

Cheltenham Borough Council

Additional Restrictions - Discretionary Business Grant Scheme

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Definitions

The following definitions are used within this document:

‘Additional Restrictions Grant (ARG)’ means the additional funding provided by Government. Funding will be made available to eligible Local Authorities at the point that national restrictions are imposed or at the point the Local Authority first entered LCAL 3 local restrictions;

‘Covid-19’ (coronavirus); means the infectious disease cause by the most recently discovered coronavirus;

‘Department for Business, Energy & Industrial Strategy (BEIS)’: means the Government department responsible for the scheme and guidance;

‘Effective date’; Means, for eligibility of the grant, the date of the widespread national restrictions. For the purpose of this scheme the date is 5th November 2020

Hereditament; means the assessment defined within Section 64 of the Local Government Finance Act 1988

‘Local Covid Alert Level’ (LCAL) means the level of alert determined by Government and Local Authorities for the area. LCALs have three Tiers. Tier 1 (Medium): Tier 2 (High) and Tier 3 (Very High). For the purposes of these schemes the definitions used are LCAL1, LAL2 and LCAL3.

‘Local lockdown’; means the same as ‘Local restrictions’;

‘Local rating list’; means the list as defined by Section 41 of the Local Government Finance Act 1988

‘Local restrictions’; and **‘Localised restrictions’** means legally binding restrictions imposed on specific Local Authority areas or multiple Local Authority areas, where the Secretary of State for Health and Social Care requires the closure of businesses in a local area under regulations made using powers in Part2A of the Public Health (Control of Disease) Act 1984 in response to the threat posed by coronavirus and commonly as part of a wider set of measures;

‘Local Restrictions Support Grant Scheme (Closed)’; means the grant scheme developed by the Council in response to an announcement made by the Secretary of State for Business, Energy & Industrial Strategy made on 9th September 2020 and amended on 9th October 2020 and which is applicable to businesses forced to close under either LCAL3 or where national restrictions are in place;

‘Local Restrictions Support Grant Scheme (Closed) Addendum’; means the changes made to the Local Restrictions Support Grant Scheme (Closed due to widespread nationwide restrictions);

‘Ratepayer’; means the person who, according to the Council’s records, was the ratepayer liable for occupied rates in respect of the hereditament at the date of the local restrictions or widespread national restrictions;

‘State Aid Framework’; means the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak published on 19 March 2020; and

‘Temporary Framework for State aid’; means the same as the **‘State Aid Framework’**.

1.0 Purpose of the Scheme and background.

- 1.1 The purpose of this document is to determine eligibility for a payment under the Council’s Additional Restrictions Grant Scheme (ARG). The Council, as the Business Rates Billing Authority is responsible for payment of these grants.
- 1.2 This discretionary grant scheme has been developed by the Council in response to an announcement made by the Secretary of State for Business, Energy & Industrial Strategy made on 31st October 2020. The announcement set out the basic circumstances whereby an additional restriction grant payment can be made by the Council to a business which has to close or is severely affected due to localised or widespread national restrictions being put in place to manage coronavirus and save lives.
- 1.3 Whilst the awarding of grants will largely be at the Council’s discretion, the Department for Business, Energy & Industrial Strategy (BEIS) has set down criteria which **must** be met by each business making an application.
- 1.4 This scheme applies for the period of national restrictions commencing 5th November 2020.
- 1.5 National restrictions are nationally binding widespread restrictions imposed by Parliament under legislation. The current national restrictions are made under the Health Protection (Coronavirus, Restrictions) (England) (No.4) Regulations 2020.
- 1.6 No grant shall be paid for any period prior to 4th November 2020.

2.0 Funding

- 2.1 Under the Additional Restrictions Grant Scheme (ARG) provisions, Local Authorities will receive a one-off lump sum payment amounting to £20 per head in each area to be used when local restrictions (LCAL3) or widespread national restrictions are imposed in 2020/21 and 2021/22.
- 2.2 Once the Council’s area is removed from local restrictions (LCAL3) or widespread national restrictions, no additional funding will be received from Government even if either the local restrictions or widespread national restrictions are re-instated.

3.0 Eligibility criteria and awards

- 3.1 The Council is able to use this funding for business support activities and Government envisage that this will primarily take the form of discretionary grants.

- 3.2 If Local Authorities use the Additional Restriction Grant for direct business support grants, Government has stated that the same conditions of grant **must** apply as for the Local Restrictions Support Grant (Closed) scheme. However, the Council has the discretion to alter the amount of funding offered to individual businesses and the frequency of payment.
- 3.3 Government has stated that the Council *may* also consider making grant payments to those businesses which, while not legally forced to close are nonetheless severely impacted by the restrictions put in place to control the spread of Covid-19. Government has also stated that the Council may also wish to assist businesses which are outside of the rating system and which are effectively forced to close.

