



Freeport East

Policy for granting Discretionary Non-Domestic Rates Relief

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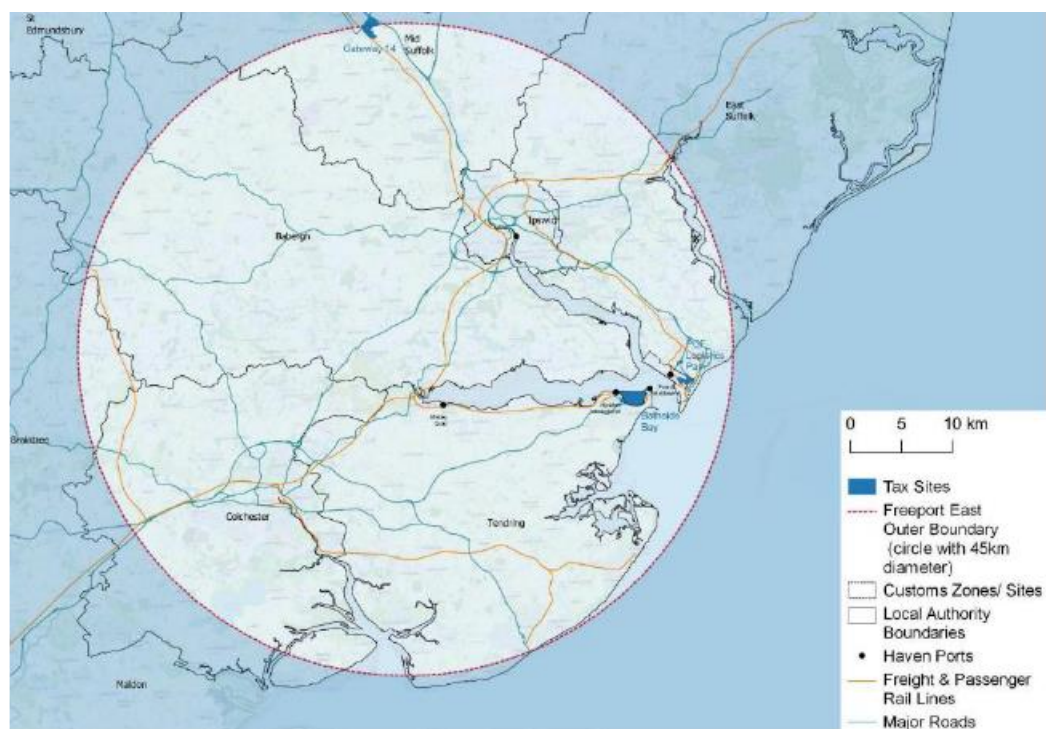
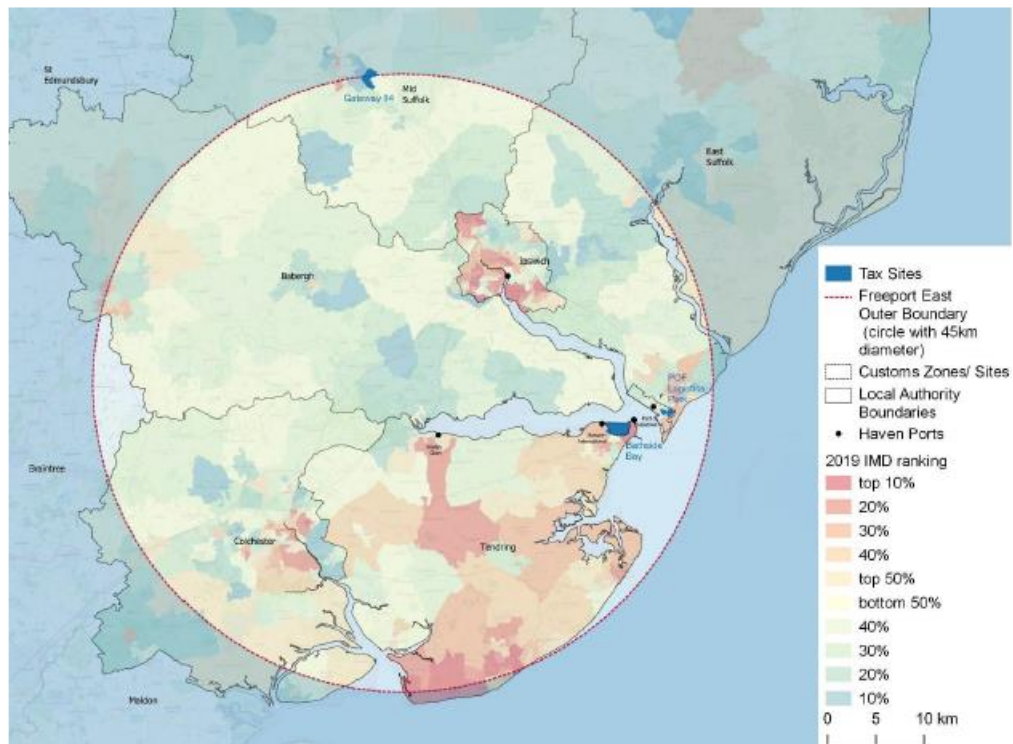
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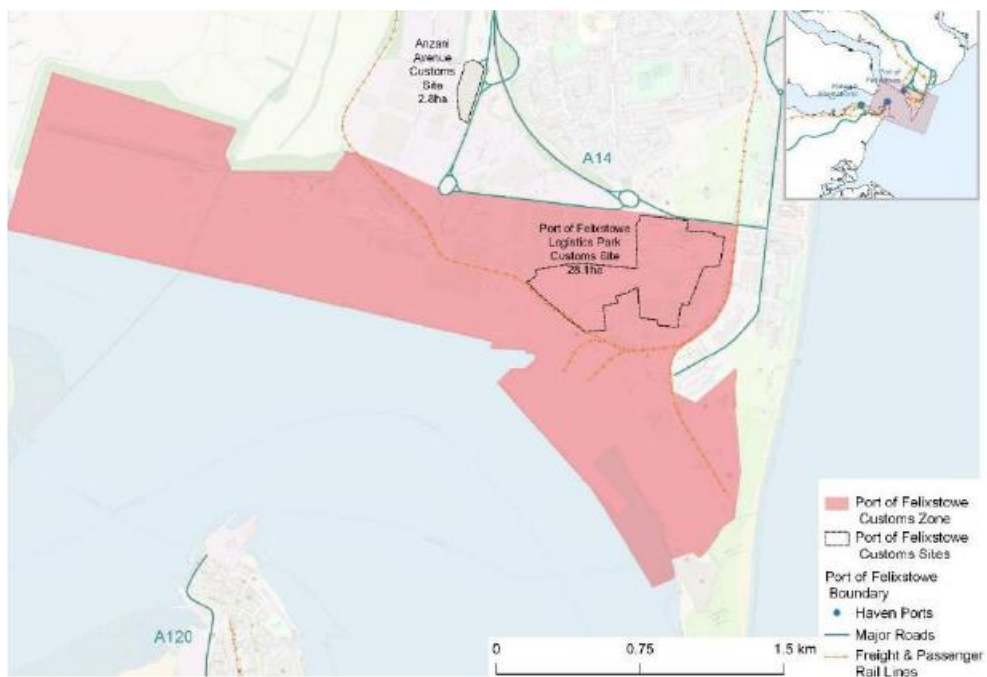
1. Purpose of the Policy

