and with a rateable value of £12,500 or less.
- Rural Food Shop - business consisting wholly or mainly of the sale of food for human consumption, * excluding certain food types, with a rateable value of £8,500 or less.

*excluded food types are confectionery and the supply of food for consumption on the premises, or hot food for consumption off the premises.

Discretionary Rural Rate Relief

Discretionary rural rate relief of up to 50%, may be awarded in respect of properties receiving mandatory rural rate relief. For those that do not qualify for the mandatory relief a discount of between 25% - 100% relief may be awarded. Discretionary relief for other businesses in a rural settlement can be considered for those with a rateable value of £16,000 or less and the property is used for a purpose which benefits the local community.

Each application will be considered on its own merits but the Council will take the following factors into account in the decision making process:

- If the business provides essential goods or services which are essential for the day to day needs of the local community.
- The effect on the local community if the business were to close.
- If the business employs a number of people from the local community, and alternative employment prospects.
- Does the business provide free to use cash machines?

- If the business provides an invaluable service to those with no access to their own transport and public transport is limited.
- The benefits to vulnerable residents.
- The business is a small local business and is not part of or a subsidiary of a larger organisation.

When applying for this discretionary relief applicants will need to provide sufficient information and evidence, as the Council requires, in order for the above factors to be considered in the decision on granting relief.

Awards of mandatory rural rate relief (and discretionary rural rate relief where mandatory rural rate relief awarded) to be considered by the Revenues Section.

In order to ensure there is a fair and consistent approach to the award of relief, all applications will be considered within the guidelines of this policy.

Applications for discretionary rural rate relief where mandatory rural rate relief has not been awarded to be considered on an individual basis by: The Executive Director of Resources under delegated authority for determining discretionary rate relief. The Executive Director of Resources to be given advice from an Officer/Member group who will consider the applications in detail against the policy criteria.

The advice group to be:

Portfolio Holder for Finance

Assistant Director of Finance & Resources (Chief Finance Officer)

Revenues & Benefits Manager

4.5 Appeals

There is no statutory right of appeal against a decision regarding discretionary rate relief made by the Council. However, the Council recognises that ratepayers should be entitled to have a decision reviewed objectively if they are dissatisfied with the outcome.

Any appeals must be made in writing and must give reasons why it is believed the decision should be amended. The Appeal must be made within a calendar month of the notification of the Council's decision being issued.

Any decision on appeals made will be final.

For any appeals against the refusal of mandatory relief this decision could be further challenged in the Magistrate's Court at a liability hearing following a summons being issued.