Eligibility Criteria

- 3.4 For the purposes of this scheme the Council has decided that the following eligibility criteria must be met in order to receive an Additional Restrictions Grant:

Category 1 - Specified business types (non-business rate payers) forced to close

To be eligible for this category businesses must be:

- one of the specified types detailed below and must **not** be the registered ratepayer
- making rent or mortgage payments for the business premises in respect of which the application refers to
- closed for trading at the premises for the whole period that restrictions apply
- Businesses that are part of national chains, affiliated to national chains or are franchises will not be eligible

Specified businesses are:

a) Bed and Breakfast premises which pay council tax instead of business rates

- For the purpose of this scheme, these businesses are those who do not occupy a separate hereditament within the 2017 Rating List and who the Valuation Office Agency would deem to fall within the council tax Valuation List.
- For the avoidance of doubt, the Council will consider the business if:
- the Bed and Breakfast property is domestic and therefore subject to council tax rather than business rates;
- It provides short stay accommodation for no more than six persons at any one time within the past year;
- The property is the sole or main residence of the proprietor(s) and the bed and breakfast use is subsidiary to the private use;
- The business was trading on 4th November 2020 (see paragraph 4.1); and
- There must be at least two rooms capable of being let separately.
- In determining subsidiary use the Council shall take into account:
 - Whether the majority of the premises is being used for business purposes: and
 - If the premises have been adapted to alter the character of the property beyond that of a private house.

- Where the Council has determined that the Bed and Breakfast premises should have been subject to Non-Domestic Rating, the business shall not be eligible for a grant under this scheme.
- The Council has determined that, any premises where it considers that the Bed and Breakfast business is basically 'home sharing' and where advertising is wholly undertaken through 'home sharing' websites, will be excluded from the this scheme.

b) Regular market/street traders who do not have their own business rates assessment

- these will be businesses which do not have a separate assessment for Non-Domestic Rating (i.e. those businesses who do not occupy a separate hereditament within the 2017 Rating List)
- The Council has decided that for the purpose of this scheme, market traders shall be defined as
- “a business or person who sells goods wholly or mainly to visiting members of the public from a stall, pitch or similar, from a place or market recognised by the Council as a market”.
- Where the business is street trading, the business or person must hold a valid street trader licence issued by the Council.
- All market traders must prove to the Council that as at 5th November 2020, they had a regular pitch or stall in a fixed location within the Council’s boundary from which they sold goods to visiting members of the public.
- For the purposes of this scheme, 'regular' is defined as at least 5 days per week.
- Where a market trader operates in more than one local authority area, the applicant will need to certify that they trade primarily in the Council’s boundary or have fixed business base within the Council’s boundary. Where a grant is claimed from another authority, no grant will be awarded by the Council.

c) Hairdressers/beauticians/businesses providing personal care or wellbeing facilities that do not have their own business rates assessment

- The Council has decided that for the purpose of this scheme hairdressers, beauticians and personal care/wellbeing facilities will be those required to close or stop operating by the Schedule to The Health Protection (Coronavirus, Restrictions) (England) (No. 4) Regulations 2020 and listed on the Government guidance “ Closing Certain businesses and venues in England which can be viewed here
<https://www.gov.uk/government/publications/further-businesses-and-premises-to-close/closing-certain-businesses-and-venues-in-england>
- these will be businesses which do not have a separate assessment for Non-Domestic Rating (i.e. those businesses who do not occupy a separate hereditament within the 2017 Rating List) but pay rent or mortgage payments for the business space occupied
- All hairdressers, beauticians and personal care facilities must prove to the Council that as at 5th November 2020, they provided the services on a regular basis from

within a business premises that has been forced to close due to the aforementioned regulations

- For the purposes of this scheme, 'regular' is defined as at least 5 days per week.

Category 2 - Business Ratepayers that are shops or food and beverage outlets not forced to close by law but have chosen to do so

To be eligible businesses for this category businesses must:

- be the registered occupying ratepayer of premises in respect of which the application refers on 4th November 2020
- have been trading and open to visiting members of the public on 4th November 2020
- be closed for trading at the premises for the whole period that restrictions apply (5th November 2020 – 2nd December 2020)

Businesses that are part of national chains, affiliated to national chains or are franchises will not be eligible for a grant

Category 3 - Business Ratepayers that are shops or food and beverage outlets not forced to close by law, have opened but have been severely impacted by reduced trade

To be eligible businesses must:

- be the registered ratepayer occupying the premises in respect of which the application refers to on 4th November 2020
- have been trading and open to visiting members of the public on 4th November 2020 and have continued to do so
- demonstrate that they have been severely impacted by reduced trade

