



# Elmbridge

## Borough Council

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# Elmbridge Borough Council Supporting Small Businesses Relief Scheme

## About the Scheme

The scheme is intended to support properties losing some or all of their Small Businesses Rate Relief as a result of the 2017 Revaluation and is to be known as “Supporting Small Business” relief.

This document sets out the criteria used to determine properties eligible for Supporting Small Businesses relief. The scheme does not require new legislation and does not replace any other relief. Elmbridge Borough Council’s scheme mirrors the Guidance issued by Central Government.

The Council may review and amend the scheme and the amount of relief within each year to reflect any changing circumstances or advice from Central Government.

## Introduction

For 2016/17, eligible ratepayers<sup>(1)</sup> with a rateable value less than or equal to £6,000 are entitled to 100% small business rate relief. Those with a rateable value of between £6,000 and £12,000 enjoy tapered relief from 100% to 0%. Following the measures in the 2016 Budget, the thresholds increased from 1 April 2017 to £12,000 for the 100% relief and £15,000 for the tapered relief. This ensured that most ratepayers entitled to small business rate relief in 2016/17 would pay less or nothing following the revaluation. However, some ratepayers that are facing large increases in their rateable value will lose some or all of their small business 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 rate relief may be facing large percentage increases in bills from 1 April 2017.

In the Spring Budget the Chancellor announced that a new scheme of relief would be made available to those ratepayers facing large increases as a result of the loss of small business rate relief due to the revaluation. This document sets out how that scheme will operate in Elmbridge.

(1) Businesses with more than one property are only eligible for small business rate relief if their additional property or properties all have rateable values of under £2,600, and the total rateable value of all their properties are below £18,000.

# How will the relief be provided?

The government has not changed the legislation around transitional relief<sup>(2)</sup>. Instead the government will, in line with the eligibility criteria for the Supporting Small Businesses scheme, reimburse Elmbridge Borough Council if we use our discretionary relief powers, under section 47 of the Local Government Finance Act 1988, as amended<sup>(3)</sup>, to grant relief. Central government will fully reimburse Elmbridge for the local share of the Supporting Small Businesses relief (using a grant under section 31 of the Local Government Act 2003). The government expects all billing authorities to grant Supporting Small Businesses relief to all qualifying ratepayers.

Central government will reimburse Elmbridge and those major precepting authorities within the rates retention system for the actual cost to them under the rates retention scheme of the relief that falls within the definitions in their guidance. DCLG will also undertake a New Burdens assessment of the IT and administrative costs in local government associated with the Supporting Small Businesses scheme.

(2) The Non-Domestic Rating (Chargeable Amounts) (England) Regulations 2016 No. 1265

(3) Section 47 was amended by the Localism Act 2011

# Who is eligible for the relief and how much relief will be available?

This section describes in principle the Supporting Small Business Scheme. Elmbridge will use the detailed guidance at section 2 to determine eligibility and calculate bills. The Supporting Small Businesses relief 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 rate relief and, as a result, are facing large increases in their bills.

To support these ratepayers, the Supporting Small Businesses relief will ensure that the increase per year in the bills<sup>(4)</sup> of these ratepayers is limited to the greater of:

- a. a percentage increase p.a. 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 31 March 2017 after small business 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 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.

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.

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<sup>(5)</sup>. 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.

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.

Details on eligibility and the value of the Supporting Small Businesses relief is at Section 2.

(4) Prior to the Business Rates Supplement. The level of these supplements are unchanged at the revaluation but changes in the amounts paid through the supplements are outside the transitional relief scheme and the Supporting Small Businesses scheme.

(5) This will be the bill in the main transitional relief scheme.

## Recalculations of relief

The amount of relief awarded under the Supporting Small Businesses relief scheme will be recalculated in the event of a change of circumstances. This could include, for example, a backdated change to the rateable value or the hereditament. This change of circumstances could arise during the year in question or during a later year.

Relief will only apply where the eligible criteria is met. Each award will be a separate award under this scheme for the bill year it is applied to only.

Relief will be applied daily and may go up or down (retrospective or otherwise) in line with any change to the daily chargeable amount.

Section 47 of the Local Government Finance Act 1988 states any decision to award must be made before six months after the end of the financial year in which the award days falls. Therefore, no new decision to award relief to a year will be made after the 30 September of the following year. All awards, including those made between the 1 April and 30 September of the following year, will be subject to whether they meet the requirements to be reimbursed by Central Government.

Where relief has been found to have been awarded incorrectly or in error the relief will be removed and amended bills issued. If a change in circumstances that would affect the relief is not informed to the Council within 28 days the Council reserves the right to cancel all relief granted and refuse any further application.

## State Aid

State Aid law is the means by which the European Union regulates state funded support to businesses. Providing discretionary relief to ratepayers is likely to amount to State Aid. However the Supporting Small Businesses relief scheme will be State Aid compliant where it is provided in accordance with the De Minimis Regulations (1407/2013).<sup>(7)</sup>

The De Minimis Regulations allow an undertaking to receive up to €200,000 of De Minimis aid in a rolling three year period (consisting of the current financial year and the two previous financial years). As the Supporting Small Businesses relief scheme is by default to help small businesses it is unlikely any ratepayer will exceed the limit. However, we will request ratepayers inform us if any award exceeds the limit.

