



Harlow Council RESTART Grants Scheme April 2021

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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 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. For the purpose of this scheme the date cannot be before 1st April 2021;

'Hereditament(s); means the assessment defined within Section 64 of the Local Government Finance Act 1988;

'In-person services' means services which are wholly or mainly provided by the business to their customers face to face and which **cannot** be provided by other means such as online or remotely by telephone, email, video link, or written communication;

'Local Covid Alert Level' (LCAL) means the level of alert determined by Government and Local Authorities for the area. LCALs have four Tiers. Tier 1 (Medium): Tier 2 (High), Tier 3 (Very High) and Tier 4 (Stay at home). For the purposes of these schemes the definitions used are LCAL1, LCAL2, LCAL3 and LCAL 4.

'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;

'Non-essential retail'; means those businesses defined within this scheme

'Rateable value'; means the rateable value for the hereditament shown in the Council's local rating list at the date of the local restrictions;

'Ratepayer'; means the person who will receive the grant will be 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;

'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;

'Subsidies'; means the Government's replacement scheme for the previous state aid framework; and

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

1.0 Purpose of the Scheme, background and funding

- 1.1 The purpose of this document is to determine eligibility for a payment under the Council's Restart grants scheme. The scheme is effective from 1st April 2021 and is not retrospective.
- 1.2 The grant scheme has been developed by the Council in response to an announcement made by Government on 3rd March 2021 which introduced additional grant support for non-essential retail, hospitality, accommodation, leisure, personal care and gym businesses in England.
- 1.3 Whilst the awarding of grants will be the Council's responsibility, the Department for Business, Energy & Industrial Strategy (BEIS) has set down criteria which **must** be met by each business making an application. The Department has also indicated the types of business which should be given the grant.
- 1.4 Under the Restart Grant scheme, the Council will receive funding to be allocated in one-off grants to businesses. Grants of up to £6,000 will be paid to non-essential retail business premises, to help them reopen safely. Grants of up to £18,000 will be allocated to hospitality, accommodation, leisure, personal care and gym business premises, which may open later under plans set out in the roadmap and will be more impacted by restrictions when they do reopen. The Restart Grant scheme supports businesses that are predominantly reliant on delivering in-person services for the general public in the aforementioned sectors
- 1.5 No grant shall be paid for any period prior to 1st April 2021. The primary principle of the Restart Grant scheme is to support businesses that offer in-person services, where the main service and activity takes place in a fixed rate-paying premises, in relevant sectors.

2.0 Eligibility criteria

- 2.1 Government, whilst wanting Councils to exercise their local knowledge and discretion, has set national criteria for the these funds. In all cases, the Council will only consider businesses for grants where **all** of the criteria are met.
- 2.2 Businesses that are eligible are those that:
 - (a) are liable for local non-domestic rating (business rates) and have premises (hereditaments) on the Council's rating list on 1st April 2021;
 - (b) fall within either
 - (i) **Strand One** (non-essential retail businesses); or
 - (ii) **Strand Two** (hospitality, accommodation, leisure, personal care and gym businesses) of the Restart Grant scheme; and
 - (c) were trading on 1st April 2021

Strand One (non-essential retail businesses)

- 2.3 For the purposes of this scheme, a non-essential retail business is defined as a business that is used mainly or wholly for the purposes of retail sale or hire of goods or services by the public, where the primary purpose of products or services provided are not necessary to the health and well-being of the public.
- 2.4 In order to determine eligibility for a grant under Strand One, the Council will use the following criteria (it should be noted that this list is not exhaustive):
- Does the business offer in-person non-essential retail to the general public?
 - Was the business required to cease their retail operation in the January 2021 national restrictions?
 - Did the business have retail services restricted in the 2021 national restrictions? and
 - Does the business sell directly to consumers?
- 2.5 The Council has decided that the definition of a non-essential retail business will **exclude**:
- food retailers (including food markets, supermarkets, convenience stores and corner shops);
 - off licences;
 - breweries;
 - pharmacies and chemists;
 - newsagents;
 - animal rescue centres and boarding facilities;
 - building merchants;
 - petrol stations;
 - vehicle repair and MOT services;
 - bicycle shops;
 - taxi and vehicle hire businesses;
 - education providers including tutoring services;
 - banks, building societies and other financial providers;
 - post offices;
 - funeral directors;
 - laundrettes and dry cleaners;
 - medical practices;
 - veterinary surgeries and pet shops;
 - agricultural supply shops;
 - garden centres;
 - storage and distribution facilities;
 - wholesalers;
 - employment agencies and businesses;
 - office buildings;
 - automatic car washes; and
 - mobility support shops.