Businesses that are part of national chains, affiliated to national chains or are franchises will not be eligible for a grant

Category 4 - Business supplying the retail, hospitality and leisure sector not forced to close by law but severely impacted by the restrictions

- To be eligible businesses must be the ratepayer for the premises in respect of which the application is being made

or

- businesses which do not have a separate assessment for Non-Domestic Rating (i.e.

those businesses who do not occupy a separate hereditament within the 2017 Rating List) but are making rent or mortgage payments for the business premises in respect of which the application is being made

- businesses must be providing goods and or services that are integral to the supply chain for retail, hospitality or leisure sector
- the business must demonstrate the majority of its business is supplying goods and or services to the retail, hospitality or leisure sector subject to restrictions
- Premises used for storage will only be included for the purpose of this scheme if the use is pertaining to the direct running of the business
- Businesses will be required to demonstrate that they have been severely impacted due to the restrictions on retail, hospitality or leisure sector
- Businesses that are part of national chains, affiliated to national chains or are franchises will not be eligible for a grant

Category 5 - Business ratepayers occupying mixed use premises including a small area used for retail purposes which has been forced to close

The Council has decided that for the purposes of this scheme:

- Mixed use premises means a single hereditament in the rating list that is mainly used for manufacturing/storage/warehousing with a defined retail/sales or showroom area that is open to visiting members of the public
- The defined retail/sales or showroom area must be required to close or stop operating by the Schedule to The Health Protection (Coronavirus, Restrictions) (England) (No. 4) Regulations 2020 and listed on the Government guidance “ Closing Certain businesses and venues in England which can be viewed here <https://www.gov.uk/government/publications/further-businesses-and-premises-to-close/closing-certain-businesses-and-venues-in-england>
- Businesses forced to close the defined retail/sales or showroom area but offering a click and collect service will be eligible
- The defined retail/sales or showroom area must have been open and accessible to visiting members of the public at least 5 days per week immediately prior to the national restrictions commencing 5th November 2020
- An area that was being used only as a counter or kiosk where customers collected goods prior to national restrictions commencing 5th November 2020, will not be considered a defined retail/sales or showroom area used for retail purposes
- To be eligible the business must be the ratepayer of a single mixed use hereditament

- Premises being used wholly or mainly for retail purposes and eligible for the Expanded Retail Discount will not be eligible
- Businesses using a defined sales or showroom area accessible to trades persons only will not be eligible

Award Levels

3.5 In respect of all categories one grant payment will be made in respect of the period of national restrictions commencing on 5th November 2020

The Council has decided the following grant award levels:

- Businesses occupying premises appearing on the local rating list with a rateable value of exactly £15,000 or under, or
Businesses paying rent or mortgage of exactly £15,000 or under per annum
One grant payment of £1,334
- Businesses occupying premises appearing on the local rating list with a rateable value of over £15,000 and less than £51,000, or
Businesses paying rent or mortgage of over £15,000 or less than £51,000 per annum
One grant payment of £2,000
- Businesses occupying premises appearing on the local rating list with a rateable value of exactly £51,000 or above, or
Businesses paying rent or mortgage of exactly £51,000 or above per annum
One grant payment of £3,000

Excluded businesses

3.6 The following businesses will **not** be eligible for an award:

- (a) Businesses that are part of national chains, affiliated to national chains or are franchises will not be eligible for a grant
- (b) Businesses that do not meet the criteria for the relevant category in 3.4 above
- (c) Businesses that are working from a home
- (d) Businesses that do not provide the information requested, including evidence of paying rent or mortgage for the relevant property
- (e) Businesses, where required, have not supplied sufficient information to demonstrate that have been severely impacted

- (f) Businesses eligible for a grant payment under the Local Restrictions Support Grant Scheme (Closed) Addendum scheme, the national scheme for business ratepayers forced to close from 5th November 2020, in respect of the relevant property
- (g) Businesses which have already received grant payment that equal the maximum levels of State aid permitted under the de minimis and the COVID-19 Temporary State Aid Framework; and
- (h) Businesses that were in administration, are insolvent, are dissolved, about to be dissolved or where a striking-off notice on 5th November 2020

The Effective Date

- 3.7 The effective date for eligibility is the date of the widespread national restrictions (Businesses **must** have been trading on the first full day of national restrictions to be eligible to receive grant support).

Applications

- 3.8 Funding for this grant scheme is being limited and therefore it will only be open for businesses to apply for a maximum period of 14 days from the date the application form is made available on the Council's website
- 3.9 Applications will be assessed in date order as they are received. If the total sum allocated is nearing £1 million with applications outstanding, these applications will be assessed in order of the date received and once £1 million has been allocated the remaining applications may need to be rejected

Who can receive the grant?

