

DECISION TAKEN UNDER DELEGATION TO THE CHIEF EXECUTIVE

Subject:

Christmas Support Payments Scheme for Wet-Led Pubs

Date of Decision:

21 December 2020

Decision Number:

11/2020

Background:

On 1st December 2020, the Secretary of State for Business, Energy and Industrial Strategy announced a one-off grant of £1,000 to support pubs during the Christmas period. It is only available to pubs which derive the majority of their income from the sale of drink, rather than food. Eligible businesses also have to be in areas where Tier 2 or Tier 3 COVID-19 restrictions are in place at any point between 2nd December 2020 and 29th December 2020.

A policy for the distribution of payments from the Christmas Support Payment (Wet-led Pubs) Scheme was produced and is attached as an Appendix. The Scheme is summarised in the attached briefing note.

Decision and Reasons for Urgency:

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 agreed to exercise his delegated authority to take urgent decisions and approved the Payment Scheme.

Supporting Information:

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

CHRISTMAS SUPPORT PAYMENTS – ‘WET-LED’ PUBS

Background Information for Chief Executive

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1. Introduction

- 1.1 On 1st December 2020, the Secretary of State for Business, Energy and Industrial Strategy announced a one-off grant of £1,000 to support pubs during the Christmas period. It is only available to pubs which derive the majority of their income from the sale of drink, rather than food. Eligible businesses also have to be in areas where Tier 2 or Tier 3 COVID-19 restrictions are in place at any point between 2nd December 2020 and 29th December 2020.
- 1.2 This paper seeks an urgency decision to agree the policy for the distribution of payments from the Christmas Support Payment (Wet-led Pubs) Scheme. The need to provide financial support to businesses quickly would be frustrated by the timescales of the usual decision-making process.

2. The Christmas Support Payment (Wet-led Pubs) Scheme

- 2.1 The proposed policy has been attached as Appendix A. Businesses that the council has decided should be eligible for grants will be paid £1,000, in addition to any other grant(s) to which they may be entitled.
- 2.2 The initial funding available for the grant has been calculated by Government as £83,200, this being 90% of the amount presumed to be needed to pay all such businesses. This funding will be ‘topped-up’, if required, with any balance remaining at the closure of the scheme to be returned to the Government.
- 2.3 Businesses are required to confirm that more than 50% of their income is derived from the sale of drink. Applications must be received by the Council by 31st January 2021 and no payments in respect of this scheme may be made after 28th February 2021.

3. Restrictions

- 3.1 There are restrictions regarding eligibility to the grant. A business must have been actively trading on 30th November 2020. 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.

4 Conclusion

- 4.1 An urgency decision will allow Chelmsford City Council to invite applications from eligible businesses and begin making payments in advance of Christmas and New Year period.

List of Appendices

Appendix A – Christmas Support Payment (Wet-led Pubs) Scheme

Background Papers

Department for Business, Energy and Industrial Strategy guidance regarding Christmas Support Payment (Wet-led Pubs) Scheme

Chelmsford City Council Christmas Support Payment (Wet-Led Pubs) Scheme

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Definitions

The following definitions are used within this document:

'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, 1st December 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 Chelmsford. 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'** mean legally binding restrictions imposed on Chelmsford, where the Secretary of State for Health and Social Care requires the closure of businesses in Chelmsford 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;

'Pub/public house'; means under normal circumstances (without local or national restrictions) licensed premises open to the general public, allowing free entry other than when occasional entertainment is provided, allowing drinking without requiring food to be consumed and permitting drinks to be purchased at a bar;

'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;

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

'Wet-led'; means a pub that derives less than 50% of its income from sales of food.

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 Christmas Support Payment (Wet-Led Pubs) Scheme.
- 1.2 The grant scheme has been developed by the Council in response to an announcement made by the Government on 1st December 2020 which introduced additional support over the festive period for wet-led pubs in areas under Tier 2 or Tier 3 restrictions.
- 1.3 Whilst the awarding of grants will be the Council's responsibility, the Department for Business, Energy & Industrial Strategy (BEIS) has set down certain 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 either under LCAL2 (High) or LCAL3 (Very High) are in place between 2nd December 2020 and 29th December 2020.
- 1.5 Grants under this scheme will be available for the 2020/21 financial year only until 28th February 2021. Final applications must be received by 31st January 2021.

2.0 Funding

- 2.1 All monies paid under this scheme are expected to be funded by Government and paid to the Council under S31 of the Local Government Act 2003.

3.0 Eligibility criteria.

- 3.1 The Christmas Support Payment (Wet-Led Pubs) Scheme is solely aimed at assisting pubs which derive the majority of their income from the sale of drinks, rather than food.
- 3.2 The Government has set out the criteria for the grant and the Council will only consider will only consider businesses for grants where **all** of the criteria are met.
- 3.3 Only businesses commonly understood to be a 'pub' will be eligible for a payment of £1,000 from this scheme.
- 3.4 In each case, the business will be required to certify to the Council that, in normal trading circumstances, they derive less than 50% of their income from the sale of food. Temporary adjustments to cope with Covid restrictions will be disregarded. Where businesses were open prior to 11th March 2020, it is required that accounts will be able to show that the majority of income was derived from drinks sales. Where a business was established between 11th March 2020 and 1st December 2020

it may be asked to supply accounting evidence to determine that the pub is 'wet-led'. It may be necessary to ask for further information in borderline cases or as part of post-payment assurance processes.

