



Elmbridge

Borough Council

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Elmbridge Borough Council 2023 Supporting Small Businesses Relief Scheme

About the Scheme

The scheme is intended to support properties losing some or all of their Small Business Rate Relief as a result of the 2023 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 Business 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

At the 2022 Autumn Statement the Chancellor announced that the 2023 Supporting Small Business (SSB) scheme will cap bill increases at £600 per year for any business losing eligibility for some or all Small Business Rate Relief or Rural Rate Relief at the 2023 revaluation. SSB was first introduced at the 2017 revaluation to support ratepayers facing bill increases greater than the Transitional Relief caps due to loss of Small Business Rate Relief or Rural Rate Relief.

How will the relief be provided?

For 2023/24 to 2025/26, the government will, in line with the eligibility criteria for the Supporting Small Business relief scheme, reimburse Elmbridge Borough Council if we use our discretionary relief powers under section 47 of the Local Government Finance Act 1988 (as amended), to grant 2023 Supporting Small Business relief.

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

This section describes in principle the 2023 Supporting Small Business Scheme (“2023 SSBR”). Elmbridge will use the detailed guidance at section 2 to determine eligibility and calculate bills. The 2023 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 rate relief and, as a result, are facing large increases in their bills. Charities and Community Amateur Sports Clubs, who are already entitled to mandatory 80% relief, are not eligible for 2023 SSBR.

To support these ratepayers, the 2023 SSBR will ensure that the increase in the bills of these ratepayers is limited to a cash value of £600 per year. This cash maximum increase ensures that ratepayers do not face large bill increases in 2023/24 after transitional relief and small business rate relief (as applicable) have been applied. In order to simplify the scheme, the 2023 SSBR will not include minimum percentage bill increases (unlike the 2017 scheme).

Those on 2023 SSBR 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 2023 SSBR.

The 2017 SSBR scheme was provided to support small and medium ratepayers who had seen large increases in their bills at the 2017 revaluation. They have, therefore, had 6 years of support to allow them to adjust to their full 2017 bills. Therefore, for those ratepayers receiving 2017 SSBR relief in 2022/23 via eligibility to the ‘Elmbridge Borough Council Extension of Transitional Relief and Supporting Small Business Relief scheme from 1 April 2022 to 31 March 2023’, any eligibility for 2023 SSBR will be for one year only and will end on 31 March 2024.

All other eligible ratepayers will remain in 2023 SSBR for either 3 years or until they reach the bill they would have paid without the scheme ^[footnote 1]. A change of ratepayers will not affect eligibility for the Supporting Small Business 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 second property test for eligibility for the 2023 SSBR scheme. However, those ratepayers who during 2022/23 lost entitlement to Small Business Rate Relief (because they failed the second 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 2023 SSBR scheme for the remainder of their 12 month period of grace.

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

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

(1) This will be the bill in the main transitional relief scheme or the ratepayer's final bill

Sequence of reliefs

Hereditaments eligible for charity or Community Amateur Sports Club relief or hereditaments which are unoccupied are not eligible for 2023 SSBR. And, for the avoidance of doubt, small business rate relief or rural rate relief cannot be applied to further reduce the bill found under 2023 SSBR (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 2022/23) to £14,000 would be paying the following in 2023/24 before 2023 SSBR:

Bill before reliefs:	£6,986
Bill after transitional relief:	£1,572
Bill after Small Business Rate Relief (@1/3)	£1,048

- After 2023 SSBR the bill for 2023/24 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 should not further reduce the bill found under 2023 SSBR.

All other discretionary reliefs, including those funded by section 31 grants, will be considered after the application of 2023 SSBR

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.

If a change in circumstances renders a property ineligible, the relevant bill(s) will be amended from the change of circumstances date to reflect the loss of the relief.

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 to a hereditament 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 can 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.

Subsidy control

The 2023 SSBR is likely to amount to subsidy. Any relief provided under this scheme will need to comply with the UK's domestic and international subsidy control obligations (See: <https://www.gov.uk/government/collections/subsidy-control-regime>)

To the extent that a local authority is seeking to provide relief that falls below the Minimal Financial Assistance (MFA) thresholds, the Subsidy Control Act allows an economic actor (e.g. a holding company and its subsidiaries) to receive up to £315,000 in a three-year period (consisting of the 2023/24 year and the two previous financial years). MFA subsidies cumulate with each other and with other subsidies that fall within the category of 'Minimal or SPEI financial assistance'. Business support grants made by the council during the pandemic (which fall within the three-year period) and any other subsidies claimed under the Small Amounts of Financial Assistance limit of the Trade and Cooperation Agreement should be counted under the £315,000 allowance.

