

Supplementary Business Rates Relief Scheme

September 2017

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1.0 Introduction

- 1.1 The purpose of this Supplementary Business Rates Relief Scheme is to determine the criteria for awarding Discretionary Business Rates Relief to certain defined ratepayers within the Council's area.
- 1.2 Central Government is keen that in certain cases, assistance should be provided to businesses who have had increases in their rate liability due to the revaluation of premises in April 2017.
- 1.3 The Supplementary Business Rates Relief Scheme is available from 1st April 2017. Relief will be granted, or not granted, in line with this Scheme.
- 1.4 The Supplementary Business Rates Relief Scheme will be implemented, as an addendum, to the Council's Discretionary Rate Relief Policy which can be found at www.colchester.gov.uk/businessrates.
- 1.5 The Supplementary Business Rates Relief Scheme purely covers the granting of awards of Discretionary Relief in the following categories:
 - A New Discretionary Business Rates Relief Scheme
(From 1st April 2017 for a period of up to four years)
 - B Local Public House Relief
(From 1st April 2017 for a one year period only)
 - C Supporting Small Businesses Relief
(From 1st April 2017 for a period of five years or until business pay their full rate charge or their transitional rate charge)

Calculated in accordance with the Non-Domestic Rating (Chargeable Amounts) (England) Regulations 2016
- 1.6 The granting of any Discretionary Relief will potentially involve a cost to the Council.
- 1.7 Any amounts granted prior to 1st April 2013 and continuing since that date will be included in the Council's baseline within the Business Rates Retention Scheme.

For any amounts granted for similar cases after 1st April 2013, the costs of the Relief will be borne in accordance with the Business Rates Retention Scheme share, namely 50% borne by Central Government, 40% by the Council and 10% by Essex County Council. This also applies where Mandatory Relief is granted.

2.0 New Discretionary Business Rates Relief Scheme

- 2.1 In March 2017, Central Government announced that it would make available a discretionary fund of £300 million over four years from 2017-18 to support those businesses that face the steepest increases in their Business Rates bills as a result of the revaluation. Government determined that Councils would be best placed to determine how this fund should be targeted and administered to support those businesses and locations within their area that are in the greatest need. The decision to grant (or not to grant) Discretionary Relief is a matter purely for the Council.
- 2.2 Every authority within England is to be provided with a share of the fund to support their local businesses. This is to be administered through billing authorities' Discretionary Relief powers under Section 47 of the Local Government Act 1988. The full effects of the financial allocation are shown below.
- 2.3 The funding is provided over the four-year period in the following approximate proportions:
- Year 1 (2017/18) 58%
 - Year 2 (2018/19) 28%
 - Year 3 (2019/20) 12%
 - Year 4 (2020/21) 2%
- 2.4 Councils will be compensated for any Relief granted under Section 31 of the Local Government Act 2003.
- 2.5 The financial effects to the Council of the Discretionary Business Rates Relief Scheme are shown in the following table.

Amount of New Discretionary Business Rates Relief Scheme Funding (£000s) – Colchester Borough Council			
2017-18	2018-19	2019-20	2020-21
298	145	60	9

- 2.6 The values above are to be awarded up to the maximum level set by Central Government. It is possible for the Council to grant more Relief than that allocated by grant. However, once the maximum grant level has been reached, any additional amount granted is borne 40% by the Council, 10% by the County Council and 50% by Central Government.
- 2.7 Where any reduction or remission is granted to a ratepayer under Section 49 Local Government Finance Act 1988 where hardship is proven to the Council, then there will be no requirement to grant Discretionary Rate Relief for that amount.

3.0 Administration of New Discretionary Business Rates Relief Scheme

3.1 The following section outlines the procedures followed by officers in granting, amending or cancelling the New Discretionary Business Rates Relief Scheme. This is essentially laid down by legislation¹.