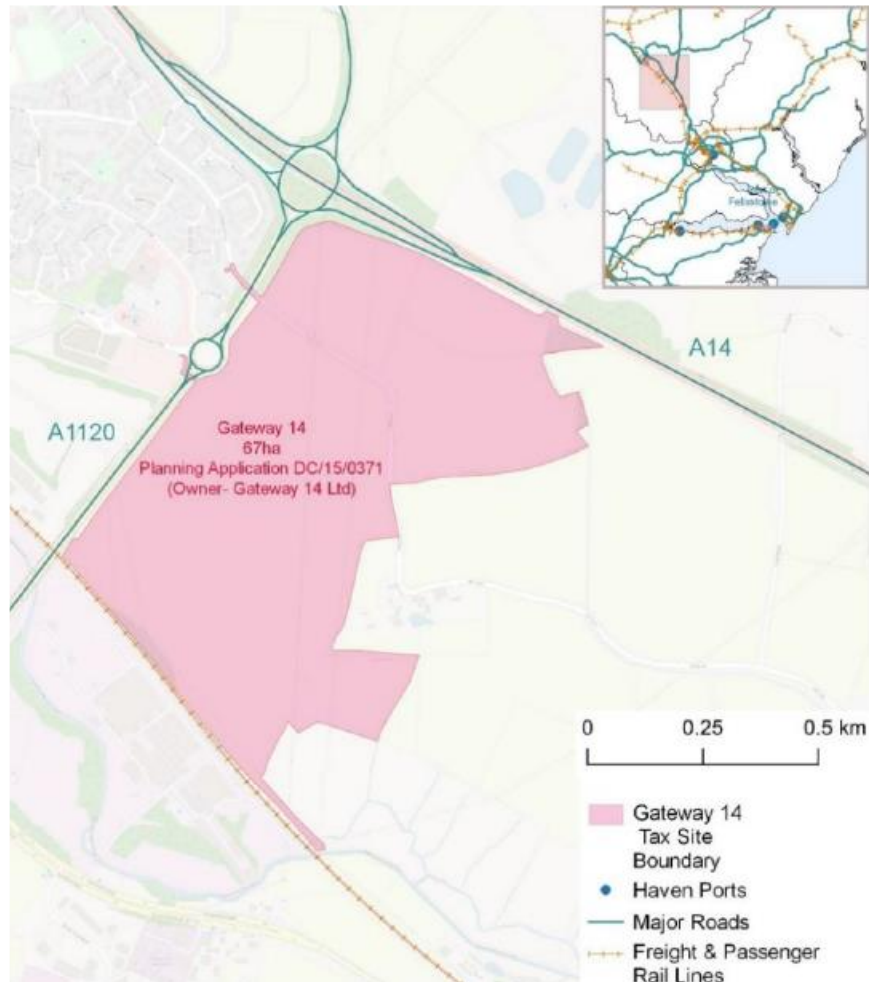
- 1.1. The purpose of this policy is to determine the level of discretionary relief to be granted to certain defined ratepayers within the tax site located within the Council's part of the Freeport East area. The policy includes the criteria for granting the relief from the establishment of the Freeport area until 30 September 2026. A map of the Freeport area is available at the following link, and is also shown in appendix A: <https://www.gov.uk/government/publications/maps-of-freeport-east-tax-sites>
- 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 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 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 document outlines the following areas:
 - Details of the criteria for receiving Discretionary Reliefs 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.
- 1.5. This document covers all aspects of the relief (subject to changes in legislation). Where businesses 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 Freeport East as set out in the Freeport East Business Case.