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

MFA subsidies above £100,000 are subject to transparency requirements. This is not cumulated per beneficiary but applies per subsidy award. This means that for every individual subsidy provided of more than £100,000, the council will record details of the subsidy on the Government subsidy control database.

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 2023 Supporting Small Business Relief (2023 SSB)

Day 1 Eligibility for the Scheme

1. For 1 April 2023, 2023 SSBR applies to hereditaments for which ^[Footnote 2]:
 - a. the chargeable amount for 31 March 2023 is calculated in accordance with:
 - i. section 43(4A) and in relation to 43(4A) the value of E for 31 March 2023 is greater than 1, or
 - ii. section (6A), or
 - iii. section 47 by virtue of being eligible for schemes introduced by local authorities in 2022/23 to deliver the Extension of Transitional Relief and Supporting Small Business Relief for small and medium properties as set out in guidance issued by this Department on 20 December 2021, and
 - b. the chargeable amount for 1 April 2023 would otherwise be found in accordance with section 43(4), 43(4A), 43(6A) or regulations 12(3), 12(7) or 12(9) of the Non-Domestic Rating (Chargeable Amounts) (England) Regulations 2022, and
 - c. the chargeable amount for 1 April 2023 would be more than (£600/365 days) higher than the chargeable amount for 31 March 2023.
2. Where for 31 March 2023 the chargeable amount has been found under section 47 other than under a scheme introduced to deliver the Extension of Transitional Relief and Supporting Small Business Relief for small and medium properties, then eligibility for 2023 SSBR should be determined as if section 47 did not apply
3. Where the hereditament is shown in a local list for the area of a special authority (i.e. the City of London), then eligibility for 2023 SSBR should be determined as if the special authority's small business non-domestic rating multiplier was 49.9p for 2022/23 and 49.9p for 2023/24.

(2) Unless otherwise stated, references are to the Local Government Finance Act 1988

Continued eligibility for the scheme after 1 April 2023

4. After 1 April 2023, 2023 SSBR will cease to apply where:
 - a. the chargeable amount for a day found under 2023 SSBR is the same as or more than the chargeable amount found in the absence of 2023 SSBR. This ensures that where, for example, the increase in the chargeable amount in 2023 SSBR would take the bill above the level it would otherwise have been then the hereditament will drop out of 2023 SSBR. It also ensures that where, for example, with effect from after 1 April 2023, the hereditament becomes eligible for 100% Small Business Rate Relief then they also fall out of 2023 SSBR,
 - b. the chargeable amount for a day would otherwise fall to be found by section 43(5) of the 1988 Act or where paragraph 12(5) or sub-paragraphs 2(4), 3(4), 4(4), 5(4) of the Schedule of the Non-Domestic Rating (Chargeable Amounts) (England) Regulations 2022 applies (charities or registered community amateur sports clubs),

- c. the hereditament for a day is unoccupied. Or
 - d. in respect of days from the 1 April 2024 onwards the hereditament had its chargeable amount for 31 March 2023 found by section 47 by virtue of being eligible for schemes introduced by local authorities in 2022/23 to deliver the Extension of Transitional Relief and Supporting Small Business Relief for small and medium properties as set out in guidance issued by this Department on 20 December 2021.
5. Furthermore, where the ratepayer 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 (and therefore was still entitled to small business rate relief on 31 March 2023), then eligibility for 2023 SSBR will cease at the end of that 12 months period of grace.
6. Hereditaments which cease to be entitled to 2023 SSBR 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 2023 SSBR if it subsequently becomes occupied again.

