



## Chelmsford City Council Cabinet

14 March 2023

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### Discretionary Business Rate Relief Policy 2023/24

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#### Report by:

Cabinet Member for Connected Chelmsford

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#### Officer Contact:

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#### Purpose

To amend the existing Discretionary Business Rate Relief policy to give effect to changes to business rates reliefs announced by the Government.

#### Options

1. To agree the proposed amendments
2. To reject the proposed amendments

#### Recommendation

That the additions and alterations to the existing Discretionary Rate Relief Policy, as highlighted in Appendix A, are agreed.

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## 1. Background

- 1.1. In the Autumn Statement on 17 November 2022, the Government announced its intention to: extend Retail, Hospitality and Leisure relief for an additional year (it was due to end on 31 March 2023) and increase it from 50% to 75% of the rate liability for eligible properties; and, to amend and extend the Supporting Small Business Relief scheme until 2025/2026. On 21 February 2023, the Government announced that it did not have enough Parliamentary time to legislate to introduce Heat Network Relief. As a consequence, it has requested that local authorities adopt it as a discretionary relief during 2023/2024.
- 1.2. The Government is not intending to change the legislation around business rates discounts and reliefs. Instead, it has requested that local authorities use discretionary relief powers which were introduced by the Localism Act (under s47 of the Local Government Finance Act, as amended) to give effect to these additional measures. In return for this, Government has committed to fully reimburse local authorities for the cost of granting these various discretionary reliefs by way of grants under s31 of the Local Government Act 2003.
- 1.3. A local authority is able to agree its own rules regarding discretionary rate reliefs. However, any reliefs awarded which do not attract s31 grant reimbursement must be paid for in full out of the authority's own funds.

## 2. Amendments to the existing policy

- 2.2. For ease of reference, the amended policy has been attached as Appendix A and the existing policy as Appendix B. Alterations are shown in Appendix A in red font. The substantive changes are listed below.
- 2.3. **Retail, Hospitality and Leisure Relief Scheme** (section 6). The value of the relief has been increased from 50% of the rate liability to 75% of the rate liability. A new paragraph (6.6) has been inserted to clarify the position if a ratepayer refuses the relief.
- 2.4. The **Supporting Small Business Relief** scheme (section 9) has been extended to 2025/2026 following the revaluation of rateable values taking effect on 1 April 2023. It provides a further year's protection, where appropriate, to businesses benefitting from the 2017 Supporting Small Business Relief Scheme. It also provides that businesses newly affected by the removal of small business rate relief or rural rate relief as a result of the revaluation will only see their business rate bill rise by a maximum of £600pa during the duration of the scheme. A large amount of technical detail regarding calculation of the relief has been removed to improve the clarity of the policy, but the relevant technical guidance is linked (section 9.2).

2.5. **Heat Network Relief** has been added (section 10). No properties currently qualify for this relief, but it has been added to the discretionary relief policy in the event that such a facility is built during 2023/2024.

2.6. Section 12 relating to subsidy allowances has been updated to include the latest guidance and links to further information.

### 3. Conclusion

3.1. The amendments and additions to the existing reliefs available to reduce business rates bills are a helpful assistance to local business and should be incorporated into Chelmsford City Council's discretionary rate relief policy as detailed in Appendix A.

#### List of appendices:

Appendix A – Proposed Discretionary Rate Relief Policy 2023/24

Appendix B – Existing Discretionary Rate Relief Policy 2022/23

#### Background papers:

None

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### Corporate Implications

Legal/Constitutional: All relevant legal considerations are addressed within the body of the report and the proposed policy.

Financial: None, unless Government decides that rate relief has been granted inappropriately.

Potential impact on climate change and the environment: None.

Contribution toward achieving a net zero carbon position by 2030: None

Personnel: None

Risk Management: None

Equality and Diversity: No EQIA has been carried out as this policy only affects business.

(For new or revised policies or procedures has an equalities impact assessment been carried out? If not, explain why)

Health and Safety: None

Digital: None

Other:

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Consultees: Director of Connected Chelmsford, Legal and Democratic Services Manager,

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Relevant Policies and Strategies: The report takes into account the following policies and strategies of the Council:

The changes support the ambition in Our Chelmsford, Our Plan to be a leading regional centre by assisting businesses to meet their business rate liability.

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## APPENDIX A

### **CHELMSFORD CITY COUNCIL'S DISCRETIONARY RATE RELIEF POLICY**

#### 1. Introduction

- 1.1 Section 47 of the Local Government Finance Act 1988 allows Local Authorities to award discretionary rate relief to a range of organisations, including charities, Community Amateur Sports Clubs and other non-profit making bodies.
- 1.2 In the case of charities, the ratepayer must be a charity or trustee for a charity and the property must be wholly or mainly used for charitable purposes. Mandatory relief of 80% will be given in such cases, and charities can also receive up to a further 20% discretionary relief.
- 1.3 In the case of Community Amateur Sports Clubs, these must be registered with HM Revenue & Customs in order to be eligible for 80% mandatory relief. They can also receive up to a further 20% discretionary relief.
- 1.4 In the case of non-profit making organisations, all or part of the property must be occupied by an institution or organisation which is not established or conducted for profit and whose main objectives are charitable or otherwise philanthropic or religious, or concerned with education, social welfare, science, literature or the fine arts or it is wholly or mainly used for the purposes of recreation.