Strand Two (hospitality, accommodation, leisure, personal care and gym businesses)

2.6 For the purposes of this scheme the Council has decided that the following businesses will fall to classified under Strand Two:

Hospitality

2.7 A hospitality business is defined as a business whose main function is to provide a venue for the consumption and sale of food and drink. The Council will, as part of its decisions consider whether:

- the business offers in-person food and drink services to the general public; or
- it is a business that provides food and/or drink to be consumed on the premises, including outdoors.

2.8 The Council has decided that the definition of a hospitality retail business will **exclude**:

- food kiosks; and
- businesses whose main service is a takeaway (This is not applicable to those that have adapted to offer takeaways during periods of restrictions, in alignment with previous COVID-19 business grant schemes).

Leisure

2.9 For the purposes of this scheme, the Council has decided that a leisure business is defined as a business that provides opportunities, experiences and facilities, in particular for culture, recreation, entertainment, celebratory events and days and nights out .

2.10 The Council will consider the following factors when making its decision:

- Does the business provide in-person intangible experiences in addition to goods?
- Does the business rely on seasonal labour?
- Does the business assume particular public safety responsibilities? and
- Does the business operate with irregular hours through day, night and weekends.

2.11 The Council has decided that the definition of a leisure business will **exclude**:

- all retail businesses;
- coach tour operators;
- tour operators; and
- telescopes.

Accommodation

2.12 For the purposes of this scheme, an accommodation business can be defined as a business whose main lodging provision is used for holiday, travel and other purposes. The Council will take into account the following when making its decision:

- Does the business provide accommodation for 'away from home' stays for work or

leisure purposes? and

- Does the business provide accommodation for short-term leisure and holiday purposes?

2.13 The Council has decided that the definition of an accommodation business will **exclude**:

- private dwellings;
- education accommodation;
- residential homes and care homes,
- residential family centres; and
- beach huts.

Gyms and Sports

2.14 A gym & sport business is defined as a commercial or non-profit establishment where physical exercise or training is conducted on an individual basis or group basis, using exercise equipment or open floor space with or without instruction, or where individual and group sporting, athletic and physical activities are participated in competitively or recreationally.

2.15 The Council will take into account the following when making its decision:

- Does the business offer in-person exercise and sport activities to the general public?
- Is the business open to members of the public paying an entry or membership fee?
- Does the business require extensive cleaning protocols, which significantly slows down trade? and
- Does the business offer exercise classes or activities, which may mandate space and no masks etc.

2.16 For the purposes of this scheme , the definition of a gym & sport business will **exclude** home gyms, home exercise studios, home sports courts and home sports grounds

Personal Care

2.17 A personal care business is defined as a business which provides a service, treatment or activity for the purposes of personal beauty, hair, grooming, body care and aesthetics, and wellbeing.

2.18 The Council will take into account the following when making its decision:

- Whether the business deliver in-person holistic, beauty and hair treatments;
- Whether the business provides services such as tattoos and piercings;
- Whether the business offers close-contact services, which are required to deliver the treatment; and
- Whether the business offers services, treatments or activities that require social distancing and cleaning protocols, which have led to a reduction in their capacity to deliver personal care services.

2.19 For the purpose of this scheme, the definition of a personal care business will **exclude**:

- businesses that only provide personal care goods, rather than services;
- businesses used solely as training centres for staff, apprentices and others;
- businesses providing dental services, opticians, audiology services, chiropody, chiropractors and osteopaths; and
- other medical or health services including services which incorporate personal care services, treatments required by those with disabilities and services relating to mental health.

3.0 Awards

3.1 The Restart Grant is a one-off grant.

Awards for businesses in Strand One (non-essential retail businesses)

3.2 In **Strand One** of the Restart Grant scheme, the following awards apply:

- (a) Businesses occupying hereditaments appearing on the local rating list with a rateable value of exactly £15,000 or under on 1 April 2021 will receive a payment of £2,667;
- (b) Businesses occupying hereditaments appearing on the local rating list with a rateable value over £15,000 and less than £51,000 on 1 April 2021 will receive a payment of £4,000; and
- (c) Businesses occupying hereditaments appearing on the local rating list with a rateable value of exactly £51,000 or over on 1 April 2021 will receive a payment of £6,000.

