

Harlow Council Small Business Grant and Retail, Hospitality and Leisure Grant Policy 2020/21

Version Control

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Contents

1.0	Purpose of the Policy	4
2.0	Business Grants Schemes – introduction	4
3.0	Amounts of Grant.....	4
4.0	Eligibility Criteria – General.....	5
5.0	Eligibility Criteria that have to be met - ALL schemes.....	5
	The Effective Date	5
	The Ratepayer.....	5
6.0	Hereditaments that shall NOT be considered eligible for a grant - general	6
7.0	Eligibility Criteria specific to the Small Business Grant Fund (Scheme 1).....	6
8.0	Eligibility Criteria specific to the Retail, Hospitality and Leisure Grant Funds (Schemes 2a and 2b)	7
9.0	How will grants be provided to Ratepayers?.....	7
10.0	Effect on the Council’s Finances.....	7
11.0	EU State Aid requirements	8
12.0	Scheme of Delegation.....	9
13.0	Reviews of Decisions.....	9
14.0	Refusing a grant.....	9
15.0	Other grant conditions.....	9
16.0	Managing the risk of fraud	9
17.0	Post-Payment Reporting.....	9

1.0 Purpose of the Policy

- 1.1 The purpose of this policy is to determine eligibility and the process for paying the two new Direct Business Grants to Ratepayers within the Council's area.
- 1.2 The grants scheme is in response to the announcement made by the Chancellor on 11th and 17th March 2020 in response to the COVID-19 crisis. This support will take the form of two specific funds:
- the Small Business Grant Fund; and
 - the Retail, Hospitality and Leisure Grant Fund
- 1.3 The policy sets out the criteria which Central Government provided to the Council to determine eligibility for the Small Business Grant Fund and the Retail, Hospitality and Leisure Grant Fund. It also outlines the approach the Council will take in determining whether an award should be paid.

2.0 Business Grants Schemes – introduction

- 2.1 There are currently three grants schemes available. One grant is available under the Small Business Grant Scheme and two potential grants under the Retail, Hospitality and Leisure Grant Fund. These are known as:
- **Scheme 1** – The Small Business Grant Fund (SBGF) for premises (hereditaments) that receive a percentage relief under the Small Business Rate Relief scheme or receive Rural Rate Relief;
 - **Scheme 2a** – The Retail, Hospitality and Leisure Grant Fund (RHLGF 2a) for premises (hereditaments) with a Rateable Value (determined by the Valuation Office Agency at 1st April 2017) of up to and including £15,000; and
 - **Scheme 2b** – The Retail, Hospitality and Leisure Grant Fund (RHLGF 2b) for premises with a Rateable Value (determined by the Valuation Office Agency at 1st April 2017) of £15,001 or more, up to and including £50,999 (hereditaments with a Rateable Value of £51,000 or more shall not be eligible for the grant.
- 2.2 Each scheme is subject to both the Ratepayer and the hereditament meeting the eligibility criteria shown within this policy.

3.0 Amounts of Grant

- 3.1 The amount of grant available for each scheme is as follows:
- **Scheme 1** – Small Business Grant Fund (SBGF) £10,000;
 - **Scheme 2a** – Retail, Hospitality and Leisure Grant Fund (RHLGF 2a) £10,000;
 - **Scheme 2b** - Retail, Hospitality and Leisure Grant Fund (RHLGF 2b) £25,000;
- 3.2 For the avoidance of doubt:
- (a) Only **one** grant can be given in respect of any individual hereditament;
 - (b) Only **one** grant can be awarded under the Small Business Grant Fund;
 - (c) In the case of the Retail, Hospitality and Leisure Grant Funds (Schemes 2a and Scheme 2b,) grants can be given to **all** hereditaments that meet the criteria stated within this policy;
 - (d) Where any hereditament could receive a grant under either the SBGF or RHLGF 2a, only **one** grant will be awarded; and

- (e) Both the Ratepayer and the hereditament must meet the eligibility criteria stated within this policy.

4.0 Eligibility Criteria – General

- 4.1 In order for grants to be awarded, both the Ratepayer and the hereditament must meet the criteria stated below. It should be noted that certain eligibility criteria apply to **both** the SBGF and the RHLGFs. In addition, there are specific criteria that also apply to each separate scheme.
- 4.2 For the avoidance of doubt, to receive a grant, the following eligibility criteria have to be met:
- (a) Eligibility criteria that apply to both schemes (**all cases**)
Plus, either;
 - (b) Eligibility criteria for the SBGF scheme **or**
 - (c) Eligibility criteria for RHLGF 2a scheme **or**
 - (d) Eligibility criteria for RHLGF 2b scheme.