#### 2. Awarding Relief

- 2.1 The Council's policy for determining applications for discretionary rate relief can be divided into 2 parts as follows:

##### **Part 1**

- 2.2 A 'top-up' discretionary rate relief of up to 20% may be granted to charitable organisations who already receive 80% mandatory relief.  
The Council currently chooses to award 'top-up' relief to scouts, guides and the sea cadets.

##### **Part 2**

- 2.3 It is intended that the scheme provides a mechanism for sports clubs and organisations to continue and expand their role in providing sports development opportunities, by maximising the availability of relief to those clubs and organisations who operate in accordance with the Council's aspirations for the development of sport in the City.
- 2.4 All sports clubs and organisations will start off with a flat rate of 40% rate relief, provided that they meet the following criteria:
- (a) The primary purpose of the club/organisation should be to provide sporting opportunities to its members or to a local community
  - (b) Membership should be open to all members of the community irrespective of gender, race, age, disability, religious belief and financial circumstances

- (c) Membership fees should be realistic and not used as a means of restricting membership to a particular community group
- (d) Profits and surpluses must be used to further the sporting objectives of the club/organisation and not distributed as a share or dividend amongst some or all members
- (e) A legal constitution must be in existence and applicants must demonstrate that they are operating in accordance with its requirements.

### 3. Adjusted Relief

3.1 Applicants who meet all of the above criteria and are awarded the basic 40% rate relief, will also be able to have their relief adjusted by some or all of the following:-

- 10% The applicant can demonstrate a close working relationship with local schools & disabled groups and where practical, has supported the development of their sport(s) in schools and has encouraged and assisted school pupils and/or disabled persons to join appropriate clubs. The applicant undertakes to continue this development work
- 10% The applicant can demonstrate support for its coaches and administrators to obtain further relevant qualifications, e.g. coaching qualifications, National Coaching Foundation courses, Running Sport courses etc. The applicant undertakes to continue this work.
- 10% The applicant can demonstrate that they have provided opportunities for regular use of its facilities and equipment by outside groups/the Council's Sports Development Unit and undertakes to continue this policy
- 10% The applicant can demonstrate that they have in place or are working towards a development plan and (if applicable) a child protection policy
- 20% Should less than 50% of members be resident in the City, then a reduction in relief of 20% of the total rate liability will be made

Table of relief at current levels.

| <b>Relief</b>   |                   |
|---|-------------------|
| Discretionary Rate Relief                                   | Base level of 40% |
| Work with Schools or Disadvantaged Groups                   | +10%              |
| Support for coaches/administrators                          | +10%              |
| Shared use of facilities                                    | +10%              |
| Current Development Plan/child protection policy            | +10%              |
| Less than 50% of members resident in the City Council area. | -20%              |

## EXTENSIONS TO CHELMSFORD CITY COUNCIL'S DISCRETIONARY RATE RELIEF POLICY

### 1. Introduction

1.1 Section 69 of the Localism Act 2011 amends Section 47 of the Local Government Finance Act 1988. The changes came into effect from 1 April 2012 and they extend the existing provision relating to the granting of discretionary rate relief.

1.2 The changes allow Local Authorities to grant discretionary rate relief in any circumstances where it feels fit. However, the whole cost of any purely discretionary relief awarded will have to be met by the City's Council Tax payers. Some discretionary reliefs are reimbursed in full by the Government via grants paid in accordance with section 31 of the Local Government Act 2003. Full details are set out below. Currently, these reliefs are **75%** Retail, Hospitality and Leisure Relief Scheme (1 April 2023 to 31 March 2024 only); Supporting Small Business Relief; Local Newspaper Relief (until 31 March 2025); and, **Heat Network Relief**.

### 2. Awarding Relief

2.1 Any ratepayer applying for discretionary rate relief who does not meet the criteria for relief under the existing policy must meet all of the following criteria and any award will be based on these factors:

- (a) The ratepayer must not be entitled to mandatory rate relief (Charity or Rural Rate Relief)
- (b) The ratepayer must not be an organisation that could receive relief as a non-profit making organisation or as Community Amateur Sports Club.
- (c) The ratepayer must occupy the premises – no relief will be granted for unoccupied properties
- (d) The premises and the organisation must be of significant benefit to the residents of the City
- (e) The ratepayer must:
  - (i) Provide facilities to certain priority groups such as elderly, disabled, minority or disadvantaged groups, OR
  - (ii) Provide significant employment or employment opportunities to residents of the City
- (f) Provide residents of the City with such services, opportunities or facilities that cannot be obtained locally or are not provided by another organisation
- (g) The ratepayer must show that the organisation will comply with all legislative requirements and operate in an ethical, sustainable, and environmentally friendly manner at all times

