

# Harlow Council Additional Restrictions Grants (ARG) 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 caused 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 local restrictions or the date of widespread national restrictions. For the purpose of this scheme the date cannot be before 14<sup>th</sup> October 2020;

**‘Hereditament(s)’;** 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, LCAL2 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 Part 2A 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 9<sup>th</sup> September 2020 and amended on 9<sup>th</sup> 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 31<sup>st</sup> October 2020 which sets out the basic circumstances whereby an additional restriction grant payment may be made by the Council to a business which has to close or are 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 The scheme applies where local restrictions (LCAL3) are put in place **or** where a widespread national lockdown is announced.
- 1.5 Localised restrictions are 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 Part 2A 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.
- 1.6 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.
- 1.7 Grants under this scheme will be available for the 2020/21 and 2021/22 financial years only.
- 1.8 No grant shall be paid for any period where the localised or widespread national restrictions were in place prior to 14<sup>th</sup> October 2020.
- 1.9 Where any area enters either a localised restriction (LCAL3) or where a national restriction applies, additional assistance may be given to businesses under the Council's Local Restrictions Support Grants (Closed) Scheme (as amended).

## **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 when local restrictions (LCAL3) or widespread national restrictions are imposed.

- 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 although it can be used for wider business support activities.
- 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 will have 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 business which are outside of the rating system and which are effectively forced to close.

### Eligible businesses and criteria

- 3.4 For the purposes of this scheme the Council has decided that the following businesses will be eligible for an Additional Restrictions Grant award:
- (a) Businesses that are within the Non-Domestic Rating system, not eligible for a payment under the Local Restrictions Support Grant (Closed) scheme and the business can demonstrate it has been severely financially impacted by the restrictions put in place to control the spread of COVID- 19. This will primarily be those who supply or are part of the Retail, Hospitality, Hotel and Leisure industries, or those in the events sector;
  - (b) Businesses that are not within the Non-Domestic Rating system but can demonstrate they have been severely financially impacted due to by the restrictions put in place to control the spread of COVID-19. This will include businesses that e.g. occupy shared spaces or flexible workspaces, or regular market traders;
  - (c) The Council will also consider providing additional support to those in receipt of Local Restrictions Support Grant (Closed) scheme where the business is a larger local business and is important to the local economy;
  - (d) Local Charities actively providing support to the community in Harlow and severely financially impacted by the restrictions put in place to control the spread of COVID-19.
- 3.5 The Council will take into account whether the:
- (a) Business has relatively high ongoing fixed property related costs. For the purpose of this scheme, the Council determines fixed building-related costs to be;
    - Payments of mortgage, lease, rent or licence for business premises and **not** domestic premises;

- The payments must represent a high proportion of expenses in relation to the overall income of the business; and
- The payments are unavoidable and are ongoing.

The Council has determined that each business will have to provide evidence of high on-going fixed building-related costs. The Council may require the business to provide evidence of liabilities including mortgage, lease, tenancy, service charges or licence documentation; and

(b) Business must demonstrate they have been severely financially impacted by the restrictions in place and the scale of the losses;

- 3.6 Where appropriate, the number of local employees will be relevant when considering additional support to a business already in receipt of Local Restrictions Support Grant (Closed) scheme,
- 3.7 The Council will need to consider whether the business can trade on-line or remotely and the scale of losses due to the COVID-19 crisis.

### **Award Levels**

- 3.8 The Council has decided the following grant award levels for all businesses in categories 3.4 (a) to (d)

#### **Businesses which are shown in the local rating lists**

##### **Businesses falling within 3.4(a):**

- Rateable Value £15k or less - £667 per 14-day qualifying period
- Rateable Value >£15k and < £51k - £1,000 per 14-day qualifying period
- Rateable Value of £51k or more - £1,500 per 14-day qualifying period

##### **Businesses falling within 3.4(b)**

- RV £15k or less = £667 per 14 day qualifying period

##### **Businesses falling within 3.4(c)**

- Rateable Value £15k or less - £667 per 14-day qualifying period
- Rateable Value >£15k and < £51k - £1,000 per 14-day qualifying period
- Rateable Value of £51k or more - £1,500 per 14-day qualifying period

##### **Businesses falling within 3.4(d)**

- Rateable Value £15k or less - £667 per 14-day qualifying period
- Rateable Value >£15k and < £51k - £1,000 per 14-day qualifying period
- Rateable Value of £51k or more - £1,500 per 14-day qualifying period

#### **Businesses which are not subject to Non-Domestic Rating**

- 3.9 Businesses who are no subject to Non-Domestic Rating will receive a payment of £667 per 14-day qualifying period.

## Payment

- 3.10 For the purposes of the widespread national restrictions (5<sup>th</sup> November 2020 to 2<sup>nd</sup> December 2020), a payment will be made to cover a 28-day period.

## Excluded businesses – both local and national restrictions

- 3.11 The following businesses will **not** be eligible for an award:
- (a) Businesses in areas outside the scope of the localised restrictions, as defined by Government and not subject to a widespread national restriction;
  - (b) Businesses that have chosen to close but not been required to, will not be eligible;
  - (c) Businesses which have already received grant payments that equal the maximum levels of State aid permitted under the de minimis and the COVID-19 Temporary State Aid Framework; and
  - (d) Businesses that were in administration, are insolvent or where a striking-off notice has been made at the date of the local restriction or widespread national restriction.

## The Effective Date

- 3.12 The effective date for eligibility is the date of the widespread national or local restrictions (LCAL3). Businesses **must** have been trading on the day prior to national or LCAL3 restrictions to be eligible to receive grant support.

## Who can receive the grant?

- 3.13 In **all** cases, Government has stated that the person who will receive the grant will be the person who, according to the Council's records, was the ratepayer in respect of the hereditament at the effective date.
- 3.14 Where the Council has reason to believe that the information it holds about the ratepayer at the effective date is inaccurate, it may withhold or recover the grant and take reasonable steps to identify the correct ratepayer.
- 3.15 Where, it is subsequently determined that the records held are incorrect, the Council reserves the right to recover any grant incorrectly paid.
- 3.16 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.
- 3.17 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 The Council is fully aware of the importance of these grants to assist businesses and support the local community and economy. The Council's Additional Restrictions Grant (ARG) scheme together with the Local Restrictions Support Grant (Closed) will offer a lifeline to businesses who are struggling to survive during to the COVID-19 crisis.
- 4.2 Details of how to obtain grants are available on the Council's website:  
<https://www.harlow.gov.uk/coronavirus/businesses>
- 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 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 19 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 The Council has approved this scheme.
- 6.2 Officers of the Council will administer the scheme and the Section151 Officer 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 Reviews 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 application 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 Councils 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 Revenues 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 issued 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.