

DECISION TAKEN UNDER DELEGATION TO THE CHIEF EXECUTIVE

Subject:

Local Restrictions Grants Scheme

Date of Decision:

12 November 2020

Decision Number:

9/2020

Background:

In order to assist businesses across the country legally required to close as a result of the latest lockdown, the Government has updated its guidance regarding support for business and created a number of schemes offering a mix of prescribed and discretionary support for those businesses forced to close or that have been severely impacted by COVID-19 restrictions. Two of those schemes are the Local Restrictions Support Grant – Closed and Addendum - schemes.

Those schemes will be administered locally and a policy has been drawn up for their operation in Chelmsford by the City Council. The proposed policy is in Appendix A to the attached Briefing Note. Businesses legally required to close as a result of the legal requirements will be paid grants for each 28 day period of closure at a rate dependent upon their rateable value.

Decision and Reasons for Urgency:

As the length of the national lockdown is known in advance and will be in force for at least 28 days, it was considered appropriate and desirable to begin making payments to businesses as quickly as possible. The need to provide financial support to businesses quickly would be frustrated by the timescales of the usual decision-making process. The Chief Executive therefore accepted the need to exercise his delegated authority to take urgent decisions and approved the introduction of the policy with immediate effect.

Supporting Information:

The Cabinet Member for Fairer Chelmsford was consulted before taking the decision and had no objection to it.

LOCAL RESTRICTIONS SUPPORT GRANT

Background Information for Chief Executive

Enquiries contact: Rob Hawes, 01245 606695,
robert.hawes@chelmsford.gov.uk

1. Introduction

- 1.1 On 24th September 2020, the Chancellor of the Exchequer announced a package of support for businesses which have been forced to close by the imposition of Tier 3 COVID-19 restrictions in a number of areas across the UK. Chelmsford City Council was not affected by this announcement. However, on 31st October 2020, The Prime Minister announced a four week 'lockdown' in England, beginning on 5th November 2020. Statutory Instrument 1200 of 2020, The Health Protection (Coronavirus, Restrictions) (England) (No. 4) Regulations 2020, came into force prescribing the businesses which would be legally required to close. In order to assist businesses across the country, the Government has updated its guidance regarding support for business and created a number of schemes offering a mix of prescribed and discretionary support for businesses, which have been forced to close or have been severely impacted by COVID-19 restrictions.
- 1.2 This paper seeks an urgency decision to amalgamate and implement two of those schemes, the Local Restrictions Support Grant – Closed and Addendum schemes. As the length of the national lockdown is known in advance and will be in force for at least 28 days, it is appropriate and desirable to begin making payments to businesses as quickly as possible. The need to provide financial support to businesses quickly would be frustrated by the timescales of the usual decision-making process.

2. The Local Restrictions Support Grant (Closed) Scheme

- 2.1 The proposed policy has been attached as Appendix A. Businesses legally required to close as a result of SI 1200/2020 will be paid grants for each 28 day period of closure at a rate dependent upon their rateable value.
- 2.2 The value of the grant is prescribed by Government and will be funded in full as required via S.31 grants.

Businesses occupying properties on the rating list with a rateable value of £15,000 or less will receive £1,334 per 28 day period.

Businesses occupying properties on the rating list with rateable values between £15,001 and £50,999 inclusive will receive £2,000 per 28 day period.

Businesses occupying properties on the rating list with rateable values of £51,000 and above will receive £3,000 per 28 day period.

2.3 There are restrictions regarding eligibility to the grants, which are detailed in the policy. A business must have been trading immediately prior to the national lockdown. It must not be insolvent, in administration or subject to a striking-off notice. There are also restrictions relating to the level of State Aid that a business has received. It is important to note that this grant is not payable to businesses which voluntarily close or which have been adversely affected by COVID-19 restrictions. Many of these businesses will be able to apply for discretionary grants, which will be the subject of further policies and requests for urgency decisions.

3 Conclusion

3.1 An urgency decision will allow Chelmsford City Council to invite applications from eligible businesses and begin making payments well in advance of the current period of national lockdown.