3.2 In order to make the application process simple and straightforward applications can be made online, by email or by phone. Each method of application is treated equally. Contact routes:

Online: www.colchester.gov.uk/businessratesrelief
Email: Business.rates@colchester.gov.uk
Phone: 01206 282300

3.3 The Council is keen to identify ratepayers who may qualify for the Relief and as such will look to encourage certain ratepayers to apply. The Council will look to simplify the application process wherever possible, but it will expect any ratepayers to provide such information as is required by the Council to support their application. We may need to discuss the application in more detail to get more information. Such information could include, but not limited to, accounts, financial statements and business plans. Where insufficient information is provided, no Relief will be granted. In some cases, it may be necessary for officers to visit premises, we would expect organisations claiming Relief to facilitate this where necessary.

3.4 The Council has decided that Relief under the scheme will be awarded using the following criteria:

- a. The scheme is to assist ratepayers who have suffered significant increases in rate liability due to the revaluation of 1st April 2017 and the subsequent increase of their Rateable Value
- b. Relief will not be awarded where Mandatory Relief is granted
- c. Relief will not be awarded where there ratepayer has applied for a reduction under Section 44a of the Local Government Finance Act 1988
- d. Relief will not be awarded for hereditaments who are wholly or mainly used for:
 - I. Financial services e.g. banks, building societies, cash points, bureaux de change, payday lenders, betting shops and pawn brokers
 - II. Doctors' surgeries and any NHS establishment
- e. In assessing any potential entitlement to an award under this scheme, the Council will compare the following:
 - I. The rate liability of the ratepayer at 31st March 2017 after any Reliefs and reductions, and

¹ The Non-Domestic Rating (Discretionary Relief) Regulations 1989

- II. The rate liability of the ratepayer at 1st April 2017 taking into account any Transitional Relief or other Reliefs as defined in this policy
 - f. Relief will be awarded where the calculation in section e. above would result in an increase whilst it is considered unreasonable taking into account the ratepayer's ability to pay
 - g. No Relief within this scheme will be granted to unoccupied properties
 - h. Relief will only be granted to ratepayers who were in occupation at 31st March 2017 and in occupation on 1st April 2017 and for each day subsequently
 - i. Ratepayers taking up occupation after 1st April 2017 will not be eligible for Relief on the basis that new ratepayers would not have suffered from increases due to revaluation
 - j. Relief will be targeted to local businesses. Generally, hereditaments occupied by a national/multinational chain or organisation will not be considered, however this will be decided on a case by case basis
 - k. Relief may be awarded for more than one premise as long as all other criteria is met.
- 3.5 In exceptional circumstances, the authority shall consider applications on a case by case basis where the ratepayer falls outside of the criteria detailed in section 3.4 but where the ratepayer can demonstrate that they are experiencing severe financial difficulties due to the revaluation on 1st April 2017.
- 3.6 The amount of Relief will be determined by the Council on an individual case by case basis and will take into account:
- I. The amount of the increase in rate liability
 - II. The value of rates in relation to other business expenses and the income of the business
 - III. The amount of reserves held by the business
 - IV. The ability of the business to pay or part pay the increase.
- 3.7 In certain cases, the order in which Relief is granted is specified. Mandatory Relief shall be granted in all cases where the criteria is met irrespective of whether Discretionary Relief can be granted or not.
- 3.8 The award will be determined for a financial year only. However repeat applications for subsequent years, within the four year period of the scheme, will be considered. If a further award is made it is intended that the level of Relief will reduce year on year with a view that the business will be able to meet its full liability without Discretionary Relief assistance.
- 3.9 In all cases, the Council will notify the ratepayer of decisions made.
- 3.10 Where an application is successful, then the following will be notified to them in writing:
- The amount of Relief granted and the date from which it has been granted

