

Gedling Borough Council

Discretionary Rate Relief Guidance

Last Review: 14th March 2024

Next Review: 14th March 2027

Serving people, Improving lives

Discretionary Rate Relief Guidance

1. Introduction and Background

The Local Government Finance Act 1988 and subsequent legislation allows Local Authorities to grant discretionary rate relief to premises occupied by charities or to organisations that are non-profit making. Certain premises situated within a rural settlement area are also eligible for relief.

Powers granted under the Localism Act 2011 allow for the granting of discretionary rate relief to any premises where the Council feels that the granting of such relief would be in the interests of the taxpayer.

A Practice Note issued by the Department for the Environment and the Welsh Office jointly in 1990 recommends that although authorities may wish to have readily understood policies for deciding whether or not to grant relief, and for determining the amount of relief to grant, they should not adopt a policy or rule which allows a case to be disposed of without any consideration as to its individual merits.

Applications for discretionary relief can often run alongside entitlement to mandatory relief. In such cases where mandatory relief is applicable, the mandatory element of relief will be calculated in line with relevant legislation and will not be further considered within the scope of this guidance.

This guidelines explain how applications for discretionary relief are administered, they are not intended as a rigid set of rules; nor are all the guidelines applicable to every organisation.

The Council will not be bound by this guidance and retains the complete discretion on all matters as described in sections 47 and 49 of the Local Government Finance Act 1988 (as amended).

2. Types of relief

Charities

Mandatory relief of 80% will be awarded to to a registered charity or trustees of a charity where the property they occupy is wholly or mainly used for charitable purposes

Gedling Borough Council has the authority to grant up to 20% discretionary relief as a top up to the mandatory relief.

Community Amateur Sports Club (CASC)

Mandatory relief of 80% will be awarded to a registered CASC where the property they occupy is wholly or mainly used for the furtherance of the CASC.

Gedling Borough Council has the authority to grant up to 20% discretionary relief as a top up to the mandatory relief.

Rural Properties

Certain rural properties in a rural settlement area can receive mandatory relief where the business is occupied and either

- the only village general store, food shop or post office, with a rateable value of up to £8,500 or
- the only public house or petrol station, with a rateable value of up to £12,500

From 1st April 2024, the mandatory relief is 100%, prior to this date the mandatory relief is 50%

Gedling Borough Council has the authority to grant up to 100% discretionary relief to any business in a qualifying rural settlement, provided it has a rateable value of no more than £16,500 and it would be in the interests of the local community that the relief be granted.

Non-profit making or voluntary organisations

Gedling Borough Council has the authority to grant up to 100% discretionary relief to where a property is occupied by an organisation which is wholly or mainly used by a non-profit making or voluntary organisation.

Business suffering hardship

Gedling Borough Council has the discretion to give up to 100% discretionary hardship relief if we believe that the ratepayer would be in financial difficulty without it and it is in the interests of the council tax payer to grant the relief

Please see section 12 for further definitions of charity, community amateur sports club, not for profit organisation, qualifying rural properties and rural settlement list.

3. Who pays for the relief

Where mandatory rate relief is granted, the full cost is met by Central Government.

For any award of discretionary top up for charities, CASCs or eligible rural properties, 25% of the relief awarded will be funded by Central Government and 75% is paid for by Gedling Borough's Council Tax payers.

If discretionary rate relief is granted to a not for profit organisation, 75% of the cost is paid for by Central Government and 25% is paid for by Gedling Borough's Council Tax payers.

In the case of other businesses not falling within the above groups, the full cost of any relief granted is met by Gedling Borough's Council Tax payers.

4. Applications

An application process is necessary to ensure there is a fair and consistent approach to the award of discretionary rate relief. All applications will be considered within the guideline and a written record will be kept on file of the decisions and factors considered in the process

Applications must be supported by the organisations' constitution, main purposes and objectives e.g. written constitution, memorandum of association, membership rules etc.

A full set of audited accounts for the last two financial years at the application date must be included as well as details of how organisations/ businesses meet the criteria within the guidance.

Gedling Borough Council may also request any other reasonable evidence in support of the application.

If the ratepayer does not provide the required evidence, Gedling Borough Council reserves the right to either treat the application as withdrawn or to consider the application in the absence of the missing evidence. Gedling Borough Council may disregard any unsubstantiated statements or draw its own conclusions from other evidence available.

DCC may verify any information or evidence provided by the ratepayer by contacting third parties, other organisations and the ratepayer, subject to Data Protection rules

Applications from excepted businesses/organisations cannot be considered. These are properties which are occupied by a billing or precepting authority e.g. District Council, County Council, City Council, Police Authority, Fire Authority or Parish Council.

5. The decision making process

All applications will be considered on an individual basis, taking into account the contribution which each organisation/business makes to the district's amenities and its residents' lifestyles and wellbeing.

Gedling Borough Council will also give consideration as to whether the award of discretionary rate relief will help the Council to achieve the priorities as set out in the [Gedling Plan](#).

Relief may be refused or capped if it is considered that the financial cost to Gedling Borough Council or the local community outweighs the benefits generated through the award of relief.

Initial recommendations will be made by a member of the Revenues Services Team and submitted along with a report detailing the facts of the case to the Finance Portfolio Holder who will decide whether to grant discretionary rate relief.

Applicants will be notified in writing of any decision whether they are successful or not. A revised demand notice for each relevant period will be sent where appropriate.