2.2 Where a ratepayer can demonstrate that all the above criteria are met, any award must have due regard to:

- (a) the financial status of the applicant when determining the level of relief to be granted, and
  - (b) the impact and best interests of the Council Tax payers of the City
- 2.3 Relief will not be given to those organisations where a bar is the main activity. It would be expected that any bar profits would be used to offset any expenses thus negating the reliance on public funds.
- 2.4 Where a ratepayer is suffering hardship or severe difficulties in paying their rates liability then an application may be made for relief under Section 49 of the Local Government Finance Act 1988. There will be no requirement to grant relief in such cases under the Council's discretionary rate relief policy.
3. Level and Period of Relief granted
- 3.1 The level of relief to be granted, if any, will range from 0% to 100% of the ratepayer's liability. Given the continuing reduction in government grant funding to the Council, awards of discretionary rate relief will be made for a fixed period and reviewed on an annual basis.
4. Equality and Diversity Implications
- 4.1 It is important that the Discretionary Rate Relief Policy clearly shows the criteria on which premises could be eligible so that all potential applicants are aware of why their application has been either accepted or refused.
5. Right of Appeal
- 5.1 There is no statutory right of appeal against a decision made by the Council in respect of discretionary rate relief. However, the Director of Finance will review the decision if the ratepayer is dissatisfied with the outcome.
- 5.2 If an unsuccessful applicant requests a review, they will still need to continue to pay their rates bill. Once the review has been carried out, the ratepayer will be informed, in writing, of the decision.
- 5.3 The right of appeal process does not affect a ratepayer's legal right to challenge the decision by way of a judicial review.
6. **RETAIL, HOSPITALITY AND LEISURE RELIEF SCHEME (1 APRIL 2023 to 31 MARCH 2024) ONLY**
- 6.1 For properties specified in section 7 the relief available is **75%** of the bill after mandatory reliefs and other discretionary reliefs funded by Section 31 grants have been applied. Ratepayers do have a right to refuse this discount.
- 6.2 Subject to the cash cap in paragraph 6.4, the eligibility for the relief and the relief itself will be assessed and calculated on a daily basis using the following formula:

$$\text{Amount of relief to be granted} = V \times \mathbf{0.75}$$



Where:

V is the daily charge for the hereditament for the chargeable day after the application of any mandatory relief and any other discretionary reliefs, excluding those where local authorities have used their discretionary relief powers introduced by the Localism Act which are not funded by section 31 grants

- 6.3 This should be calculated by ignoring any prior year adjustments in liabilities which fall to be liable on the day.
- 6.4 Ratepayers that occupy more than one property will be entitled to relief for each of their eligible properties up to the maximum £110,000 cash cap per business. The cash cap applies at a Group company level across all of their hereditaments in England, so holding companies and subsidiaries cannot claim up to the cash cap for each company.
- 6.5 The retail, hospitality and leisure relief scheme is likely to amount to subsidy (see section 12 for more details).
- 6.6 A ratepayer may refuse the relief for each eligible hereditament at any point up to 30 April 2024. The ratepayer cannot subsequently withdraw their refusal for either all or part of the financial year. For the purposes of s47 of the Local Government Act 1988, a decision to refuse relief puts the hereditament outside the scope of the scheme and a decision cannot then be made that the hereditament qualifies for relief.

## 7. Which types of use are eligible?

- 7.1 To qualify for the relief, the hereditament should be wholly or mainly used:
- i. as a shop, restaurant, café, drinking establishment, cinema, or live music venue
  - ii. for assembly and leisure
  - iii. as a hotel, guest and boarding premises or self-catering accommodation.

This is a test of use not occupation.

Hereditaments which are occupied but not wholly or mainly used for the qualifying purpose will not qualify for the relief.

- 7.2 The lists below are not exhaustive. Uses that are broadly similar to those listed below will be considered eligible for the relief.
- a) Hereditaments that are being used for the sale of goods to visiting members of the public:
- Shops (such as florists, bakers, butchers, grocers, greengrocers, jewellers, stationers, off-licence, chemists, newsagents, hardware stores, supermarkets, etc)
  - Charity shops
  - Opticians
  - Post Offices
  - Furnishing shops/display rooms e.g., carpet shops, double glazing, garage door showrooms
  - Car/caravan showrooms
  - Second-hand car lots
  - Markets

- Petrol stations
- Garden centres
- Art galleries (where art is for sale/hire)

b) Hereditaments that are being used for the provision of the following services to visiting members of the public:

- Hair and beauty services (such as hairdressers, nail bars, beauty salons, tanning shops, etc)
- Shoe repairs/key cutting
- Travel agents
- Ticket offices e.g., for theatre
- Dry cleaners/laundrettes
- PC/TV/domestic appliance repair
- Funeral directors
- Photo processing
- DVD/video rentals
- Tool hire
- Car hire

c) Hereditaments that are being used for the sale of food and/or drink to visiting members of the public:

- Restaurants
- Takeaways
- Sandwich shops
- Coffee shops
- Pubs
- Bars

d) Hereditaments that are being used as cinemas

e) Hereditaments that are being used as live music venues

-live music venues are hereditaments wholly or mainly used for the performance of live music for the purpose of entertaining an audience. Hereditaments cannot be considered a live music venue for the purpose of business rates relief where a venue is wholly or mainly used as a nightclub or a theatre, for the purposes of the Town and Country Planning (Use Classes) Order 1987 (as amended).

– Hereditaments can be a live music venue even if used for other activities, but only if those other activities (i) are merely ancillary or incidental to the performance of live music (e.g. the sale/supply of alcohol to audience members) or (ii) do not affect the fact that the primary activity for the premises is the performance of live music (e.g. because those other activities are insufficiently regular or frequent, such as a polling station or a fortnightly community event).

f) Hereditaments that are being used for the provision of sport, leisure and facilities to visiting members of the public (including the viewing of such activities):

- Sports grounds and clubs

- Museums and art galleries
- Nightclubs
- Sport and leisure facilities
- Stately homes and historic houses
- Theatres
- Tourist attractions
- Gyms
- Wellness centres, spas, massage parlours
- Casinos, gambling clubs and bingo halls

- g) Hereditaments that are being used for the assembly of visiting members of the public:
- Public halls
  - Clubhouses, clubs and institutions
- h) Hereditaments where the non-domestic part is being used for the provision of living accommodation as a business:
- Hotels, Guest- and Boarding Houses
  - Holiday homes
  - Caravan parks and sites

## 8. Which types of use are not eligible?

8.1 As before, the lists below are not exhaustive but uses broadly similar to those set out below will not be considered eligible for the relief.