5.0 Eligibility Criteria that have to be met - ALL schemes

- 5.1 The following criteria have to be met in *all* schemes.

The Effective Date

- 5.2 The effective date for eligibility is 11th March 2020 and, in **all** cases, the following must have existed at the effective date:
- The hereditament **MUST** be shown in the Rating List as at 11th March 2020;
 - Any changes to the Rating List (Rateable Value or to the hereditament) after the 11 March 2020, including changes which have been backdated to this date, will be ignored for the purposes of eligibility;
 - The Council is not required to adjust, pay or recover grants where the Rating List is subsequently amended retrospectively to the 11 March 2020;
 - In cases where it was factually clear to the Council that on the 11 March 2020 that the Rating List was inaccurate on that date, the Council may withhold the grant and/or award the grant based on their view of who would have been entitled to the grant had the list been accurate. The Department for Business, Energy and Industrial Strategy (BEIS) has stated that this provision is entirely at the discretion of the Council and is **only** intended to prevent manifest errors. It is not intended for ratepayers who subsequently challenge their Rateable Value;
 - Where a hereditament is exempt from Rating as at 11th March 2020, no grant shall be payable.

The Ratepayer

- 5.3 In **all** cases the following shall apply:
- 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 on the 11 March 2020;

- The Ratepayer must be liable to occupied property rates at that date. It should be noted that grants will not be awarded where the hereditament is unoccupied;
- Where the business pays rent inclusive of rates and is not recorded as the Ratepayer by the Council, no grant shall be given;
- Where the Council has reason to believe that the information it holds about the Ratepayer on the 11 March 2020 is inaccurate, it may withhold or recover the grant and take reasonable steps to identify the correct Ratepayer;
- Where, it is subsequently determined that the records held are incorrect, the Council reserves the right to recover any grant incorrectly paid; and
- Where any Ratepayer 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.

6.0 Hereditaments that shall NOT be considered eligible for a grant - general

- 6.1 The Council will not make any grant payments in the following circumstances:
- (a) Where any hereditament is occupied for personal use. Examples of where there may be personal use include private stables and loose boxes, beach huts and moorings. This list is not exhaustive, and it will be for the Council to determine whether this exclusion applies in any particular case;
 - (b) Car parks and parking spaces;
 - (c) Where on 11th March 2020, the Ratepayer (Company) was:
 - (i) in liquidation; or
 - (ii) dissolved.

7.0 Eligibility Criteria specific to the Small Business Grant Fund (Scheme 1)

- 7.1 Small Business Grant Fund (Scheme 1) grants will only be awarded where the general criteria specified in section 5 are met **in addition to the following:**
- (a) Hereditaments included in this scheme are those which on the 11th March 2020 were eligible for relief under the Non-Domestic Rating Small Business Rate Relief Scheme (including those with a Rateable Value between £12,000 and £15,000 which receive tapered relief).
These are hereditaments to which:
 - (i) Section 43 (4B) (a) of the Local Government Finance Act 1988 (Small Business Rate Relief) applied, and;
 - (ii) The value of E (as defined in article 3 of the Non-Domestic Rating (Reliefs, thresholds and Amendment) (England) Order 2017, SI 2017/102) was greater than 1;
 - (b) Hereditaments that were not eligible for percentage relief (including those eligible for the Small Business Rate Multiplier) are excluded;
 - (c) Hereditaments which, on 11 March 2020 were eligible for relief under the Rural

Rate Relief (RRR) provisions are also eligible for this scheme. These are hereditaments to which Section 43 (6B) of the Local Government Finance Act 1988 (have Rural Rate Relief) applied;

- (d) Charities cannot receive Small Business Rates Relief and therefore will not be eligible to a grant under these provisions, although there may be an entitlement under the Retail, Hospitality and Leisure grant scheme (see Section 8).

