

## **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 borough	-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:

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

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.