List of Appendices

Appendix A – Chelmsford City Council Local Restrictions Support Grant (Closed) Scheme

Background Papers

Department for Business, Energy and Industrial Strategy guidance regarding Local Restrictions Support Grant (Closed) and Local Restrictions Support Grants (Closed) Addendum



Chelmsford City Council Local Restrictions Support Grant (Closed) Scheme

Contents

Definitions	3
1.0 Purpose of the Scheme and background.....	5
1.7 Grants under this scheme will be available for the 2020/21 financial year only.....	5
2.0 Funding.....	5
3.0 Eligibility criteria and awards.....	6
Local restrictions awards and frequency of payment.....	6
National restrictions awards and frequency of payment	7
Businesses that are not shown in the local rating list.....	7
Excluded businesses – both local and national restrictions.....	7
The Effective Date.....	8
The Ratepayer.....	8
4.0 How will grants be provided to Businesses?	9
5.0 EU State Aid requirements	9
6.0 Scheme of Delegation.....	9
7.0 Notification of Decisions.....	10
8.0 Reviews of Decisions	10
9.0 Complaints.....	10
10.0 Taxation and the provision of information to Her Majesty’s Revenues and Customs (HMRC)	10
11.0 Managing the risk of fraud	11
12.0 Recovery of amounts incorrectly paid.....	11
13.0 Data Protection and use of data.....	11

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;

'the Council' means Chelmsford City Council;

'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;

'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 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 9th September 2020, 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;

Local Restrictions Support Grant Scheme (Open); 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 22nd October 2020 and which is applicable to businesses that are still open but severely impacted by the restrictions imposed by LCAL2 and LCAL3;

Local Restrictions Support Grant Scheme (Sector); 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 October 2020 (effective from 1st November) and which is applicable to businesses that have been required to close on a national basis since 23rd March 2020 due to restrictions being put in place to manage coronavirus;

'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; 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 Local Restrictions Support Grant Scheme (Closed). It also includes details of changes to that scheme where a widespread national lockdown is declared (Local Restrictions Support Grant Scheme (Closed) Addendum).
- 1.2 The 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 9th September 2020 (and subsequently amended in October 2020 and November 2020) which sets out circumstances whereby a grant payment may be made by the Council to a business which has to close 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 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 The scheme applies where local restrictions 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 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 financial year only
- 1.8 Where there is no local restriction, grants shall only be paid where there is a widespread national restriction.
- 1.9 Where any area enters either a localised restriction or where a widespread national restriction applies, additional assistance may be given to businesses under the Council's Additional Restrictions Grant (ARG) Scheme.

2.0 Funding

- 2.1 Local Authorities, subject to local eligibility, will receive funding to meet the cost of payments to businesses within the business rates system based on an assessment of the number of eligible business hereditaments.

3.0 Eligibility criteria and awards

- 3.1 Government, whilst wanting Councils to exercise their local knowledge and discretion, has set national criteria for the funds. In all cases, the Council will only consider businesses for grants where **all** of the criteria are met. Businesses will only be eligible where they are trading **on** the date of the announcement of either the local restriction or widespread national restrictions.
- 3.2 The Department for Business, Energy & Industrial Strategy (BEIS) has stated that businesses that were open as usual and providing **in-person services** to customers from their business premises and then required to close for a consecutive period of no less than 14 days as a result of regulations made under the Public Health (Control of Disease) Act 1984 will be eligible for this funding.
- 3.3 Where there is a widespread national restriction, business premises will be required to close for the entirety of the national restriction period.
- 3.4 Guidance from the Department states that this could include, non-essential retail, leisure, personal care, sports facilities and hospitality businesses that operate primarily as an in-person venue but have been forced to close these services.