- 3.5 Only eligible businesses trading on 30th November 2020 will be eligible to receive funding from this scheme. As local restrictions were preceded by national lockdown measures requiring the closure of businesses that are otherwise eligible, it is accepted that those businesses were trading on that date.

4.0 The grant award, award periods and excluded businesses

Where the business is shown in the local non-domestic rating list

- 4.1 The Council has decided that the following award shall be granted to the business that, according to the Council's records, was the ratepayer in respect of the hereditament on 1st December 2020:

A one-off payment of £1,000.

Award periods

- 4.2 It should be noted that, in all cases, grants will be paid in respect of the period 2nd December 2020 to 29 December 2020 only. Applications must be received by 31st January 2021. No payment will be made after 28th February 2021.

5.0 Excluded businesses

- 5.1 The following businesses will **not** be eligible for an award:
- (a) restaurants, cafes, nightclubs, hotels, snack bars, guesthouses, boarding houses, sporting venues, music venues, festival sites, theatres, museums, exhibition halls, cinemas, concert halls and casinos.
 - (b) Businesses in areas outside the scope of Chelmsford's localised restrictions, as defined by Government;
 - (c) Businesses which have already received grant payments that equal the maximum levels of State aid permitted under the de minimis, the COVID-19 Temporary State Aid Framework and all other UK schemes;
 - (d) Businesses that are in administration, are insolvent or where a striking-off notice has been made.

6.0 The Effective Date

- 6.1 The effective date for eligibility of grants under this scheme is 1st December 2020.
- 6.2 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.
- 6.3 The Council is not required to adjust, pay or recover grants where the local rating list is subsequently amended retrospectively to the effective date.

7.0 Who can receive the grant?

- 7.1 Government has stated that the person who will receive the grant will be, where the business has a hereditament in the local non-domestic rating list, the person who, according to the Council's records, was the ratepayer in respect of the hereditament at the effective date.
- 7.2 Where the Council has reason to believe that the information it holds about the ratepayer or business at the effective date is inaccurate, it may withhold or recover the grant and take reasonable steps to identify the correct ratepayer.
- 7.3 Where, it is subsequently determined that the records held are incorrect, the Council reserves the right to recover any grant incorrectly paid.
- 7.4 Where any business or individual 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 business or individual is found to have falsified records in order to obtain a grant.

8.0 How will grants be provided to Businesses?

- 8.1 Details of how to obtain grants are available on the Council's website:
<https://www.chelmsford.gov.uk/business/coronavirus-help-and-guidance-forbusinesses-and-employers/grants-for-businesses-affected-by-coronavirus/>
- 8.2 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 is 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.
- 8.3 The Council reserves the right to request any supplementary information from businesses. No grant will be paid where requested information has not been

supplied. The judgement as to the suitability or completeness of any supplied information will rest solely with the Council.

- 8.5 An application for a Christmas Support Payment (Wet-led Pubs) is deemed to have been made when a duly completed application form is received via the Council's online procedure.

9.0 EU State Aid requirements

- 9.1 Any Christmas Support Payment (Wet-led Pubs) 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 can be combined with so-called 'de minimis' aid. This means that businesses receiving support under these provisions can receive up to €1m in aid over three years (being the current and the previous two years).
- 9.2 Any grant awarded is required to comply with the EU law on State Aid or any alternative scheme which emerges following the UK leaving the European Union. This will involve the applicant declaring to the Council if they have received any other de minimis State aid, any other UK scheme provided under the EU Commission COVID-19 Temporary Framework or any future replacement.
- 9.3 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.

10.0 Scheme of Delegation

- 10.1 The Council has approved this scheme.
- 10.2 Officers of the Council will administer the scheme and the Director of Finance is authorised to make technical scheme amendments to ensure it meets the criteria set by the Council and remains in line with Government guidance.

11.0 Notification of Decisions

- 11.1 Applications will be considered on behalf of the Council by the Revenues and Benefits Service.
- 11.2 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.

12.0 Reviews of Decisions

- 12.1 The Council will operate an internal review process and will accept an applicant's request for a review of its decision.
- 12.2 All such requests must be made in writing or by email 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.
- 12.3 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.

13.0 Complaints

- 13.1 The Council's 'Complaints Procedure' (<https://www.chelmsford.gov.uk/your-council/have-your-say/complaints/>) will be applied in the event of any complaint received about this scheme.

14.0 Taxation and the provision of information to Her Majesty's Revenues and Customs (HMRC) and other Government bodies

- 14.1 The Council has been informed by Government that all payments under the scheme are taxable.
- 14.2 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.
- 14.3 All applicants should note that the Council is required to inform Her Majesty's Revenue and Customs (HMRC) of all payments made to businesses.

15.0 Managing the risk of fraud

- 15.1 Neither the Council nor Government will accept any form of fraud or other deliberate manipulation of the scheme. 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.
- 15.2 Applicants should note that, where a grant is paid by the Council, details of each individual grant will be passed to Government upon request.

16.0 Recovery of amounts incorrectly paid

- 16.1 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.

17.0 Data Protection and use of data

- 17.1 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. <https://www.chelmsford.gov.uk/your-council/about-our-website/our-privacy-policy-and-privacy-notice/>