- If Relief has been granted for a specified period, the date on which it will end
 - The new chargeable amount
 - Details of any planned review dates and the notice that will be given in advance of a change to the level of Relief granted
 - A requirement that the applicant should notify the Council of any change in circumstances that may affect entitlement to Relief.
- 3.11 Where Relief is not granted then the following information is to be provided:
- An explanation of the decision
 - An explanation of the appeal rights
- 3.12 Discretionary Relief is to be granted from the beginning of the financial year in which the decision is made. Decisions can be made up to 6 months after the end of the financial year for which the application was made. In such cases, the Council may backdate its decision.
- 3.13 A decision to award Discretionary Relief and how much Relief is given is only applicable to the financial year for which the application is made. However, the Council reserves the right to grant Relief for any other period as appropriate. Awards will, in the main be granted from 1st April 2017.
- 3.14 An application for Discretionary Relief will be necessary for each financial year.
- 3.15 It should be noted that, whilst the funding from Central Government for Discretionary Business Rate Relief Scheme is limited, the decision of the Council whether to award any Relief under this scheme will cannot not take account of the level of any funding.

4.0 Local Public House Relief

- 4.1 At the Spring Budget, the Government announced a new Relief scheme for pubs that have a rateable value under £100,000. Under the scheme, eligible pubs will receive a £1000 discount on their bill. The Relief will have effect for 2017/18 only (1st April 2017 to 31st March 2018)
- 4.2 The scheme will be available to eligible occupied properties. The majority of pubs are independently owned or managed and will not be part of chains. Where pubs are part of a chain, Relief will be available for each eligible property in the chain, subject to meeting State Aid requirements.
- 4.3 The total amount of Government-funded Relief available for 2017/18 under this scheme is up to £1,000 for each eligible property. There is no Relief available under this scheme for properties with a rateable value of £100,000 or more. Eligibility for the Relief and the Relief itself will be assessed and calculated on a daily basis.

4.4 The Government's policy intention is that eligible pubs should:

- I. Be open to the general public
- II. Allow free entry other than when occasional entertainment is provided
- III. Allow drinking without requiring food to be consumed
- IV. Permit drinks to be purchased at a bar.

For these purposes, it should exclude:

- I. Restaurants
- II. Cafes
- III. Nightclubs
- IV. Hotels
- V. Snack bars
- VI. Guesthouses
- VII. Boarding houses
- VIII. Sporting venues
- IX. Music venues
- X. Festival sites
- XI. Theatres
- XII. Museums
- XIII. Exhibition halls
- XIV. Cinemas
- XV. Concert halls
- XVI. Casinos

4.5 The proposed exclusions detailed under 4.4 is not intended to be exhaustive and it will be for the Council to determine those cases where eligibility is unclear. Where eligibility is unclear the Council will consider broader factors.

4.6 The Council intends to proactively award this Relief to eligible properties without the need for an application form the ratepayer. Upon the application of the Relief a revised demand will be issued to the ratepayer, furthermore a State Aid form will be issued.

4.7 If you consider your premise is eligible for this Relief and this is yet to be awarded then please contact the team:

Email: Business.rates@colchester.gov.uk
Phone: 01206 282300

5.0 Supporting Small Businesses Relief

5.1 At the Spring Budget, the Chancellor announced that a scheme of Relief would be made available to those ratepayers facing large increases as a result of the loss of Small Business or Rural Rate Relief.

The Transitional Relief Scheme does not provide support in respect of changes in Reliefs. Therefore, those ratepayers who are losing some or all of their Small Business or Rural Rate Relief may be facing very large percentage increases in bills from 1 April 2017.

- 5.2 To support these ratepayers, the Supporting Small Businesses Relief will ensure that the increase per year in the bills of these ratepayers is limited to the greater of:

A, percentage increase per annum of 5%, 7.5%, 10%, 15% and 15% 2017/18 to 2021/22 - all plus inflation.

Unlike the Transitional Relief Scheme, for the first year of the scheme the percentage increase is taken against the bill for 31st March 2017 after Small Business Rate Relief or Rural Rate Relief , or

B, a cash value of £600 per year (£50 per month). This cash minimum increase ensures that those ratepayers paying nothing or very small amounts in 2016/17 after Small Business Rate Relief are brought into paying something.