- 3.10 The person or business entitled to receive the grant will be the applicant.
- 3.11 Where the Council has reason to believe that the information it holds about the business, or has been provided by the business, at the effective date is inaccurate, it may withhold or recover the grant and take reasonable steps to identify the correct ratepayer.
- 3.12 Where, it is subsequently determined that the records held, or information provided, are incorrect, the Council reserves the right to recover any grant incorrectly paid.
- 3.13 Where any business misrepresents information or contrives to take advantage of the scheme, the Council will look to recover any grant paid and take appropriate legal action. Likewise, if any ratepayer is found to have falsified records in order to obtain a grant.
- 3.14 Where there is no entry in the rating list for the business, the Council will have discretion to determine who should receive the grant.

4.0 How will grants be provided to Businesses?

4.1 Payment of a grant under this scheme will only be paid to a valid bank account. For limited companies payment will only be made to company or trading bank account

4.2 Details of how to obtain grants are available on the Council's website:

https://www.cheltenham.gov.uk/info/26/business_support_and_advice/1475/covid-19_business_support_grants

4.3 In all cases, businesses will be required to confirm that they are eligible to receive the grants. This includes circumstances where the Council already has bank details for the business and are in a position to send out funding immediately. Businesses are under an obligation to notify the Council should they no longer meet the eligibility criteria for any additional grants.

4.4 The Council reserves the right to request any supplementary information from businesses, and they should look to provide this, where requested, as soon as possible.

4.5 An application for an Additional Restriction Grant is deemed to have been made when a duly completed application form is received via the Council's online procedure.

4.6 All monies paid under this scheme will be funded by Government and paid to the Council under S31 of the Local Government Act 2003.

5.0 EU State Aid Requirements

5.1 Any grant is given as aid under the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak published on 19th March 2020. This means that businesses receiving support under these provisions can receive up to €800,000 in aid over three years (being the current and the previous two years).

5.2 Any grant awarded is required to comply with the EU law on State Aid. This will involve the applicant declaring to the Council if they have received any other de minimis State aid or aid provided under the EU Commission COVID-19 Temporary Framework.

5.3 If the applicant has not received any other de minimis State aid, they are not required to make that declaration to the Council or to complete any declaration statement.

6.0 Scheme of Delegation

6.1 Cabinet has approved this scheme.

6.2 Officers of the Council will administer the scheme and the Head of Revenues and Benefits in consultation with the Cabinet Member for Finance is authorised to make technical scheme amendments to ensure it meets the criteria set by the Council and, in line with Government guidance.

7.0 Notification of Decisions

- 7.1 Applications will be considered on behalf of the Council by the Revenues and Benefits Service.
- 7.2 All decisions made by the Council shall be notified to the applicant either in writing or by email. A decision shall be made as soon as practicable after an application is received.

8.0 Review of Decisions

- 8.1 The Council will operate an internal review process and will accept an applicant's request for a review of its decision.
- 8.2 All such requests must be made in writing to the Council within 14 days of the Council's decision and should state the reasons why the applicant is aggrieved with the decision of the Council. New information may be submitted at this stage to support the applicant's appeal.
- 8.3 The applications will be reconsidered by a senior officer, as soon as practicable and the applicant informed in writing or by email of the decision.

9.0 Complaints

- 9.1 The Council's 'Complaints Procedure' (available on the Council's website) will be applied in the event of any complaint received about this scheme.

10.0 Taxation and the provision of information to Her Majesty's Revenue and Customs (HMRC)

- 10.1 The council has been informed by Government that all payments under the scheme are taxable.
- 10.2 The Council does not accept any responsibility in relation to an applicant's tax liabilities and all applicants should make their own enquiries to establish any tax position.
- 10.3 All applicants should note that the Council is required to inform Her Majesty's Revenue and Customs (HMRC) of all payments made to businesses.

11.0 Managing the risk of fraud

- 11.1 Neither the Council, nor Government will accept deliberate manipulation of the schemes or fraud. Any applicant caught falsifying information to gain grant money or failing to declare entitlement to any of the specified grants will face prosecution and any funding will be recovered from them.
- 11.2 Applicants should note that, where a grant is paid by the Council, details of each individual grant may be passed to Government.

12.0 Recovery of amounts incorrectly paid

12.1 If it is established that **any** award has been made incorrectly due to error, misrepresentation or incorrect information provided to the Council by an applicant or their representative(s), the Council will look to recover the amount in full.

13.0 Data Protection and use of data

13.1 All information and data provided by applicants shall be dealt with in accordance with the Council's Data Protection policy and Privacy Notices which are available on the Council's website.