6. Discrimination

In order to qualify for discretionary rate relief clubs must be able to show that all facilities are available to members without discrimination. Discrimination includes indirect discrimination and encompasses:-

- Discrimination on grounds of ethnicity, nationality, sexual orientation, religion or beliefs
- Discrimination on grounds of sex, age or disability, (except as a necessary consequence of the requirements of a particular sport)

This does not prevent a club from having different classes of membership depending on:-

- The age of the member
- Whether the member is a student
- Whether the member is waged or unwaged
- Whether the member is a playing or a non-playing member
- How far from the club the member lives or
- Any restriction on the days or times when the member has access to the club's facilities

7. Period of relief

There is no time limit for an organisation to make an application for discretionary rate relief. However, the maximum period for which Gedling Borough Council will consider backdating awarding relief is for 12 months from the date of application.

Awards for discretionary rate relief will usually be open ended, however, Gedling Borough Council may decide a set period for which the discretionary rate relief will be awarded, dependant on the circumstances of the application.

All reliefs will be reviewed periodically, those in receipt of relief will be asked to supply or confirm relevant information for the purposes of the review. This will include the organisations constitution etc and two year's accounts even where these have already been provided in order to show that no alterations have been made to these documents since the application or the last review.

8. Cancellation of relief

Cancellation of relief may occur where:

- The relief was awarded for a set period only. Where this is the case the ratepayer will have been notified of the end date when the relief was initially awarded.
- The Council makes the determination to cease the award of relief, for example, where the Council's priorities or financial situations have changed. Where this is the case, the ratepayer will be given one year's notice of the cancellation
- Where the ratepayer's circumstances change, for example, if the ratepayer ceases to be a charity or ceases to occupy a property. Where this is the case, the relief will be cancelled from the material date of change.

9. Subsidy control

The UK subsidy control regime began on 4 January 2023. It enables public authorities, including devolved administrations and local authorities, to give subsidies that are tailored to local needs. Authorities giving subsidies must comply with the UK's international subsidy control commitments.

A subsidy refers to a grant, a tax break, a loan, or other form of financial assistance paid from public resources. To search and check how much subsidy has been awarded to a business please visit the [GOV.UK website](https://www.gov.uk).

Relief from taxes, including Non-Domestic Rates, can amount to a subsidy. Any relief provided by Local Authorities under these schemes will need to comply with the UK's domestic and international subsidy control obligations.

Further information about subsidy control can be found on the [GOV.UK website](https://www.gov.uk).

10. Appeals

Unsuccessful applicants should, in the first instance put in writing their reasons for not agreeing with any decision to the Head of Corporate Services. The original decision will then be reviewed by the Cabinet Committee.

If the applicant is still aggrieved they will be required to submit the relevant details to the High Court for a Judicial Review.

11. Fraud

The Council is committed to the fight against fraud in all its forms. An organisation who tries to fraudulently apply for discretionary rate relief by falsely declaring their circumstances or providing a false statement or evidence in support of their application, may have committed an offence under The Fraud Act 2006.

Where the Council suspects that such a fraud may have been committed, this matter will be investigated as appropriate and may lead to criminal proceedings being instigated.

12. Definitions

Charity

A charity is any organisation registered with the Commissioner for Charities in England and Wales.

A charity does not necessarily need to be registered with the Commissioner for Charities to be deemed a charity in its legal sense. The principles of charitable status were expressed by Lord McNaughten in *Income Tax Special Commissioners v Pemsel (1891)* in the following four principle divisions:

- i) trusts for the relief of poverty;
- ii) trusts for the advancement of religion;
- iii) trusts for the advancement of education;
- iv) trusts for other purposes beneficial to the community, but not falling under any of the preceding heads.

Community Amateur Sports Club

A Community Amateur Sports Club is a sports club which has registered as a Community Amateur Sports Club with His Majesty's Revenue and Customs.

Not for Profit Organisation

For a hereditament to be considered for discretionary relief, it must not be an excepted hereditament as described in section 5 above and the ratepayer(s) must be a charity or trustees of a charity and the hereditament must be wholly or mainly used for charitable purposes; or

- all or part of the hereditament is occupied for the purposes of one or more institutions or other organisations, none of which is established or conducted for profit and each of whose main objectives are charitable or are otherwise philanthropic or religious or concerned with education, social welfare, science, literature of the fine arts; or
- the hereditament is wholly or mainly used for the purposes of recreation and all or part of it is occupied for the purpose of a club, society or other organisation not established or conducted for profit.

Rural Settlement List

Each billing authority must compile and maintain a rural settlement list which is to identify any settlements which –

- are wholly or partly within the authority's area,
- appear to have a population of not more than 3,000 on 31st December immediately before the chargeable financial year in question, and
- are, in that financial year, wholly or partly within an area designated for that purpose by Section 42A of the Local Government Finance Act 1988 as inserted by Schedule 1 to the Local Government and Rating Act 1997.

With effect from 31st December 2001, the designated areas in England are all of those areas outside the urban areas as specified by The Non-Domestic Rating (Designation for Rural Areas) (England) Order 2001.

Rural Properties

For a rural property to be eligible for rural rate relief, it must fall within a rural settlement area and be a hereditament prescribed by Section 42(A) of the Local Government Finance Act 1988 as inserted by Schedule 1 to the Local Government and Rating Act 1997. These prescribed hereditaments also have statutory maximum rateable values as prescribed by regulations. The prescribed hereditaments are listed below:

- Sole food shop in rural settlement area
- Sole general store in rural settlement area
- Sole post office in rural settlement area
- Sole public house in rural settlement area
- Sole petrol filling station in rural settlement area