- a) Hereditaments that are being used for the provision of the following services to visiting members of the public:
- Financial services (such as banks, building societies, cash points, bureaux de change, payday lenders, short term loan providers, betting shops)
  - Medical services (such as vets, dentists, doctors, osteopaths, chiropractors)
  - Professional services (such as solicitors, accountants, insurance agents, financial advisers, employment agencies, estate agents, letting agents)
  - Post Office sorting offices
- b) Hereditaments that are not reasonably accessible to visiting members of the public

8.2 Any hereditament where the ratepayer is a billing authority, parish or county council or other precepting authority will not be eligible for relief.

8.3 The relief should be applied on a day to day basis using the formula set out in 6.2. A new hereditament created as a result of a split or merger during the relevant financial years, or where there is a change of use, should be considered afresh for relief on that day.

## 9 **SUPPORTING SMALL BUSINESS RELIEF (2023/24 to 2025/26)**

9.1 **The Supporting Small Business Relief (SSBR) will help those ratepayers who, as a result of the change in their rateable value at the revaluation, are losing some or all of**

their Small Business, Rural Rate relief or 2017 SSBR and, as a result, are facing large increases in their bills.

- 9.2 There is no discretion around whether to grant this relief if the terms of the scheme are met. Full technical detail regarding the operation of this scheme can be found at [Business Rates Relief: 2023 Supporting Small Business Relief, local authority guidance - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/business-rates-relief-2023-supporting-small-business-relief-local-authority-guidance)
- 9.3 The SSBR scheme will ensure that the increase per year in the bills of eligible ratepayers is limited to a cash value of £600 per year during the operation of the scheme or until the full increased liability is reached. Businesses previously eligible for the 2017 SSBR scheme will receive this continued protection for one year only (until 31 March 2023).
- 9.4 Those on the SSBR scheme whose 2023 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 2023 SSBR scheme.
- 9.5 Ratepayers remain in the Supporting Small Businesses relief scheme until 31 March 2026 or until they reach the bill they would have paid without the scheme. A change of ratepayers will not affect eligibility for the SSBR scheme but eligibility will be lost if the property falls vacant or becomes occupied by a charity or Community Amateur Sports Club.
- 9.6 There is no 2nd property test for eligibility for Supporting Small Business relief scheme. However, those ratepayers who during 2022/23 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.
- 9.7 As with all reliefs, the amount of relief awarded under the Supporting Small Business relief scheme should be recalculated in the event of a change to the rateable value or the hereditament. This change of circumstance could arise during the year in question or during a later year.
- 9.8 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 allow the amount of relief to be amended within the year to reflect changing circumstances.
- 9.9 Therefore, when making an award for SSBR, the conditions of the award include that it can be recalculated in the event of a change to the rating list (retrospective or otherwise). This is so that the relief can be recalculated if the rateable value changes. This applies to all Discretionary Relief awarded by Chelmsford City Council.

## 10 **HEAT NETWORK RELIEF (1 April 2023 to 31 March 2024)**

- 10.1 Heat Network Relief is a 100% relief for hereditaments which are wholly or mainly used for the purposes of a heat network and the heat is generated from a low carbon source.
- 10.2 A heat network is a facility, such as a district heating scheme, which supplies thermal energy from a central source to consumers via a network of pipes for the purposes of space heating, space cooling or domestic hot water. This does not include common heating systems in multi-occupied buildings or estates where the heating facility does not attract its own rates liability.
- 10.3 Hereditaments conforming to the definition of a heat network are certificated by the Valuation Office Agency. There are currently no such hereditaments in the Chelmsford City Council area.
- 10.4 Full technical details can be found at [Business rates heat network relief: local authority guidance 2023-24 – GOV.UK \(www.gov.uk\)](#) The Government intends to legislate to award this relief from 1 April 2024, so it will not be a discretionary relief from that date.

## 11 **LOCAL NEWSPAPER RELIEF (To 31 March 2025)**

- 11.1 This relief is a sum of £1,500 in respect of office space occupied by local newspapers to a maximum of one discount per local newspaper title and per hereditament. A local newspaper with two offices can only claim the relief in respect of one of the offices. An office shared by three separate local newspaper titles would only be eligible for one relief.
- 11.2 This relief is specifically for local newspapers, those that would be regarded as a 'traditional local newspaper'. The relief will not be available to magazines. The hereditament must be occupied by a local newspaper and wholly or mainly used as office premises for journalists and reporters.

## 12 **SUBSIDY ALLOWANCES**

- 12.1 The Retail, Hospitality and Leisure Relief is likely to amount to subsidy. Any relief provided by local authorities under this scheme will need to comply with the UK's domestic and international subsidy control obligations. For detailed information see [UK subsidy control regime - GOV.UK \(www.gov.uk\)](#) regarding the UK's subsidy control regime and the UK's international subsidy control requirements.
- 12.2 The Minimal Financial Assistance rules allow public authorities to award up to £315,000 during the 'applicable period'. The 'applicable period' is defined as the elapsed period of the current financial years and the two preceding financial years. As the Council will restrict awards to any one business entity to £110,000 (as per 6.4 above), it is unlikely that subsidy controls will be breached within the Chelmsford City Council area. However, businesses operating in more than one area should be aware of their reporting and accounting responsibilities if receiving multiple awards of Retail, Hospitality and Leisure relief.