2. The Freeport East Tax Site

- 2.1. The Freeport East Tax Site in the Council's area is the Port of Felixstowe Logistics Park and the Anzani Avenue site as shown in detail in Appendix A. For information the maps below show the other tax sites in Freeport East, and the wider Freeport east area. below. The Tax Site was designated by the Government on 30 December 2021.







3. Discretionary Relief – Legislative Background

- 3.1. 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.
- 3.2. 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 Council to ensure that all relief is granted strictly in line with the primary legislation and the Non-Domestic Rating (Discretionary Relief) Regulations 1989.
- 3.3. 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.
- 3.4. The decision to grant or not to grant relief is a matter purely for the Council. There is no statutory review process against any decision made by the Council, although as

with any decision of a public authority, decisions can be reviewed by Judicial Review.

4. Discretionary Relief – Freeport East

- 4.1. 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 30 September 2026.
- 4.2. 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.

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

- 5.1. Freeports business rates relief is available to new businesses moving into Freeport East after the date on which the Tax Site has been formally designated (30 December 2021), and on or before 30 September 2026, and occupying both existing and new hereditaments on the rating list.
- 5.2. 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 paragraphs 5.6 and 6.6 below.
- 5.3. The business must occupy the hereditament and both existing and any new hereditaments must be shown on the local rating list.
- 5.4. New businesses which expand after moving into tax sites 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.
- 5.5. In considering what is a new business, the Council will lift the corporate veil and consider groups of companies to be single businesses.
- 5.6. 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 within the Freeport East area in order to take advantage of the relief.

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

- 6.1. Subject to 6.3 to 6.6 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 (30 December 2021), and on or before 30 September 2026. This, for example, would include existing businesses expanding into a further property.
- 6.2. Subject to 6.3 to 6.6 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 (30 December 2021), 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.
- 6.3. 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 (30 December 2021), and on or before 30 September 2026. A typical example would be installation of a mezzanine or access/fire control improvements to bring an existing space into use.
- 6.4. 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, e.g. general refurbishment or improved services such as heating and aircon.
- 6.5. The Council will need to determine the value of any part of the hereditament where partial relief is to be granted. Where the Council is unable to reasonably ascertain the increase in rates liability attributable to these factors, no relief shall be awarded.
- 6.6. The Council will retain the discretion to apply additional tests for Freeport Rates 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.