8.0 Eligibility Criteria specific to the Retail, Hospitality and Leisure Grant Funds (Schemes 2a and 2b)

8.1 For both schemes 2a and 2b, grants will only be awarded where the general criteria specified in section 5 are met **in addition to the following:**

- (a) Hereditaments which, on the 11 March 2020 had a rateable value of less than £51,000 **and** would have been eligible for a discount under the Non-Domestic Rates Expanded Retail Discount Scheme (please see the Council's Non-Domestic Rating Discretionary Relief Policy for details), had that scheme been in force for that date, are eligible for the grant;
- (b) Charities, Community Amateur Sports Clubs (CASC's) and Charity Shops which would otherwise meet these criteria, but whose bill on 11 March had been reduced to nil by a local discretionary award made by the Council, will still be considered to be eligible for the grant;
- (c) In line with the restrictions in the Expanded Retail Discount Scheme, the Council may not award the grant to itself or to any precepting authority.

9.0 How will grants be provided to Ratepayers?

9.1 The Council is fully aware of the importance of these grants to assist businesses and support the local community and economy. These grant schemes will offer a lifeline to businesses who are struggling to survive due to the corona virus shutdown. The Council will make every attempt to identify all eligible Ratepayers as quickly as possible and to make the correct level of payment to them.

9.2 Whilst no formal application is required (as the Council will identify eligible Ratepayers), there will be a requirement for some businesses to provide some information where this is not already held by the Council. In the main, this information will be used to ensure that payment can be made promptly (e.g. bank details) and, in certain cases to ensure that the grant is paid to the correct Ratepayer. More information is available on the Council's website <https://myaccounts.harlow.gov.uk/OPENPortal-Live/scripts/OPENPortal-Live.wsc/ndr/ndrgrant.p>

9.3 Central Government is providing funding for the grant schemes, but it is the responsibility of the Council to ensure that payments are made promptly and to delivery monies to eligible Ratepayers.

10.0 Effect on the Council's Finances

10.1 All monies paid through the grants system will be funded by Central Government and paid to the Council under S31 of the Local Government Act 2003

11.0 EU State Aid requirements

- 11.1 The Small Business Grant is given as de minimis aid under the De Minimis Regulation (COMMISSION REGULATION (EU) No 1407/2013 of 18 December 2013 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to de minimis aid¹) or Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak published on 19 March 2020.
- 11.2 This means that, for the Small Business Grant, no organisation should receive aid in excess of €200,000 over three years (being the current and the previous two years). However, this can be increased to €800,000 where the small business would also fall under the Retail, Hospitality and Leisure Grant provisions.
- 11.3 The Retail, Hospitality and Leisure 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).
- 11.4 These grants are required to comply with the EU law on State Aid.² This will involve the Ratepayer 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.
- 11.5 If the Ratepayer 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.

¹ https://ec.europa.eu/competition/state_aid/what_is_new/sa_covid19_temporary-framework.pdf

² Further information on State Aid law can be found at <https://www.gov.uk/state-aid>

12.0 Scheme of Delegation

- 12.1 This policy has been approved by the Council. However, the Revenues and Benefits Manager is authorised to make technical scheme amendments to ensure it meets the criteria set by the Council and, in line with Central Government guidance.

13.0 Reviews of Decisions

- 13.1 In any case where either a grant is refused or there is a dispute in relation to the level of grant awarded, the Ratepayer may request a review in writing or by email.
- 13.2 The Revenues and Benefits Manager shall undertake the review and shall respond within one month and will have regard to any further evidence supplied.

14.0 Refusing a grant

- 14.1 Ratepayers are not obliged to accept the grant. Any Ratepayer who is not prepared to accept the grant should sign a 'Refusal of Grant' form and return it to the Council. The Council will arrange for any grant paid to the Ratepayer to be recovered.

15.0 Other grant conditions

- 15.1 The Council has been informed by Treasury that all grants are taxable. Ratepayers should make their own enquiries to establish any tax position or liability.

16.0 Managing the risk of fraud

- 16.1 Neither the Council, nor the Government will accept deliberate manipulation of the scheme and fraud. Any Ratepayer caught falsifying their records to gain additional grant money will face prosecution and any funding issued will be subject to claw back, as may any grants paid in error.

17.0 Post-Payment Reporting

- 17.1 The Council is required, on a weekly basis, to report to Central Government a range of information relating to how many eligible businesses received grants and the amount granted for each of the schemes. Ratepayers should note that, where a grant is paid by the Council, details of each individual grant may be passed to government department.