

Public house relief scheme

About the scheme

This scheme is intended to support pubs following the 2017 revaluation and is to be known as the 'Public House Relief Scheme'.

This document sets out the criteria used to determine properties eligible for the 'Public House Relief Scheme'. The scheme does not require new legislation and does not replace any other relief. Epsom & Ewell 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 recognises the important role that pubs play in urban and rural communities across the country. At 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.

No new legislation is required to deliver the scheme. Instead, Central Government will reimburse Epsom & Ewell 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 Epsom & Ewell Borough Council 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 Epsom & Ewell.

Eligibility criteria - which properties should benefit

This section describes in principle the Pubs Relief Scheme, That Epsom & Ewell Borough Council have used 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. Epsom & Ewell Borough Council 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 Epsom & Ewell Borough Council 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, Epsom & Ewell Borough Council (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
- cinemas
- concert halls
- casinos

This exclusions list is not intended to be exhaustive.

Where eligibility under the criteria is unclear Epsom & Ewell Borough Council 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 Epsom & Ewell 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.

State aid

European Union competition rules generally prohibit Government subsidies to businesses. Non-domestic rate relief can constitute state aid. Generally speaking, this can apply to all discretionary reliefs for commercial bodies. There is, however a “de minimis” threshold for this of €200,000 for any business over a rolling three year period under EC1407/2013. This is a cumulative figure for all Government grants including business rates relief.

If we award relief that you feel would lead to you exceeding the threshold you should contact us for the relief to be cancelled

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, the Supporting Small Business Scheme– Epsom & Ewell Borough Council 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 Epsom & Ewell Borough Council 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.

Application process

The scheme entitlement is established based on information already held within Epsom & Ewell 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. Decisions can be challenged under by way of judicial review in the normal way, but are unlikely to be set aside unless the decision was 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.

The appeal process for this relief will follow our current appeal procedure for discretionary rate relief:-

- 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 Revenues Manager will be considered by Head of Revenues and Benefits and the Council's s151 Officer.