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

- 7.1 Subject to 6.3 below, the value of full relief for hereditaments falling within 5.1 above is 100% of the bill.
- 7.2 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 and 5.3 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 and 5.3 above, the Council will 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 and 5.3 above.
- any other information the Council deems appropriate to determine the extent of the parts of the hereditament falling within 5.2 and 5.3 above.

7.3 The Council may withhold or reduce the Freeports Rates Relief in cases of displacement (see paragraphs 5.6 and 6.6 above)

8. Sequence of Reliefs

8.1 The relief will be applied after mandatory reliefs and other discretionary reliefs have been applied, excluding those where the Council has used its wider discretionary relief powers introduced by the Localism Act 2011. The Council may use its discretionary powers to offer further discounts outside this scheme, but where the Council applies a locally funded relief, this will be applied after the Freeport relief scheme.

9. Financing Reliefs

9.1 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 Council will ensure that relief is only granted strictly in line with government guidance.

10. Subsidy Control

10.1 The [Subsidy Control Act](#) provides the framework for a new, UK-wide subsidy control regime from 4 January 2023. The new UK subsidy control regime will enable public authorities, including devolved administrations and local authorities, to:

- deliver subsidies tailored to local needs
- support government priorities such as driving economic growth
- reach net zero

10.2 The Council will administer Freeport Business Rates Relief in accordance with the Statutory Guidance and associated documents issued by the Government, which are linked to below:

[Statutory Guidance for the United Kingdom Subsidy Control Regime
\(publishing.service.gov.uk\)](https://publishing.service.gov.uk)

[Subsidy Control rules: quick guide to key requirements for public authorities -
GOV.UK \(www.gov.uk\)](https://www.gov.uk)

[Subsidy control principles assessment template - GOV.UK \(www.gov.uk\)](https://www.gov.uk)

11. Administration of Discretionary Relief - Applications and Evidence

- 11.1 Relief must be applied for in writing by the ratepayer. The Council will ensure that the application forms for discretionary rate relief are made available to ratepayers upon request as well as through the Council's website. Reliefs will be administered by the Anglia Revenues Partnership.

[Business rates » East Suffolk Council](#)

- 11.2 Ratepayers are required to provide a completed application form plus any evidence, documents, accounts, financial statements, etc. necessary to allow the Council 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, could result in no relief being granted.
- 11.3 The Non-Domestic (Business) Rates Team can provide assistance or advice to any organisation or business on the completion of applications. 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.

12. Administration of Discretionary Relief – Granting of Relief

- 12.1 The Council will notify the ratepayer of all decisions made.
- 12.2 Where an application is successful, 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 Council. A new Rate Demand Notice will be issued and the following will be notified to the ratepayer in writing:
- 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 applicant should notify the Council of any change in circumstances that may affect entitlement to relief.

12.3 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 16 below).

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

12.5 Under Discretionary Rate Relief legislation, backdated applications can only be granted relief for the previous financial year within 6 months of the start of the current financial year.

13. Administration of Discretionary Relief – Variation of a decision

13.1 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 the rate charge; and
- Where the amount is to be reduced for any other reason, to take effect at the expiry of a financial year, and so that at least one year's notice is given.

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

14. Scheme of Delegation – Granting, Varying, Reviewing and Revocation of Relief

14.1 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.

14.2 The Council's scheme of delegation allows for Head of NNDR Recovery and Enforcement 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 Section 151 Officer of the Council prior to final determination.

14.3 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.

15. Scheme of Delegation – Reviews

15.1 The policy for granting relief will be reviewed annually or where there is substantial change to the legislation or funding rules. The Council's Section 151 Officer has been

delegated powers which enable changes to this scheme to either meet the Council's requirements or changes in legislation.

16. Scheme of Delegation – Appeals

- 16.1 Where the Council receives an appeal from an ratepayer regarding the granting, refusal, or the amount of any discretionary relief, the case will be reviewed by the Head of Anglia Revenues Partnership (ARP). Where a decision is revised then the ratepayer shall be informed, likewise if the original decision is upheld.

17. Reporting changes in circumstances

- 17.1 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 event occurrence.
- 17.2 This will be important where the change would result in the amount of the award being reduced or cancelled e.g. where the premises become unoccupied or are used for a purpose other than that determined by the Council as eligible for relief.
- 17.3 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.

18. Fraud

- 18.1 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.