In the first year of the scheme, this means all ratepayers losing some or all of their Small Business Rate Relief or Rural Rate Relief will see the increase in their bill capped at £600. The cash minimum increase is £600 per year thereafter.

This means that ratepayers who are currently paying nothing under Small Business Rate Relief and are losing all of their entitlement to Relief (i.e. moving from £6,000 rateable value or less to more than £15,000) would under this scheme be paying £3,000 in year 5.

- 5.3 Those on the Supporting Small Businesses Relief Scheme whose 2017 rateable values are £51,000 or more will not be liable to pay the supplement (1.3p) to fund Small Business Rate Relief while they are eligible for the Supporting Small Businesses Relief Scheme.
- 5.4 Ratepayers remain in the Supporting Small Businesses Relief Scheme for either 5 years or until they reach the bill they would have paid without the scheme. A change of ratepayers will not affect eligibility for the Supporting Small Businesses Relief Scheme but eligibility will be lost if the property falls vacant or becomes occupied by a charity or Community Amateur Sports Club.
- 5.5 There is no 2nd property test for eligibility for the Supporting Small Businesses Relief Scheme. However, those ratepayers who during 2016/17 lost entitlement to Small Business Rate Relief because they failed the 2nd property test but have, under the rules for small business rate Relief, been given a 12 month period of grace before their Relief ended

can continue on the scheme for the remainder of their 12 month period of grace.

- 5.6 As with all Reliefs, the amount of Relief awarded under the Supporting Small Businesses Relief Scheme should be recalculated in the event of a change of circumstances. This could include, for example, a backdated change to the rateable value. This change of circumstances could arise during the year in question or during a later year.
- 5.7 The Non-Domestic Rating (Discretionary Relief) Regulations 1989 (S.I. 1989/1059) require authorities to provide ratepayers with at least one year's notice in writing before any decision to revoke or vary a decision so as to increase the amount the ratepayer has to pay takes effect. Such a revocation or variation of a decision can only take effect at the end of a financial year. But within these regulations, local authorities may still make decisions which are conditional upon eligibility criteria or rules for calculating Relief which allow the amount of Relief to be amended within the year to reflect changing circumstances.
- 5.8 Hereditaments eligible for charity or Community Amateur Sports Club Relief or hereditaments which are unoccupied are not eligible for Supporting Small Businesses Relief. And, for the avoidance of doubt, Small Business Rate Relief or Rural Rate Relief will not be applied to further reduce the bill found under Supporting Small Business Relief. The same principle applies to properties for which a Section 44a certificate has been granted. The presence of a Section 44a certificate will not further reduce the bill found under the Supporting Small Business Scheme. All other Discretionary Reliefs will be considered after the application of Supporting Small Businesses Relief.
- 5.9 The full criteria for applying Supporting Small Businesses Relief can be found at www.gov.uk/government/publications/42017-spring-budget-update Colchester Borough Council will award this Relief in line with this guidance.
- 5.10 The Council intends to proactively award this Relief to eligible properties without the need for an application form the ratepayer. Upon the application of the Relief a revised demand will be issued to the ratepayer.
- 5.11 If you consider your premise is eligible for this Relief and this is yet to be awarded then please contact the team:

Email: Business.rates@colchester.gov.uk
Phone: 01206 282300

6.0 Delegation, Reviews and Appeals

- 6.1 This policy has been agreed under the Council's scheme of delegation by the Portfolio Holder for Resources.

- 6.2 Individual decisions for Relief, as described within this policy, will be decided by officers of the Business Rates Team.

Reviews

- 6.3 A review will be conducted if there is a substantial change to the legislation or funding rules. At such time, a revised policy will be considered by the Portfolio Holder for Resources.
- 6.4 The Councils main Discretionary Rate Relief Policy and this Supplementary Business Rates Relief Scheme Policy will be fully reviewed ahead of 1st April 2020.