- 12.3 Where it is clear to the Council that a ratepayer is likely to breach subsidy controls or Minimal Financial Assistance limits, the Council will automatically withhold the relief. In any case, the Council will ask ratepayers to complete a subsidy declaration before granting the relief.

### **13 ADMINISTRATION OF APPLICATIONS FOR RELIEF**

- 13.1 Decisions relating to the granting of reliefs will be delegated to the staff reporting to the Director of Connected Chelmsford. Most reliefs will be granted automatically using records already held by the Council. Applications from business rate payers who think they should be eligible must be made in writing to Chelmsford City Council, Business Rates, Civic Centre, Duke Street, Chelmsford CM1 1JE.
- 13.2 There is no statutory right of appeal against a decision made by the Council in respect of discretionary reliefs. However, the Council will review the decision if the ratepayer is dissatisfied with the outcome. The review will be carried out by **a senior officer within the Revenues Team. Any subsequent request for review will be considered by the Revenue and Benefit Services Manager in consultation with the Director for Connected Chelmsford.**
- 13.3 If an unsuccessful applicant requests a review, they will still need to continue to pay their rates bill. Once the review has been carried out, the ratepayer will be informed, in writing, of the decision.
- 13.4 The right of appeal process does not affect a ratepayer's legal right to challenge the decision by way of a judicial review.

**CHELMSFORD CITY COUNCIL'S DISCRETIONARY RATE RELIEF POLICY**

1. Introduction

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- 10% The applicant can demonstrate support for its coaches and administrators to obtain further relevant qualifications, e.g. coaching qualifications, National Coaching Foundation courses, Running Sport courses etc. The applicant undertakes to continue this work.
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- 20% Should less than 50% of members be resident in the City, then a reduction in relief of 20% of the total rate liability will be made

Table of relief at current levels.

| <b>Relief</b>                                    |                   |
|--|-------------------|
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| Shared use of facilities                         | +10%              |
| Current Development Plan/child protection policy | +10%              |
| Less than 50% of members resident in the borough | -20%              |



## EXTENSIONS TO CHELMSFORD CITY COUNCIL'S DISCRETIONARY RATE RELIEF POLICY

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- 2.1 Any ratepayer applying for discretionary rate relief who does not meet the criteria for relief under the existing policy must meet all of the following criteria and any award will be based on these factors:
- (a) The ratepayer must not be entitled to mandatory rate relief (Charity or Rural Rate Relief)
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  - (c) The ratepayer must occupy the premises – no relief will be granted for unoccupied properties
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  - (g) The ratepayer must show that the organisation will comply with all legislative requirements and operate in an ethical, sustainable and environmentally friendly manner at all times
- 2.2 Where a ratepayer can demonstrate that all of the above criteria are met, any award must have due regard to:

- (a) the financial status of the applicant when determining the level of relief to be granted, and
  - (b) the impact and best interests of the Council Tax payers of the City
- 2.3 Relief will not be given to those organisations where a bar is the main activity. It would be expected that any bar profits would be used to offset any expenses thus negating the reliance on public funds.
- 2.4 Where a ratepayer is suffering hardship or severe difficulties in paying their rates liability then an application may be made for relief under Section 49 of the Local Government Finance Act 1988. There will be no requirement to grant relief in such cases under the Council's discretionary rate relief policy.
3. Level and Period of Relief granted
- 3.1 The level of relief to be granted, if any, will range from 0% to 100% of the ratepayer's liability. Given the continuing reduction in government grant funding to the Council, awards of discretionary rate relief will be made for a fixed period and reviewed on an annual basis.
4. Equality and Diversity Implications
- 4.1 It is important that the Discretionary Rate Relief Policy clearly shows the criteria on which premises could be eligible so that all potential applicants are aware of why their application has been either accepted or refused.
5. Right of Appeal
- 5.1 There is no statutory right of appeal against a decision made by the Council in respect of discretionary rate relief. However, the Director of Finance will review the decision if the ratepayer is dissatisfied with the outcome.
- 5.2 If an unsuccessful applicant requests a review, they will still need to continue to pay their rates bill. Once the review has been carried out, the ratepayer will be informed, in writing, of the decision.
- 5.3 The right of appeal process does not affect a ratepayer's legal right to challenge the decision by way of a judicial review.
6. **RETAIL, HOSPITALITY AND LEISURE RELIEF SCHEME (1 APRIL 2022 to 31 MARCH 2023) ONLY**
- 6.1 For properties specified in section 7 the relief available is 50% of the bill after mandatory reliefs and other discretionary reliefs funded by Section 31 grants have been applied. Ratepayers do have a right to refuse this discount.
- 6.2 Subject to the cash cap in paragraph 6.4, the eligibility for the relief and the relief itself will be assessed and calculated on a daily basis using the following formula:

Amount of relief to be granted = **V x 0.5**

Where:

V is the daily charge for the hereditament for the chargeable day after the application of any mandatory relief and any other discretionary reliefs, excluding those where local authorities have used their discretionary relief powers introduced by the Localism Act which are not funded by section 31 grants

- 6.3 This should be calculated by ignoring any prior year adjustments in liabilities which fall to be liable on the day.
- 6.4 Ratepayers that occupy more than one property will be entitled to relief for each of their eligible properties up to the maximum £110,000 cash cap per business. The cash cap applies at a Group company level across all of their hereditaments in England, so holding companies and subsidiaries cannot claim up to the cash cap for each company.
- 6.5 The retail, hospitality and leisure relief scheme is likely to amount to subsidy (see section 12 for more details).

