

Business Rates Relief Policy for the East Midlands Freeport

Adopted by North West Leicestershire District Council, Rushcliffe Borough Council and South Derbyshire District Council

South Derbyshire District Council adoption date [] []2024

1. Purpose of the Policy

- 1.1. The purpose of this policy is to determine the level of discretionary relief which may be granted to certain defined ratepayers within the tax site located within the East Midlands Freeport area. The policy takes account of the criteria for granting the relief from the establishment of the Freeport area until 30 September 2031¹ for a five year period (**Last Relief Commencement Date**) and takes account of the '[Freeports business rates relief: local authority guidance](#)' published on 26 April 2024. A map of the Freeport area is available at the following link: [Map of East Midlands Freeport customs site - GOV.UK \(www.gov.uk\)](#)
- 1.2. Central Government is not changing the legislation relating to the reliefs available to businesses and has produced guidance for local billing authorities to use their discretionary powers under section 47 of the Local Government Finance Act 1988 (as amended) to grant business rate relief in relation to Freeport tax sites to those ratepayers who are eligible. This policy follows the principles in the government guidance.
- 1.3. Where relief is granted correctly, the government will fully reimburse billing authorities and major precepting authorities for the actual cost to them under the rates retention scheme for the local share of the discretionary relief, using a grant under section 31 of the Local Government Act 2003.
- 1.4. This policy outlines the eligibility criteria, operation and delivery of this discretionary business rates relief within the East Midlands Freeport area. It aligns with the Freeports Subsidy Control Scheme, that government guidance states was made on 19 November 2021². This policy has been jointly developed and adopted by all three billing authorities that cover the area of the Freeport - North West Leicestershire District Council, Rushcliffe Borough Council and South Derbyshire District Council (collectively known as the "EM Freeport Billing Authorities").
- 1.5. This policy only applies to sites within this area, provided that the Applicant also meets the other requirements in this policy.

¹ Relief will be available to all new businesses, and certain existing businesses where they expand, until 30 September 2031. Relief will apply for five years from the point at which each beneficiary first receives relief. This means that if a business first received relief on 30 September 2026, the relief may be applied up to 29 September 2031. Where a business first receives relief on 30 September 2031, the relief may be applied up to 29 September 2036.

² prior to the Subsidy Control Act 2022 coming into full force and effect from 4 January 2023. This is therefore regarded to be a legacy scheme and the subsidy control requirements set out in the Act do not apply except for the requirements as to transparency in Chapter 3 of Part 2 of the Subsidy Control Act 2022. This policy shall not be inconsistent with the terms of the legacy scheme.

2. Discretionary Relief – Legislative Background

- 2.1. The original purpose of discretionary relief was to provide assistance where the property did not qualify for mandatory relief or to top up cases where ratepayers already receive mandatory relief.
- 2.2. Over recent years and particularly since 2011, the discretionary relief provisions as defined by section 47 of the Local Government Finance Act 1988 (as amended) have been used by government to provide assistance to certain specified categories of business ratepayers without the need to change the legislation. However, whilst government provides general guidance, it is for the Billing Authority to ensure that all relief is granted strictly in line with the primary legislation and the Non-Domestic Rating (Discretionary Relief) Regulations 1989.
- 2.3. Unlike mandatory relief, ratepayers are obliged to make a written application to the Billing Authority. The Billing Authority will carefully consider every application on its merits, taking into account Government guidance and legislation.
- 2.4. The decision to grant or not to grant relief is a matter purely for the Billing Authority, however an unsuccessful applicant has the right to request a review. Please see Section 14 regarding the review process.

3. Provision of Relief

- 3.1. The purpose of providing this relief is to incentivise investment into the EM Freeport. An Applicant will therefore only be eligible for relief where they can demonstrate that they will be committing to investment on the relevant property of at least an equivalent amount to the relief to be provided under this scheme. A pre requisite to be eligible for the relief will be that the applicant has been accepted into the EM Freeport through the TSIGR process.
- 3.2. Applicants will be asked to disclose as part of the application process any other subsidies that they are in receipt of (or likely to be in receipt of in the near future) that will contribute towards investment in the relevant property and to keep the relevant EM Freeport Billing Authority informed of any potential subsidies in relation to investment in the relevant property during the period of the relief. Any such subsidies will be taken into account when the relevant EM Freeport Billing Authority is determining the application for discretionary relief and whether there are circumstances that could result in withdrawal of reduction or relief.
- 3.3. Discretionary relief under this policy will apply for a maximum of 5 years from the date on which each beneficiary receives the relief for the first time on or after the date on which the Tax Site is designated (and on or before the Last Relief Commencement Date). This means that if a business first received relief on 1 July 2024. The relief may be applied up to 1 July 2029. Where a business first receives relief on 30 September 2031, the relief may be applied up to 29 September 2036. This will be subject to any changes in circumstances as set out in Section 13 below.