Appeals

- 6.5 The Council is obliged to consider carefully every application on its merits. There is no statutory appeal process against any decision made by the Council, although as with any decision of a public authority, decisions can be reviewed by Judicial Review.

The authority will however, review decisions made, upon request.

- 6.6 Where the Council receives an appeal from the ratepayer regarding the granting, non-granting or the amount of any Discretionary Relief, the case will be reviewed by a relevant Manager of the Business Rates Team. Where a decision is revised then the ratepayer shall be informed, likewise if the original decision is upheld. No further rights of review will be provided.
- 6.7 The right of appeal process does not affect the ratepayer's legal right to challenge any decision by way of Judicial Review.

7.0 Consultation

- 7.1 The Council has consulted with the major preceptors in relation to this scheme, namely Essex County Council, Essex Police and Crime Commissioner and Essex Fire and Rescue Service.

8.0 Variation and Amendment

- 8.1 Variations in any decision will be notified to ratepayers as soon as practicable and will take effect as follows:
- Where the amount is to be increased due to a change in rate charge or a change in the Council's decision which increases the award – this will apply from a date determined by the Council as appropriate

- Where the amount is to increase for any other reason it will take effect at the expiry of a financial year, and so that at least one year's notice is given
- Where the amount is to be reduced due to a reduction in the rate charge or liability including any reduction in rateable value, awarding of another Relief or exemption this will apply from the date of the decrease in rate charge
- Where the amount is to be reduced for any other reason, it will take effect at the expiry of a financial year, and so that at least one year's notice is given.

8.2 A decision may be revoked at any time, however a one year period of notice will be given and the change will take effect at the expiry of a financial year.

8.3 As with all Reliefs, the amount of Relief awarded will be recalculated in the event of a change of circumstances. In effect, Relief is calculated on a daily basis in line with the ratepayer's liability on that day.

This will include, for example, a backdated change to the rateable value of the hereditament. This change of circumstances could arise during the year in question or during a later year.

8.4 The Non-Domestic Rating (Discretionary Relief) Regulations 1989 (S.I. 1989/1059) requires the Council to provide ratepayers with at least one year's notice in writing before any decision to revoke or vary a decision so as to increase the amount the ratepayer has to pay takes effect.

Such a revocation or variation of a decision can only take effect at the end of a financial year. But within these regulations, the Council may still make decisions which are conditional upon eligibility criteria or rules for calculating Relief which allow the amount of Relief to be amended within the year to reflect changing circumstances.

9.0 Reporting Changes in Circumstances

9.1 Where any award is granted to a ratepayer, the Council will require any changes in circumstances which may affect the Relief to be reported as soon as possible and in any event not more than 28 days from the happening of the event.

This will be important where the change would result in the amount of the award being reduced or cancelled e.g. where the premises comes unoccupied or is used for a purpose other than that determined by the Council as eligible for Relief.

9.2 Where a change of circumstances is reported, the Relief will, if appropriate be revised or cancelled. Where any award is to be reduced, the Council

will look to recover the amount from the date the change of circumstances occurred.

- 9.3 Where a change in circumstances is not reported and it is subsequently identified that it would have reduced the Relief awarded, the Council reserve the right to remove any award completely.

10.0 Fraud

- 10.1 Where a ratepayer falsely applies for any Relief, or where the ratepayer provides false information, makes false representation, or deliberately withholds information in order to gain Relief, prosecutions will be considered under the Fraud Act 2006.

11.0 State Aid

- 11.1 All Discretionary Relief is subject to the de minimis rule under state aid.

This means that any business cannot receive financial support from government over the set threshold of 200,000 Euro over 3 years (consisting of the current financial year and the two previous financial years). It is the businesses responsibility to inform the Council if they are in receipt of Government aid through other sources.

To find further information on State Aid please visit: www.gov.uk/state-aid