## 7. Which types of use are eligible?

- 7.1 To qualify for the relief, the hereditament should be wholly or mainly used:
- i. as a shop, restaurant, café, drinking establishment, cinema, or live music venue
  - ii. for assembly and leisure
  - iii. as a hotel, guest and boarding premises or self-catering accommodation.

This is a test of use not occupation.

Hereditaments which are occupied but not wholly or mainly used for the qualifying purpose will not qualify for the relief.

- 7.2 The lists below are not exhaustive. Uses that are broadly similar to those listed below will be considered eligible for the relief.
- a) Hereditaments that are being used for the sale of goods to visiting members of the public:
    - Shops (such as florists, bakers, butchers, grocers, greengrocers, jewellers, stationers, off-licence, chemists, newsagents, hardware stores, supermarkets, etc)
    - Charity shops
    - Opticians
    - Post Offices
    - Furnishing shops/display rooms e.g. carpet shops, double glazing, garage door showrooms
    - Car/caravan showrooms
    - Second-hand car lots
    - Markets
    - Petrol stations
    - Garden centres
    - Art galleries (where art is for sale/hire)
  - b) Hereditaments that are being used for the provision of the following services to visiting members of the public:

- Hair and beauty services (such as hairdressers, nail bars, beauty salons, tanning shops, tattoo parlours etc)
  - Shoe repairs/key cutting
  - Travel agents
  - Ticket offices e.g. for theatre
  - Dry cleaners/laundrettes
  - PC/TV/domestic appliance repair
  - Funeral directors
  - Photo processing
  - DVD/video rentals
  - Tool hire
  - Car hire
- c) Hereditaments that are being used for the sale of food and/or drink to visiting members of the public:
- Restaurants
  - Takeaways
  - Sandwich shops
  - Coffee shops
  - Pubs
  - Bars
- d) Hereditaments that are being used as cinemas
- e) Hereditaments that are being used as live music venues

-live music venues are hereditaments wholly or mainly used for the performance of live music for the purpose of entertaining an audience. Hereditaments cannot be considered a live music venue for the purpose of business rates relief where a venue is wholly or mainly used as a nightclub or a theatre, for the purposes of the Town and Country Planning (Use Classes) Order 1987 (as amended).

– Hereditaments can be a live music venue even if used for other activities, but only if those other activities (i) are merely ancillary or incidental to the performance of live music (e.g. the sale/supply of alcohol to audience members) or (ii) do not affect the fact that the primary activity for the premises is the performance of live music (e.g. because those other activities are insufficiently regular or frequent, such as a polling station or a fortnightly community event).

- f) Hereditaments that are being used for the provision of sport, leisure and facilities to visiting members of the public (including the viewing of such activities):
- Sports grounds and clubs
  - Museums and art galleries
  - Nightclubs
  - Sport and leisure facilities
  - Stately homes and historic houses
  - Theatres
  - Tourist attractions
  - Gyms

- Wellness centres, spas, massage parlours
  - Casinos, gambling clubs and bingo halls
- g) Hereditaments that are being used for the assembly of visiting members of the public:
- Public halls
  - Clubhouses, clubs and institutions
- h) Hereditaments where the non-domestic part is being used for the provision of living accommodation as a business:
- Hotels, Guest- and Boarding Houses
  - Holiday homes
  - Caravan parks and sites

## 8. Which types of use are not eligible?

- 8.1 As before, the lists below are not exhaustive but uses broadly similar to those set out below will not be considered eligible for the relief.
- a) Hereditaments that are being used for the provision of the following services to visiting members of the public:
- Financial services (such as banks, building societies, cash points, bureaux de change, payday lenders, short term loan providers, betting shops)
  - Medical services (such as vets, dentists, doctors, osteopaths, chiropractors)
  - Professional services (such as solicitors, accountants, insurance agents, financial advisers, employment agencies, estate agents, letting agents)
  - Post Office sorting offices
- b) Hereditaments that are not reasonably accessible to visiting members of the public
- 8.2 Any hereditament where the ratepayer is a billing authority, parish or county council or other precepting authority will not be eligible for relief.
- 8.3 The relief should be applied on a day to day basis using the formula set out in 6.2. A new hereditament created as a result of a split or merger during the relevant financial years, or where there is a change of use, should be considered afresh for relief on that day.

## 9 SUPPORTING SMALL BUSINESS SCHEME (EXTENDED FOR AN ADDITIONAL YEAR TO COVER 2022/2023)

- 9.1. The transitional 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 01 April 2017.
- 9.2. The Supporting Small Businesses relief scheme will help those ratepayers who as a result of the change in their rateable value at the revaluation are losing some or all of their small business or rural rate relief and, as a result, are facing large increases in their bills.

There is no discretion around whether to grant this relief if the terms of the scheme are met.

The Supporting Small Businesses relief scheme will ensure that the increase per year in the bills of these ratepayers is limited to the greater of:

- a. a percentage increase p.a. of 5%, 7.5%, 10%, 15%, 15% and 15% 2017/18 to 2022/23 all plus inflation, 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.

