



**Elmbridge**  
Borough Council  
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# Elmbridge Borough Council Nursery Discount Scheme from 1 July 2021 to 31 March 2022

## About the Scheme

This document sets out the criteria used to determine properties eligible for the 'Nursery Discount Scheme' in Elmbridge from 1 July 2021

## Introduction

On 18 March 2020, the Government announced the business rates Nursery Discount 2020/21 as part of the response to the COVID-19 pandemic.

The relief applies to hereditaments which are occupied by providers on Ofsted's Early Years Register and which are wholly or mainly used for the provision of the Early Years Foundation Stage. There is no rateable value limit on the relief.

At the Budget on 3 March 2021, the Chancellor announced that the Nursery Discount would continue to apply at 100% for eligible properties for the first three months of 2021 from 1 April 2021 to 30 June 2021. Subsequently, from 1 July 2021 to 31 March 2022, the Nursery Discount will apply at 66%. From 1 July 2021, the relief will be capped at £105,000 per business.

This scheme applies to the 66% discount for the period from 1 July 2021 to 31 March 2022. A separate determined scheme applies up to 30 June 2021.

No new legislation is required to deliver the scheme. Instead, we will use our discretionary relief powers, under section 47 of the Local Government Finance Act 1988 to grant relief. The Government will reimburse Elmbridge using grants under section 31 of the Local Government Act 2003 as a result of awarding the relief that falls within the definitions of guidance published by Government.

To ensure the discount is awarded in the manner the Government intended and is fully reimbursed to the council Elmbridge's scheme mirrors guidance issued by Government.

# Which properties will benefit from relief?

Properties that will benefit from the relief, where the ratepayer has not refused the relief, will be hereditaments occupied by providers on Ofsted's Early Years Register and which are wholly or mainly used for the provision of the Early Years Foundation Stage.

To qualify for the relief the hereditament should be wholly or mainly being used for the above qualifying purpose. In a similar way to other reliefs (such as charity relief), this is a test on use rather than occupation. Therefore, hereditaments which are occupied but not wholly or mainly used for the qualifying purpose will not qualify for the relief. For the avoidance of doubt, hereditaments which have closed temporarily due to the government's advice on COVID19 should be treated as occupied for the purposes of this relief.

In line with the legal restrictions in section 47(8A) of the Local Government Finance Act 1988, Elmbridge cannot grant the discount to ourselves, a precepting authority (e.g. Surrey County Council), or a functional body, within the meaning of the Greater London Authority Act 1999.

## Refusing the relief

The ratepayer may notify us of their refusal of the discount for each eligible property at any time up to 30 April 2022.

Once refused, the ratepayer cannot withdraw their refusal for either all or part of the discount period.

For the purposes of section 47 of the Local Government Finance Act 1988, where the ratepayer has refused the relief on a property then that property is outside of the scheme and outside of the scope of the decision of which properties qualify for the discount and are therefore ineligible for the relief.

## How much relief will be available?

Subject to the cash caps, the total amount of government-funded relief available for each property in 2021/22 under this scheme is 66% of the chargeable (billed) amount from 1 July 2021 to 31 March 2022, after mandatory reliefs and other discretionary reliefs funded by section 31 grants have been applied, excluding those where the council has used its discretionary relief powers introduced by the Localism Act which are not funded by section 31 grants.

Subject to the cash cap, the eligibility for the discount and the discount itself will be assessed and calculated on a daily basis. The following formula is used to determine the amount of relief to be granted for a chargeable day for a particular hereditament in the financial year 2021/22 from 1 July 2021:

$$\text{Amount of relief to be granted} = V \times 66\%$$

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 the council has used its discretionary relief powers introduced by the Localism Act which are not funded by section 31 grants.

This will be calculated ignoring any prior year adjustments in liabilities which fall to be liable on the day.

Relief will be awarded for 2021/22 only for periods on or after 1 July 2021. All awards are for a fixed period up to 31 March 2022 whilst the eligibility conditions are met.

Ratepayers that occupy more than one property will be entitled to relief for each of their eligible properties subject to the cash caps explained below.

## The cash cap

From 1 July 2021, a person may only receive Nursery Discount relief of up to £105,000 in 2021/22, ignoring any relief for the period before 1 July 2021.

No person/ratepayer can in any circumstance exceed the £105,000 cash cap across all of their hereditaments.

Where a person has a qualifying connection with another person then those persons will be considered as one person for the purposes of the cash caps. Persons shall be treated as having a qualifying connection with another:

- a. where both persons are companies, and
  - i. one is a subsidiary of the other, or
  - ii. both are subsidiaries of the same company; or
- b. where only one person is a company, the other person (the “second person”) has such an interest in that company as would, if the second person were a company, result in its being the holding company of the other.

In cases where it is clear that the ratepayer is likely to breach the cash caps then Elmbridge may automatically withhold the discount. Otherwise, Elmbridge may include the discount in bills and ask the ratepayer, on a self-assessment basis, to inform the authority if they are in breach of the cash caps.

## Fraud and change of circumstances

Any change in circumstances that would affect the discount, including exceeding the cash cap limit, must be informed to the council within 28 days. Where this is not complied with the council reserves the right to cancel all relief granted and refuse any further application for local relief(s).

The government and Elmbridge Borough Council will not tolerate any business falsifying their records or providing false evidence to gain this discount, including claiming support above the cash cap. A ratepayer who falsely applies for any relief, or provides false information or makes false representation in order to gain relief may be guilty of fraud under the Fraud Act 2006.

Any relief found to have been awarded in error will be removed.

## Splits, mergers, and changes to existing hereditaments

The discount will be applied on a day to day basis using the formula set out above. A new hereditament created as a result of a split or merger during the financial year, or where there is a change of use, may be considered afresh for the discount on that day.

# 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

Where the property appears to be occupied for an eligible use the council may apply the discount automatically and instruct the ratepayer to inform us should they not be entitled (for example, incorrectly identified usage or the award will exceed the cash cap) and to complete a cash cap declaration where relevant.

Where we have not determined the usage an application can be submitted by the ratepayer, or an agent authorised to act on their behalf.

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 will be made after the 30 September 2022.

## 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.