Eligibility post 1 April 2023 by virtue of a regulation 18 certificate

7. As with the transitional relief scheme, where the valuation officer issues a certificate of rateable value under regulation 18 of the Non-Domestic Rating (Chargeable Amounts) (England) Regulations 2022 certifying the correct rateable value at 1 April 2023 (in circumstances where they cannot by rule now amend the list for 1 April 2023) then eligibility for 2023 SSBR and the calculation of 2023 SSBR should be revisited using the regulation 18 certified value in place of the value shown in the list for 1 April 2023. As with the transitional relief scheme, this should have effect as regards the days referred to in regulation 18(4) (the effective date of when the list was altered to correct the inaccuracy and subsequent days) or regulation 18(5) (where no alteration has been made).
8. This ensures that those ratepayers whose compiled list 2023 rateable values are increased by the Valuation Office Agency but only from the date the list is altered may still be eligible for SSBR from that point onwards. This ensures those ratepayers are not penalised just because the increase in their rateable value was not backdated to 1 April 2023. This follows the same principle which currently exists in the transitional relief scheme.

Chargeable Amount under the SSB Scheme

9. Where 2023 SSBR applies then DLUHC will fund local authorities to apply a chargeable amount under section 47 of the 1988 Act for the period 1 April 2023 to 31 March 2026 found in accordance with the rules in Part 1 to Part 3 of the Non-Domestic Rating (Chargeable Amounts) (England) Regulations 2022 subject to the following changes:
- a. BL for 2023/24 is the chargeable amount for 31 March 2023 x 365 on the assumption that:
 - i. section 47 did not apply for 31 March 2023 other than where the hereditament was eligible for the Extension of Transitional Relief and Supporting Small Business Relief for small and medium properties, and
 - ii. in the City of London the special authority's small business non-domestic rating multiplier was 49.9p for 2022/23.

This ensures the starting base liability for hereditaments eligible for 2023 SSBR include the SBRR, rural rate relief or Extension of TR/SSB for 31 March 2023. The assumptions ensure that other reliefs or the additional supplement on the multiplier charged in the City are not also rolled into the base liability.

- b. Where a certificate has been issued under regulations 19 or 20 then BL for 2023/24 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 + 600)”. This ensures the bill increase is no more than £600,
 - d. regulation 12(6)(b) is omitted. This ensures SBRR is not also applied to the capped bill in 2023 SSBR. This avoids double counting of relief as illustrated in Section 1 above,
 - e. the reference to “2” in regulation 12(8) is “1”. This ensures rural rate relief is not also applied to the capped bill in SSBR. This avoids double counting of relief,
 - f. “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 SSBR,
 - g. for a year (the year concerned) other than 2023/24, BL is (BL + 600) from the year immediately preceding the year concerned.
10. No change is made to the meaning of NCA. However, as discussed above, eligibility for 2023 SSBR ceases when the chargeable amount for a day found under 2023 SSBR is the same as or more than the chargeable amount found outside the scheme.
11. Regulation 6 (special authorities) will apply as normal under 2023 SSBR. This ensures ratepayers in the City of London continue to pay any additional amount attributable to the City multiplier.
12. For the avoidance of doubt, the rules for changes in rateable value with effect from after 1 April 2023 (regulation 13) will continue to apply as normal subject to the amendments in paragraph 7 above. This ensures that, for example, later increases in rateable value are paid in full in the normal way ^[footnote 3]

(3) Based on the small business non-domestic multiplier. This is because U is taken to have a value of 0 throughout

Splits and mergers

13. 2023 SSBR will apply to hereditaments:
- a. coming into existence because of the circumstances described in paragraph 1 of the Schedule of Non-Domestic Rating (Chargeable Amounts) (England) Regulations 2022,
 - 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 2023 SSBR, and
 - c. the circumstances described at paragraph 2 above do not apply for the creation day in respect of the hereditament.
14. After the creation day, 2023 SSBR will cease to apply in the circumstances described in paragraph 2 above.

15. The number of hereditaments eligible for 2023 SSBR which then split or merge is likely to be small and devising rules in particular for mergers with properties outside of 2023 SSBR would be complex. Therefore, as with the 2017 SSB scheme, the government 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.
16. Instead, for hereditaments meeting the criteria in paragraph 13 and 14 above, DLUHC 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 SSBR (that the bill will not rise by more than £600 p.a.) will continue to apply in principle to that part of the newly created hereditament which was immediately before the creation day in SSBR, and
 - b. that increases (or reductions) in overall rateable value arising from the split or merger are not subject to the protection of SSBR
17. 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 the Schedule of Non-Domestic Rating (Chargeable Amounts) (England) Regulations 2022).
18. 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. DLUHC does not expect authorities to seek any formal apportionments of the rateable value for this purpose.