- 9.3 In the first year of the scheme (2017/18), 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.
- 9.4 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.
- 9.5 Ratepayers remain in the Supporting Small Businesses relief scheme for either 6 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.
- 9.6 There is no 2nd property test for eligibility for Supporting Small Business 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.
- 9.7 As with all reliefs, the amount of relief awarded under the Supporting Small Business relief scheme should be recalculated in the event of a change to the rateable value or the hereditament. This change of circumstance could arise during the year in question or during a later year.
- 9.8 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 allow the amount of relief to be amended within the year to reflect changing circumstances.

- 9.9 Therefore, when making an award for Supporting Small Business relief, the conditions of the award that the relief is allowed include that it can be recalculated in the event of a change to the rating list (retrospective or otherwise). This is so that the relief can be recalculated if the rateable value changes. This applies to all Discretionary Relief awarded by Chelmsford City Council.

## **10 Detailed guidance for operation of the Supporting Small Business (SSB) scheme**

### **10.1 Day 1 Eligibility for the Scheme**

For 1 April 2017, the supporting small business (SSB) relief scheme applies to hereditaments for which ratepayers lose some or all of their small business rate relief or rural rate relief.

- a. The chargeable amount for 31 March 2017 is calculated in accordance with section 43(4B) or (6B),
- b. In relation to 43(4) the value of E for 31 March 2017 is greater than 1,
- c. The chargeable amount for 01 April 2017 is found in accordance with section 43(4), 43(4B), 43(6A), or where regulations 12(3), 12(7) or 12(9) of the Non Domestic Rating (Chargeable Amounts) (England) Regulations 2016 No.1265 applies, and
- d. The chargeable amount 1 April 2017 is more than (£600/365) higher than the chargeable amount for 31 March 2017.

Where for 31 March 2017 the chargeable amount has been found under section 47, then eligibility for SSB should be determined as if section 47 did not apply.

### **10.2 Continued eligibility for the scheme after 1 April 2017**

After 1 April 2017, the Supporting Small Business (SSB) scheme will cease to apply where:

- a. The chargeable amount for a day found under the SSB scheme is the same as or more than the chargeable amount found in the absence of the SSB scheme. This ensures that where, for example, the minimum increase in the chargeable amount in the SSB scheme would take the bill above the level it would otherwise have been then the hereditament will drop out of the SSB scheme. It also ensures that where, for example, with effect from after 1/4/17, the hereditament becomes eligible for 100% Small Business Rate Relief then they also fall out of the SSB scheme,
- b. The chargeable amount for a day would otherwise fall to be found by section 43(5) or where paragraph 12(5) or sub-paragraphs 2(4), 3(4), 4(4), 5(4) of Schedule 2 of the Non-Domestic Rating (Chargeable Amounts) (England) Regulations 2016 No.1265 applies (charities or registered community amateur sports clubs), or
- c. The hereditament for a day is unoccupied.

- 10.3 Furthermore, where the ratepayer 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 (and therefore was still entitled to small business rate relief on 31 March 2017), then eligibility for the SSB scheme will cease at the end of that 12 months period of grace.

- 10.4 Hereditaments which cease to be entitled to Supporting Small Businesses for a day cannot return to eligibility if their circumstances change from a later day. For example, if a property falls unoccupied it will not then be eligible for Supporting Small Businesses relief if it subsequently becomes occupied again.

10.5 Chargeable Amount under the Supporting Small Businesses Scheme

Where the Supporting Small Businesses scheme applies then DCLG will fund local authorities to apply a chargeable amount under section 47 of the 1988 Act for the period 1 April 2017 to 31 March 2022 found in accordance with the rules in (Part 1 to Part 3 of) the Non-Domestic Rating (Chargeable Amounts) (England) Regulations 2016 No.1265 subject to the following changes:

- a. BL for 2017/18 is the chargeable amount for 31 March 2017 x 365 (on the assumption that section 47 did not apply for 31 March 2017 and on the assumption in the City of London that the special authority's small business non-domestic rating multiplier was 48.4p for 2016/17). This ensures the starting base liability for hereditaments eligible for SSB include the SBRR or rural rate relief for 31 March.
- b. Where the certificate has been issued under regulations 17 or 18 then BL 2017/18 should be found in line with a) above but on the assumption that the rateable value in the rating list was the rateable values as certified.
- c. References to "(BL x AF)" are to "(BL x AF)" or (BL + 600) whichever is the greater". This ensures the bill increase is greater or £600 or the increase under the caps in transitional relief scheme,
- d. AF is found in accordance with regulation 10(6) irrespective of the rateable value of the hereditament for 1 April 2017. This ensures only the cap on increases for small properties is applied in the SSB scheme irrespective of the actual rateable value of the hereditament,
- e. Regulation 12(6)(b) is omitted. This ensures SBRR is not also applied to the capped bill in the SSB scheme. This avoids double counting of relief,
- f. The reference to "2" in regulation 12 (8) is "1". This ensures rural rate relief is not also applied to the capped bill in the SSB scheme. This avoids double counting of relief,
- g. "U" is taken to have a value of 0 throughout. This ensures that any hereditament whose rateable value is £51,000 or more does not have to pay the 1.3p supplement whilst eligible for SSB relief,
- h. For a year (the year concerned) other than 2017/18, BL is (BL x AF) or (BL + 600) from the year immediately the year concerned whichever is the greater.