Awards for businesses in Strand Two (hospitality, accommodation, leisure, personal care and gym businesses)

3.3 In **Strand Two** of the Restart Grant, the following awards apply:

- (a) Businesses occupying hereditaments appearing on the local rating list with a rateable value of exactly £15,000 or under on 1 April 2021 will receive a payment of £8,000;
- (b) Businesses occupying hereditaments appearing on the local rating list with a rateable value over £15,000 and less than £51,000 on 1 April 2021 will receive a payment of £12,000; and
- (c) Businesses occupying hereditaments appearing on the local rating list with a rateable value of exactly £51,000 or over on 1 April 2021 will receive a payment of £18,000.

3.4 Any business failing to meet the criteria will not be awarded a grant. However, subject to subsidy allowance conditions, businesses will be entitled to receive a grant for each eligible hereditament.

4.0 Excluded businesses – general exclusions

- 4.1 The following businesses will **not** be eligible for an award:
- (a) Businesses that are not within the rating system;
 - (b) Businesses that have already received grant payments that equal the maximum permitted subsidy allowances will not be eligible to receive funding; and
 - (c) Businesses that are in administration, insolvent or where a striking-off notice has been made, are not eligible for funding under this scheme.

5.0 The Effective Date

- 5.1 The effective date for eligibility is determined as the 1st April 2021.

The hereditament

- 5.2 In **all** cases, the following must have existed at the effective date:
- The hereditament **MUST** be shown in the local rating list;
 - Any changes to the local rating List (Rateable Value or to the hereditament) after that date, 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 local rating list is subsequently amended retrospectively to the effective date;
 - In cases where it was factually clear to the Council that, at the effective date, the local 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); and
 - Where a hereditament is exempt from rating as at the effective date, 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 at the effective date;
 - 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 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;
 - 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 How will grants be provided to Businesses?

- 6.1 The Council is fully aware of the importance of these grants to assist businesses and support the local community and economy. The Restart Grant scheme together with the Council's Additional Restrictions Grant (ARG) scheme will offer a lifeline to businesses who are struggling to survive during to the COVID-19 crisis.
- 6.2 Details of how to obtain grants are available on the Council's website:
<https://www.harlow.gov.uk/coronavirus/businesses>
- 6.3 In all cases, businesses will be required to confirm that they are eligible to receive the grant. This includes 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.
- 6.4 The Council reserves the right request a further application or any supplementary information from businesses, and they should look to provide this, where requested, as soon as possible.
- 6.5 An application for a Restart Grant is deemed to have been made when a duly completed application form is received via the Council's online procedure.
- 6.6 All monies paid under this scheme will be funded by Government and paid to the Council under S31 of the Local Government Act 2003.

7.0 Subsidies and EU State Aid

- 7.1 The EU State aid rules no longer apply to subsidies granted in the UK following the end of the transition period.
- 7.2 The United Kingdom, however, remains bound by its international commitments, including subsidy obligations set out in the Trade and Cooperation Agreement (TCA) with the EU.
- 7.3 The Council can still pay out subsidies under previously approved schemes and this includes subsidies related to COVID-19 that have previously been given under the EU State aid Temporary Framework.
- 7.4 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>

8.0 Scheme of Delegation

- 8.1 The Council has approved this scheme.
- 8.2 Officers of the Council will administer the scheme and the Section 151 Officer is authorised to make technical scheme amendments to ensure it meets the criteria set by the Council and, in line with Government guidance.

9.0 Notification of Decisions

- 9.1 Applications will be considered on behalf of the Council by the Revenues and Benefits Service.
- 9.2 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.

10.0 Reviews of Decisions

- 10.1 The Council will operate an internal review process and will accept an applicant's request for a review of its decision.
- 10.2 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.
- 10.3 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.

11.0 Complaints

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

12.0 Taxation and the provision of information to Her Majesty's Revenues and Customs (HMRC)

- 12.1 The Council has been informed by Government that all payments under the scheme are taxable.
- 12.2 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.

12.3 All applicants should note that the Council is required to inform Her Majesty's Revenue and Customs (HMRC) of all payments made to businesses.

13.0 Managing the risk of fraud

13.1 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.

13.2 For the avoidance of doubt, the Council is required to undertake pre- payment checks and post-payment checks for all Restart Grant payments. This is a stricter position than that taken for previous COVID-19 business support grant schemes. This will include access to and cross-checking with Government data as well as data already held by the Council.

14.0 Recovery of amounts incorrectly paid

14.1 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.

15.0 Data Protection and use of data

15.1 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.