4. Eligibility Principles – Awarding relief to new businesses locating to tax sites within the Freeport

- 4.1. Freeport business rates relief is available to new businesses moving into designated Freeport sites in the East Midlands Freeport area after the date on which the Tax Site has been formally designated and on or before the Last Relief Commencement Date, and occupying existing or new hereditaments on the rating list.
- 4.2. Existing businesses within a Tax Site that seek to relocate within the East Midlands Freeport area are unlikely to be eligible for the relief, subject to consideration of the following:
- The business must occupy the hereditament – both existing and any new hereditaments must be shown on the local rating list.
 - New businesses which expand after moving into the Freeport area (whether into new or existing buildings) will, in addition to any existing relief, be eligible for relief on any additional hereditaments they occupy in the Tax Site.
- 4.3. In considering what is a new business, the Billing Authority will lift the corporate veil and consider groups of companies to be single businesses.
- 4.4. The Billing Authority will retain discretion to apply additional tests for discretionary relief in order to avoid or not incentivise displacement of business activity from within the freeport or the surrounding area. This may include reducing the award of relief in cases where a ratepayer's occupation of a space arises in whole or in part from them vacating another space in the Freeport or surrounding area.

5. Eligibility Principles – Awarding relief to existing businesses within the Freeport tax sites

- 5.1. Subject to 5.3 to 5.7 below, full relief is available on a hereditament where a person has occupied the property comprising that hereditament for the first time on or after the date on which the Tax Site is designated (22 September 2022) and on or before the Last Relief Commencement Date. This, for example, would include existing businesses expanding into a further property.
- 5.2. Subject to 5.3 to 5.7 below, partial relief is available on a hereditament where a person has occupied a room or similar within a hereditament for the first time on or after the date the Tax Site is designated (22 September 2022) and on or before the Last Relief Commencement Date. For example, where an existing business builds an extension or takes on new rooms or floors in their building leading to an expansion of the hereditament.
- 5.3. Ratepayers cannot generally claim Freeport Relief merely by expanding their use of an existing room or similar within a hereditament. However, partial relief is available to a person in respect of part of a hereditament on which they were already the occupier or owner prior to the date on which the Tax Site is designated, provided that the space is within an existing room of a building and has become useable for the first time following development commenced on or after the date on which the Tax Site is designated (and on or before the Last Relief Commencement Date), e.g.

installation of a mezzanine or access/fire control improvements to bring an existing space into use.

- 5.4. General refurbishment improvements to space already or previously in use by the person prior to the date on which the Tax Site is designated are not eligible for discretionary relief.
- 5.5. Service improvements (e.g. heating and air conditioning) to space already or previously in use by the person prior to the date on which the Tax Site is designated are not eligible for discretionary relief.
- 5.6. The relevant EM Freeport Billing Authority will need to determine the value of any part of the hereditament where partial relief is to be granted. Where the relevant EM Freeport Billing Authority is unable to reasonably ascertain the increase in rates liability attributable to these factors, no relief shall be awarded.
- 5.7. The relevant EM Freeport Billing Authority will retain the discretion to apply additional tests for discretionary relief in order to avoid or not incentivise displacement of business activity from within the freeport or the surrounding area. This may include reducing the award of relief in cases where a ratepayer's occupation of a space arises in whole or in part from them vacating another space in the Freeport or surrounding area.

6. Principles for establishing the value of the Freeports Business Rates Relief

- 6.1. Subject to 6.3 below, the value of full relief for hereditaments falling within 5.1 above is 100% of the bill.
- 6.2. Subject to 6.3 below, the value of partial relief should be 100% of that part of the rates bill attributable to the part of the hereditament falling within 5.2 above where that increase is reasonably ascertainable. In establishing the part of the rates bill attributable to the part of the hereditament falling within 5.2 above, the Billing Authority may have regard to:
 - the survey and rating valuation of the hereditament provided by the ratepayer if available (e.g., for hereditaments valued by area on the rental comparison basis).
 - a change to the rateable value where it is clear that the change is solely due to the addition to the valuation of the parts of the hereditament falling within 5.2 above.
 - any other information the Billing Authority deems appropriate to determine the extent of the parts of the hereditament falling within 5.2 above.
- 6.3. The Billing Authority may withhold or reduce the discretionary relief in cases of displacement (see 5.7 above)

7. Sequence of Reliefs

- 7.1. The relief will be applied after mandatory reliefs and other discretionary reliefs have been applied, excluding those where the relevant EM Freeport Billing Authority has

used its wider discretionary relief powers introduced by the Localism Act 2011. The relevant EM Freeport Billing Authority may use its discretionary powers to offer further discounts outside this scheme but where the Billing Authority applies a locally funded relief, this will be applied after the Freeport relief scheme.

