Elmbridge Borough Council
Pubs Relief Scheme

About the Scheme

This scheme is intended to support pubs following the 2017 revaluation and is to be known as the ‘Pubs Relief Scheme’.

This document sets out the criteria used to determine properties eligible for the ‘Pubs Relief Scheme’. The scheme does not require new legislation and does not replace any other relief. Elmbridge Borough Council’s scheme essentially mirrors the Guidance issued by Central Government, but additionally refers to ‘The Licensing Act 2003 (Consequential Amendment) (Non-Domestic Rating)(Public House in England) Order 2007’ for the definition of a pub in deciding eligible properties.

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

The Government recognised the important role that pubs play in urban and rural communities across the country. In the Spring Budget 2017, the Chancellor announced a £1,000 business rate discount for public houses with a rateable value of up to £100,000 for one year from 1 April 2017.

The Government expects local billing authorities to grant relief to all qualifying ratepayers.

No new legislation is required to deliver the scheme. Instead, Central Government will reimburse Elmbridge Borough Council if we use our discretionary relief powers, under section 47 of the Local Government Finance Act 1988 to grant relief. Central Government will reimburse Elmbridge using grants under section 31 of the Local Government Act 2003, provided our scheme is in accordance with central Government guidance.

This document explains how the scheme will operate and the eligibility criteria that applies in Elmbridge.
Eligibility criteria

This section describes in principle the Pubs Relief Scheme. Elmbridge Borough Council will use this section to determine eligibility for the relief. The scheme will be available to eligible occupied properties with a rateable value of less than £100,000. The majority of pubs are independently owned or managed and will not be part of chains. Where pubs are part of a chain, relief will be available for each eligible property in the chain, subject to meeting State Aid requirements.

There is no definitive description of a traditional pub or public house in law which could be readily used to determine eligibility. Elmbridge will follow the Government’s objective and adopt an approach that makes the design and eligibility of the scheme easy to implement in a clear and consistent way, is widely accepted by the industry and which is consistent with the Government’s policy intention.

The Government’s policy intention is that eligible pubs should:

- be open to the general public
- allow free entry other than when occasional entertainment is provided
- allow drinking without requiring food to be consumed
- permit drinks to be purchased at a bar.

In addition to determine eligibility Elmbridge will refer to the definition of a pub as set out in the ‘The Licensing Act 2003 (Consequential Amendment) (Non-Domestic Rating)(Public House in England) Order 2007’ which states:

Public house means a property that meets the following conditions:

- a premises licence authorising the sale by retail of alcohol for consumption on the premises has effect;
- the premises are used principally for such sales to members of the public for consumption on the premises; and;
- the sales are not made subject to the condition that buyers reside at or consume food on the premises;

For clarity, Elmbridge (and the Government’s) definition of a pub would exclude:

- restaurants
- cafes
- nightclubs
- hotels
- snack bars
- guesthouses
- boarding houses
- sporting venues
- music venues
- festival sites
- theatres
- museums
- exhibition halls
- cinemas
- concert halls
- casinos

This exclusions list is not intended to be exhaustive.

Where eligibility under the criteria is unclear Elmbridge may also consider broader factors in our considerations – i.e., in meeting the stated intent of the scheme in that does it demonstrates the characteristics that would lead it to be classified as a pub, for example being owned and operated by a brewery. Additionally, we may also consider other methods of classification, such as the planning system and the use classes order to help decide whether a property is a pub or not. However, permission for a particular use class will not necessarily mean that the property meets the definition of a pub.
How much relief will be available?

The total amount of relief available for 2017/18 under this scheme is up to £1,000 for each eligible occupied property. There is no relief available under this scheme for properties with a rateable value of £100,000 or more. Eligibility for the relief and the relief itself will be assessed and calculated on a daily basis.

In addition to the pub relief scheme, the Chancellor announced in the Spring Budget relief to assist ratepayers losing small business rates relief as a result of revaluation. The Government also announced a separate discretionary relief fund over the next four years to enable local authorities to help individual businesses that are facing increased rates bills. Both of these schemes in Elmbridge may also be available to pubs.

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.

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.

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 Pub relief scheme will be State Aid compliant where it is provided in accordance with the De Minimis Regulations (1407/2013).(7)

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).

Elmbridge will require applicants to consider and confirm any relief would not exceed the State Aid limit as part of the application process.
Other Discretionary Reliefs reimbursed by s.31 grants

If a property is eligible for relief under other schemes for which s.31 grant is payable – for example, “new empty property” relief, or the Supporting Small Business Scheme—Elmbridge will first award relief under those schemes and claim s.31 grant funding in the normal way. Only having awarded relief under those schemes, will Elmbridge then award additional relief in accordance with the Pubs Relief Scheme.

DCLG does not prescribe whether the separate local discretionary relief scheme is calculated before or after the Support for Pubs relief scheme. However, DCLG understands that authorities and software companies will follow the practice of taking the Discretionary Relief before the Pubs Relief.

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

As eligibility is defined on the definition of a pub an application will need to be completed by the ratepayer to confirm their entitlement. The ratepayer will also be required to confirm any discount awarded would not exceed State Aid limits.

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 two 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.