## Other Reliefs

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 would not be applied to further reduce the bill found under Supporting Small Business relief (to avoid the double counting of relief – see the detailed rules in section 2). For example,

- a ratepayer eligible for Small Business Rate Relief whose rateable value has increased from £3,000 (paying £0 in 2016/17) to £14,000 would be paying the following in 2017/18 before Supporting Small Businesses relief:
  - Bill before reliefs: £6,524,
  - Bill after transitional relief: £1,555
  - Bill after Small Business Rate Relief (@1/3) £1,037.
- After Supporting Small Business Relief the bill for 2017/18 would be reduced to £600. No further Small Business Rate Relief should be applied to the £600 bill.

The same principle applies to properties for which a Section 44A certificate has been granted (apportionment of rateable values for partly occupied properties). The presence of a section 44A certificate will not further reduce the bill found under the Supporting Small Business scheme.

All other discretionary reliefs, including those funded by section 31 grants, will be considered after the application of Supporting Small Businesses relief.

## Compensation Arrangements

Central government will reimburse Elmbridge Borough Council and those major precepting authorities for the actual cost to them under the rates retention scheme of the Supporting Small Businesses relief. Elmbridge will be asked to provide an estimate of the likely total cost for providing the relief in a one off estimate for 2017/18. Central government will then provide payments for our share of the cost of the estimated relief for 2017/18. The final cost will be calculated and reconciled following the NNDR3 for 2017/18.

Guidance on how to calculate the value of the section 31 grant will be included in the guidance notes for completing the National Non-Domestic Returns (NNDRs). However, in line with the New Burden's principle, section 31 compensation will be calculated having regard to the additional costs on local government of awarding the relief (before any other section 47 reliefs). Therefore, the section 31 grant for Supporting Small Businesses will be calculated by:

- a. taking the chargeable amount which would have applied for the hereditament after the transitional arrangements and other mandatory reliefs but before discretionary reliefs, and deducting
- b. the chargeable amount found under the Supporting Small Business scheme before other discretionary reliefs.

The same principle will apply for calculation Transitional Protection Payments (TPPs) for the purposes of non-domestic rating income in the rates retention scheme. TPPs on NNDR1s and NNDR3s will be calculating ignoring the Supporting Small Businesses scheme.

# Delegated Authority to Award Relief

Delegated to Head of Finance or any officer delegated by the Head of Finance, with appeals to Section 151 Officer, Strategic Director and Deputy Chief Executive.

## Application Process

The scheme entitlement is established based on information already held within Elmbridge Borough Council's Business Rates system. Therefore, awards will be applied automatically where entitlement is found. Ratepayers may request we review their account where no automatic award has been made.

## Appeals Process

There is no statutory right of appeal against a decision regarding discretionary rate relief unless the decision is so unreasonable that no reasonable person could have reached it ('Wednesbury Rules').

However, the Council recognises that ratepayers should be entitled to have a discretionary decision reviewed if dissatisfied with the outcome. Only the ratepayer or authorised agent may appeal against the decision not to award relief or the level of relief awarded. Appeals must be made within four weeks of the notification of decision.

Appeals must be in writing specifying reasons why a decision should be amended and supported by relevant new or additional evidence.

An appeal will be deemed to be discontinued if further evidence requested from the ratepayer has not been received within four weeks of the request.

Appeals against decisions made under delegated authority by the Head of Finance will be considered by the Section 151 Officer, Strategic Director and Deputy Chief Executive.

# Section 2: Detailed guidance for operation of the Elmbridge Supporting Small Businesses (SSB) scheme

## Day 1 Eligibility for the Scheme

1. For 1 April 2017, the supporting small businesses (SSB) relief scheme applies to hereditaments for which<sup>(1)</sup>:

- a. the chargeable amount for 31 March 2017 is calculated in accordance with section 43(4B) or (6B),
- b. in relation to 43(4B) the value of E for 31 March 2017 is greater than 1,
- c. the chargeable amount for 1 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 for 1 April 2017 is more than (£600/365) higher than the chargeable amount for 31 March 2017.

2. 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.

(1) unless otherwise stated, references are to the Local Government Finance Act 1988

## Continued eligibility for the scheme after 1 April 2017

3. After 1 April 2017, the Supporting Small Businesses (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.

4. 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.



5. 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.

## Chargeable Amount under the SSB Scheme

6. Where the Supporting Small Businesses scheme applies then DCLG will fund Elmbridge Borough Council 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). This ensures the starting base liability for hereditaments eligible for SSB include the SBRR or rural rate relief for 31 March,
- b. Where a certificate has been issued under regulations 17 or 18 then BL for 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 the greater or £600 or the increase under the caps in the 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 as illustrated under ‘Other Reliefs’
- f. the reference to “2” in regulation 12(8) is “1”. This ensures any rural rate relief is not also applied to the capped bill in the SSB scheme.
- 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.

7. No change is made to the meaning of NCA. However, as discussed above, eligibility for Supporting Small Businesses 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.

8. 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 in paragraph 6 above. This ensures that, for example, later increases in rateable value are paid in full in the normal way (based on the small business non-domestic multiplier. This is because U is taken to have a value of 0 throughout.)

## Splits and mergers

9. 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 at paragraph 3 above do not apply for the creation day in respect of the hereditament.

10. After the creation day, the SSB scheme will cease to apply in the circumstances described in paragraph 3 above.

11. 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 is complex. Therefore, DCLG 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.

12. Instead, for hereditaments meeting the criteria in paragraph 9 and 10 above, DCLG will fund Elmbridge Borough Council 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.

13. For simple splits of hereditaments previously eligible for SSB, we will 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).

14. For mergers and reorganisations, Elmbridge will 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 may continue to receive support under the SSB scheme.