8. Financing Reliefs

- 8.1. The government has indicated that it will fully reimburse billing authorities and major precepting authorities for the actual cost to them under the rates retention scheme for the local share of the discretionary relief, using a grant under section 31 of the Local Government Act 2003. However, this is not automatic, and the Billing Authority will ensure that relief is only granted strictly in line with government guidance.

9. Subsidy Control

- 9.1. The EM Freeport Billing Authorities will use the Freeports Subsidy Control Scheme, which was made on 19 November 2021.
- 9.2. Businesses located within the Tax Site will be required to provide information to evidence that they meet the eligibility criteria and the terms and conditions of the Scheme.

10. Administration of Discretionary Relief - Applications and Evidence

- 10.1. Relief must be applied for in writing by the ratepayer to the relevant EM Freeport Billing Authority. The EM Freeport Billing Authorities will ensure that the application forms for discretionary rate relief are made available to ratepayers upon request as well as through their respective websites. Reliefs will be administered by each EM Freeport Billing Authority's revenue and benefits function.
- 10.2. Ratepayers are required to provide a completed application form plus any evidence, documents, accounts, financial statements, etc. necessary to allow the relevant EM Freeport Billing Authority to make a determination. Application forms and guidance notes will set out the evidence requirements that need to be met for a decision to be made. Failure to provide the necessary evidence will delay the decision-making process and/or could result in no relief being granted.
- 10.3. Business rate payments remain legally due and payable in accordance with the most recent bill until such time as any relief is awarded. Written applications will be required for each individual property.
- 10.4. The Billing Authority will provide this service and any guidance free of charge. Ratepayers are encouraged to approach the EM Freeport Billing Authorities direct and not pay for such services through third parties.

11. Administration of Discretionary Relief – Granting of Relief

- 11.1. The Billing Authority will notify the ratepayer in writing of any decisions made.
- 11.2. Where an application is successful, the ratepayer will be notified of the following:

- The amount of the relief granted and the date from which it has been granted;
- If relief has been granted for a specified period, the date on which it will end;
- The new chargeable amount;
- The details of any planned review dates and the notice that will be given in advance of a change to the level of relief granted; and
- A requirement that the ratepayer should notify the Billing Authority of any change in circumstances that may affect entitlement to relief.

11.3. The rate relief will be awarded by means of a reduction in liability shown on the business rates bill issued to the ratepayer. Where this puts the account in credit for the year, a refund will be made by the relevant EM Freeport Billing Authority. A new Rate Demand Notice will be issued as confirmation.

11.4. Where relief is not granted then the ratepayer will be notified of the following:

- An explanation of the decision within the context of the relevant EM Freeport Billing Authority's statutory duty; and
- An explanation of the appeal rights (see section 16 below).

11.5. The Billing Authorities are required under legislation to only grant relief under backdated applications for the previous financial year, where the application for relief is made within 6 months of the start of the current financial year.

12. Administration of Discretionary Relief – Variation of a decision

12.1. Where it is necessary to vary any decision on rate relief, the relevant EM Freeport Billing Authority will notify the ratepayer as soon as practicable and will confirm the following amount of increase or reduction in rate relief, including when such changes will take effect.

12.2. An EM Freeport Billing Authority has discretion to revoke rate relief where it considers it appropriate to do so and in such circumstances, the relevant EM Freeport Billing Authority will notify the ratepayer of the reasons for such revocation and the date by which it will take effect.

13. Reporting changes in circumstances

13.1. Where a ratepayer has been awarded relief, they will be required to report any changes in circumstances which may affect the relief as soon as practicable and, in any event, no more than 21 days from the event occurrence. Such changes may include (but are not limited to) circumstances where the premises become unoccupied or are used for a purpose other than that determined by the relevant EM Freeport Billing Authority as eligible for relief.

- 13.2. Where a change of circumstances is reported, the EM Freeport Billing Authority will have discretion to vary or revoke the relief in accordance with section 13 above.
- 13.3. Without prejudice to the above, the EM Freeport Billing Authorities will require ratepayers that are in receipt of relief to reaffirm their eligibility on an annual basis.

14. Right of Review

- 14.1. A ratepayer may request a review of any relief decision. Any such review will be carried out by the respective EM Freeport Billing Authority's Director who has not been involved in the original decision.
- 14.2. Details of how to request such a review will be provided in the refusal letter. Any request for review will need to set out evidence as to why the applicant considers that the matter warrants a review, including but not limited to any further evidence in support of how the Applicant meets the eligibility and terms and conditions of the scheme.

15. Fraud

- 15.1. Where a ratepayer falsely applies for any relief, or where the ratepayer provides false information, makes false representation, or deliberately withholds information in order to gain relief, prosecutions will be considered under the Fraud Act 2006.

16. Enquiries

- 16.1. In the event that a ratepayer has any queries on this scheme or the application process, they can contact:

For North West Leicestershire District Council – []

For Rushcliffe Borough Council – []

For South Derbyshire District Council – []