Local restrictions awards and frequency of payment

- 3.5 Businesses which are forced to close in a localised restriction (LCAL3) that is implemented for less than two weeks and businesses that are closed for less than two weeks are not eligible for grant funding.
- 3.6 The amount of grant and the frequency of awards in respect of local restrictions are fixed as follows:
- (a) Businesses occupying hereditaments appearing on the local rating list with a rateable value of exactly £15,000 or under on the date of the commencement of the local restrictions will receive a payment of £667 per 14-day qualifying restriction period;
 - (b) Businesses occupying hereditaments with a rateable value of over £15,000 and less than £51,000 will receive a payment of £1,000 per 14-day qualifying restriction period; and
 - (c) Businesses occupying hereditaments with a rateable value of £51,000 or over will receive a payment of £1,500 per 14-day qualifying restriction period.
- 3.7 It should be noted that, in the case of local restrictions, grants will be paid every two weeks.
- 3.8 Any business failing to meet the criteria will not be awarded a grant.

National restrictions awards and frequency of payment

- 3.9 Where there are widespread national restrictions, the Local Restrictions Support Grant (Closed) scheme will move from a 14-day payment cycle to an alternative payment cycle.
- 3.10 For the national restriction from 5th November 2020 to 2nd December 2020, a 28-day payment cycle will be applied.
- 3.11 The amount of grant and the frequency of awards in respect of the national restriction are fixed as follows:
- (a) Businesses occupying hereditaments appearing on the local rating list with a rateable value of exactly £15,000 or under on the date of the commencement of the widespread national restrictions will receive a payment of £1,334 per 28-day qualifying restriction period;
 - (b) Businesses occupying hereditaments appearing on the local rating list with a rateable value over £15,000 and less than £51,000 on the date of the commencement of the widespread national restrictions will receive a payment of £2,000 per 28-day qualifying restriction period; and
 - (c) Businesses occupying hereditaments appearing on the local rating list with a rateable value of exactly £51,000 or above on the commencement date of the widespread national restrictions, will receive £3,000 per 28-day qualifying restriction period.
- 3.12 At the end of any widespread national restriction, businesses may qualify for further grants depending on the LCAL that applies to the area at that time and the schemes in operation by the Council.

Businesses that are not shown in the local rating list

- 3.13 Businesses which are not shown in the local rating list may be able to apply for an award under the Council's Additional Restrictions Grants (ARG) Scheme.

Excluded businesses – both local and national restrictions

- 3.14 The following businesses will **not** be eligible for an award:
- (a) Businesses that are able to continue to trade because they **do not depend** on providing direct **in-person services** from premises and can operate their services effectively remotely (e.g. accountants, solicitors);
 - (b) Businesses in areas outside the scope of the localised restrictions, as defined by Government (and not subject to a widespread national restriction);
 - (c) Businesses that have chosen to close but not been required to, will not be eligible;
 - (d) 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;
 - (e) Businesses that were in administration, are insolvent or where a striking-off notice has

- been made at the date of the local restriction or national restriction; and
- (f) Specific businesses subject to national closures since 23rd March 2020 will not be eligible for this funding. They will be provided support through the strand of the Local Restrictions Support Grant (Sector) for nationally mandated business closures. However, In the event of renewed widespread national ‘lockdown’ restrictions being imposed, the Local Restrictions Support Grant (Sector) will cease to apply, as relevant businesses will receive funding from the Local Restriction Support Grant (Closed) Scheme.

The Effective Date

- 3.15 The effective date for eligibility is determined as follows:
- (a) In the case of local restrictions, the date of the local restrictions; and
- (b) In the case of widespread national restrictions, the date of the commencement of the widespread national restrictions.
- 3.16 In **all** cases, the following must have existed at the effective date:
- The hereditament **MUST** be shown in the local rating list as at the effective date;
 - 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

- 3.17 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.

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 Local Restrictions Support Grant (Closed) 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.
- 4.2 Details of how to obtain grants are available on the Council's website:
www.chelmsford.gov.uk/businessgrants
- 4.3 In all cases businesses will be required to confirm that they are eligible to receive the grants. 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.
- 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 a Local Restrictions Support Grant (Closed) 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 Local Restrictions Support 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 Director of Financial Services 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 will be notified to the applicant either in writing or by email. A decision will 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 Council's website:
<https://www.chelmsford.gov.uk/your-council/have-your-say/complaints/how-to-make-a-complaint/>
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 details of individual grants paid may be passed to other relevant Government departments on request.

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.