

Thurrock Council Policy for the granting of Discretionary Non-Domestic Rate Relief

Freeports

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1.0 Purpose of the Policy

- 1.1 The purpose of this policy is to determine the level of discretionary relief to be granted to certain defined ratepayers within the tax sites located within the Council's part of the Thames Freeport area. The policy includes the criteria for granting the relief from the establishment of the Freeport area until 30th September 2026. A map of the Freeport area is available at the following link; [Maps of UK Freeports - GOV.UK \(www.gov.uk\)](https://www.gov.uk/maps/freeports)
- 1.2 Central Government is not changing the legislation relating to the reliefs available to businesses and has produced guidance for all local authorities that use their discretionary relief powers under section 47 of the Local Government Finance Act 1988 (as amended), to grant relief to those ratepayers who are eligible. This policy follows the principles within government guidance.
- 1.3 Where relief is granted correctly, the Council will be reimbursed for any grants made under section 31 of the Local Government Act 2003.
- 1.4 This document outlines the following areas:
- Details of the criteria for receiving Discretionary Reliefs for under the Freeport scheme;
 - The Council's policy for granting the relief;
 - Guidance on granting and administering the relief;
 - Subsidy requirements including provisions for Subsidy Controls; and
 - The Council's Scheme of Delegation.
- 1.6 This document covers all aspects of the relief (subject to changes in legislation). Where organisations apply for the relief, they will be granted (or not granted) relief in line with the following policy. It should be noted that all applications for relief shall be considered taking into account the objectives of the Freeport as set out in the Thames Freeport Investment Policy.

2.0 Discretionary Relief – Legislative Background

- 2.1 The original purpose of discretionary relief was to provide assistance where the property does 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, 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 Council 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 Council. The Council is obliged to carefully consider every application on its merits, taking into account the guidance provided by government.
- 2.4 There is no statutory appeal process against any decision made by the Council although as with any decision of a public authority, decisions can be reviewed by Judicial Review.
- 2.5 The decision to grant or not to grant relief is a matter purely for the Council.

3.0 Discretionary Relief – Freeport

- 3.1 Up to 100% discretionary business rate relief will be available to eligible businesses locating on tax sites within the Freeport area. Awards will be considered for new businesses moving into tax sites and certain existing businesses where they expand, on or before 30th September 2026.
- 3.2 Discretionary Relief under this policy will apply for a maximum of 5 years from the date 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

New Businesses locating to tax sites within the Freeport – awarding relief

- 3.3 Existing businesses within the Freeport area that seek to relocate onto a tax site in the Freeport area are unlikely to be eligible for the relief subject to consideration of paras 3.7 and 3.14 below.
- 3.4 The business must occupy the hereditament and both existing and any new hereditaments must be shown on the local rating list or included as part of the Port cumulo where applicable.
- 3.5 New businesses which expand after moving into tax sites within the Freeport (whether into new or existing buildings) will, in addition to any existing relief, be eligible for relief on any additional hereditaments they occupy within the tax site.
- 3.6 In considering what is a new business, the Council will lift the corporate veil and consider groups of companies to be single businesses.
- 3.7 The Council has discretion to apply additional tests as required on a case-by-case basis. The Council will look to avoid granting relief where businesses deliberately

displace from the within the Thames Freeport (inc. Port cumulo) area in order to take advantage of the relief.

Existing businesses within the tax site of the Freeport area – awarding relief

- 3.8 Subject to 3.10 and 3.11 below, 100% relief is available on a hereditament where a business has occupied the property comprising that hereditament for the first time on or after the date on which the Council's tax site within the Freeport is designated (and on or before 30 September 2026). This, for example, would include existing businesses expanding into a further property.
- 3.9 Subject to 3.10 and 3.11 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 Council's tax site within the Freeport is designated (and on or before 30 September 2026). 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.
- 3.10. Ratepayers **cannot** generally claim 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 Council's tax site within the Freeport 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 30 September 2026). A typical example would be the installation of a mezzanine or access/fire control improvements to bring an existing space into use.
- 3.11. Improvements to space already or previously in use by the ratepayer prior to the date on which the tax site is designated, are not eligible for discretionary relief.
- 3.12. The Council will need to determine the value of any part of the hereditament where partial relief is to be granted.
- 3.13 Where the Council is unable to reasonably ascertain the increase in rates liability attributable to these factors, no relief shall be awarded.
- 3.14 As previously mentioned, the Council has discretion to apply additional tests for discretionary relief in order to avoid or not incentivise displacement of business activity from within the Thames Freeport (inc. Port cumulo). 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.

Establishing the value of the discretionary relief

- 3.15 Where full relief is granted, it shall be 100% of the rates liability less any mandatory reliefs. Where partial relief is granted, the Council will award an amount which represents 100% of the rates liability (less any mandatory reliefs) attributable to the part of the hereditament where that increase is reasonably ascertainable.
- 3.16 In establishing the part of the rates liability attributable to any increase the Council's decision shall be final.
- 3.17 The Council shall determine the best method to determine that value.

Order of reliefs

- 3.18 This relief will be applied after mandatory reliefs and other discretionary reliefs have been applied.