10.6 No change is made to the meaning of NCA. However, as discussed above, eligibility for Supporting Small Business relief ceases when the chargeable amount for a day found under the Supporting Small Businesses scheme is the same as or more than the chargeable amount found outside the scheme.

10.7 For the avoidance of doubt, the rules for changes in rateable value with effect from after 1 April 2017 (regulation 13) will continue to apply as normal subject to the amendments above in sections a to h.

#### 10.8 Splits and Mergers

The SSB scheme will apply to hereditaments;

- a. Coming into existence because of the circumstances described in paragraph 1 of Schedule 2 of Non-Domestic Rating (Chargeable Amounts) (England) Regulations 2016 No. 1265,
- b. Where one of the hereditaments from which the new hereditament was formed in whole or in part was for the day immediately before the creation day eligible for the SSB scheme, and
- c. The circumstances described above in points a to h above do not apply for the creation day in respect of the hereditament.

10.9 After the creation day, the SSB scheme will cease to apply in the circumstances described in points a to h above.

10.10 The number of hereditaments eligible for SSB which then split or merge is likely to be very small and devising rules in particular for mergers with properties outside of the SSB scheme would be complex. Therefore, in discussions with local authority stakeholders, DCLG has concluded it would be disproportionate to devise detailed rules to prescribe the chargeable amounts in the various circumstances which could arise from a split or a merger.

Instead, for hereditaments meeting the criteria in paragraph 39 and 40 above, DCLG will fund local authorities to apply a chargeable amount under section 47 of the 1988 Act found in accordance with the following principle:

- a. That the protection offered by the SSB scheme (that the bill will not rise by the greater of £600 p.a. or the transitional relief caps) will continue to apply in principle to that part of the newly created hereditament which was immediately before the creation day in the SSB scheme, and
- b. That increases (or reductions) in overall rateable value arising from the split or merger are not subject to the protection of the SSB scheme.

For simple splits of hereditaments previously eligible for SSB, authorities may wish to simply apportion the chargeable amount in the SSB scheme for the hereditament before the split in line with the change in rateable value from the split) i.e. in line with the principle in Schedule 2 of Non-Domestic Rating (Chargeable Amounts) (England) Regulations 2016 No. 1265).

For mergers and reorganisations, authorities will have to estimate the degree to which, in line with the principle of the SSB scheme, that part of the hereditament

which was formerly eligible for SSB should continue to receive support under the SSB scheme. DCLG does not expect authorities to seek any formal apportionments of rateable value for this purpose.

## **11 LOCAL NEWSPAPER RELIEF (To 31 March 2025)**

- 11.1 This relief is a sum of £1,500 in respect of office space occupied by local newspapers to a maximum of one discount per local newspaper title and per hereditament. A local newspaper with two offices can only claim the relief in respect of one of the offices. An office shared by three separate local newspaper titles would only be eligible for one relief.
- 11.2 This relief is specifically for local newspapers, those that would be regarded as a 'traditional local newspaper'. The relief will not be available to magazines. The hereditament must be occupied by a local newspaper and wholly or mainly used as office premises for journalists and reporters.

## **12 SUBSIDY ALLOWANCES**

- 12.1 The Retail, Hospitality and Leisure Relief is likely to amount to subsidy. Any relief provided by local authorities under this scheme will need to comply with the UK's domestic and international subsidy control obligations. For detailed information see <https://www.gov.uk/government/publications/complying-with-the-uks-international-obligations-on-subsidy-control-guidance-for-public-authorities/technical-guidance-on-the-uks-international-subsidy-control-commitments> which explains the subsidies chapter of the UK-EU Trade and Cooperation Agreement (TCA), World Trade Organisation rules on subsidies, another international subsidy control commitments.
- 12.2 Article 364 of the TCA allows an economic actor (e.g. a holding company and its subsidiaries) to receive up to £343,000 in a three year period (consisting of the 2022/23 year and the two previous financial years). Expanded Retail Discount granted in either 2020/21 or 2021/22 does not count towards the £343,000 allowance but BEIS business grants (throughout the 3 years) and any other subsidies claimed under the Small Amounts of Financial Assistance limit should be counted.
- 15.3 Where it is clear to the Council that the ratepayer is likely to breach the cash cap or Small Amounts of Financial Assistance limit, then the Council will automatically withhold the relief. In any case, the Council will ask ratepayers to complete a subsidy declaration before granting the relief.

## **16 ADMINISTRATION OF APPLICATIONS FOR RELIEF**

- 16.1 Decisions relating to the granting of reliefs will be delegated to the staff reporting to the Director of Connected Chelmsford. Most reliefs will be granted automatically using records already held by the Council. Applications from business rate payers who think they should be eligible must be made in writing to Chelmsford City Council, Business Rates, Civic Centre, Duke Street, Chelmsford CM1 1JE.
- 16.2 There is no statutory right of appeal against a decision made by the Council in respect of retail rate or business rate reoccupation relief. However, the Council will review the decision if the ratepayer is dissatisfied with the outcome. The review will be carried out by the Director of Connected Chelmsford and the final decision made by the

Director of Connected Chelmsford and/or the Cabinet Member for Connected Chelmsford

- 16.3 If an unsuccessful applicant requests a review, they will still need to continue to pay their rates bill. Once the review has been carried out, the ratepayer will be informed, in writing, of the decision.
- 16.4 The right of appeal process does not affect a ratepayer's legal right to challenge the decision by way of a judicial review.