4.0 Effect on the Council's Finances

- 4.1 The granting of discretionary relief will, normally, involve a cost to the Council. However, where Government leads an initiative such as this, grants are often available through section 31 of the Local Government Act 2003. This is not automatic and Central Government will look to the Council to adopt the recommended approach when granting in these areas.
- 4.2 Central Government has indicated that any relief granted for businesses in the Freeport area may be funded in full. The Council, whilst being keen to support as many businesses as possible, will ensure that relief is **only** granted strictly in line with guidance in order to maximise grants from government

5.0 Discretionary Relief – Subsidy Control

- 5.1 This discretionary relief is subject to the United Kingdom's domestic and international subsidy control obligations. Businesses located in designated Freeport sites will need to fulfil any requirements in place to ensure compliance with those obligations in advance of, during, and after claiming relief from the Council.
- 5.2 The United Kingdom remains bound by its international commitments, including subsidy obligations set out in the Trade and Cooperation Agreement (TCA) with the EU.
- 5.3 The Council can award relief; however, businesses should make themselves aware of their obligations under Government's subsidies arrangements available on via the following link:

<https://www.gov.uk/government/publications/complying-with-the-uks-international-obligations-on-subsidy-control-guidance-for-public-authorities>

- 5.4 This policy will be amended to take into account the UK Subsidy Control Bill when it receives Royal Assent in 2022.

6.0 Administration of Discretionary Relief

- 6.1 The following section outlines the procedures followed by officers in granting, amending, or cancelling discretionary relief. This is essentially laid down by legislation¹

Applications and Evidence

- 6.2 Relief must be applied for in writing by the ratepayer. Application forms are produced within the Council and issued to all ratepayers requesting the relief. The relevant application form for the relief is available on the Council's website www.thurrock.gov.uk
- 6.3 Organisations are required to provide a completed application form plus any such evidence, documents, accounts, financial statements etc. necessary to allow the Council to make a determination. Where insufficient information is provided, then no relief will be granted.
- 6.4 Applications should initially be made to the Business Rates Section and will be determined in accordance with this policy.
- 6.5 **The Council will provide this service and any guidance free of charge. Ratepayers are encouraged to approach the Council direct and NOT pay for such services through third parties.**

Granting of relief

- 6.6 In all cases, the Council will notify the ratepayer of decisions made.
- 6.7 Where an application is successful, then the following will be notified to them in writing:
- The amount of 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

¹ The Non-Domestic Rating (Discretionary Relief) Regulations 1989

- A requirement that the applicant should notify the Council of any change in circumstances that may affect entitlement to relief.

6.8 Where relief is not granted then the following information will be provided, again in writing:

- An explanation of the decision within the context of the Council's statutory duty; and
- An explanation of the appeal rights (see section 7 below).

6.9 Discretionary relief is to be granted from the date of the qualifying event.

Variation of a decision

6.10 Variations in any decision will be notified to ratepayers as soon as practicable and will take effect as follows:

- Where the amount is to be increased by the Council, from the date to be decided by the Council;
- Where the amount is to be reduced due to a reduction in the rate charge from the date of the decrease in rate charge; and
- Where the amount is to be reduced for any other reason takes effect at the expiry of a financial year, and so that at least one year's notice is given.

6.11 A decision may be revoked at any time and the change will take effect at the expiry of a financial year.

7.0 Scheme of Delegation

Granting, Varying, Reviewing and Revocation of Relief

7.1 All powers in relation to reliefs are given under the Local Government Finance Act 1988, the Local Government and Rating Act 1997, the Local Government Act 2003 and the Localism Act 2011. However section 223 of the Local Government Act 1992 allows for delegation of decisions by the Council to Cabinet, Committees, Sub-Committees or Officers.

7.2 The Council's scheme of delegation allows for the Revenues Manager to award, revise or revoke any discretionary relief applications. However, any application which is considered to be of a significant nature, will be subject to consultation with the S151 Officer of the Council prior to final determination.

7.3 Applications that are refused will, on request, be reconsidered if additional supporting information is provided or the refusal is subsequently considered to be based on a misinterpretation of the application.

Reviews

- 7.4 The policy for granting relief will be reviewed annually or where there is a substantial change to the legislation or funding rules. The Council's S151 Officer has been delegated powers which enable changes to this scheme to either meet the Council's requirements of changes in legislation.

Appeals

- 7.5 Where the Council receives an appeal from the ratepayer regarding the granting, non-granting or the amount of any discretionary relief, the case will be reviewed by the Revenues Manager. Where a decision is revised then the ratepayer shall be informed, likewise if the original decision is upheld.

8.0 Reporting changes in circumstances

- 8.1 Where any award is granted to a ratepayer, the Council will require any changes in circumstances which may affect the relief to be reported as soon as possible and, in any event, not more than 21 days from the happening of the event.
- 8.2 This will be important where the change would result in the amount of the award being reduced or cancelled e.g., where the premises comes unoccupied or is used for a purpose other than that determined by the Council as eligible for relief.
- 8.3 Where a change of circumstances is reported, the relief will, if appropriate be revised or cancelled. Where any award is to be reduced, the Council will look to recover the amount from the date the change of circumstances occurred.

9.0 Fraud

- 9.1 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.