

Chelmsford City Council

Omicron Hospitality, Leisure and Accommodation Grant Scheme

1 General Scheme Conditions

- 1.1 This scheme applies in the Chelmsford City Council area only from 21 December 2021. It is not retrospective.
- 1.2 The primary principle of the Omicron Hospitality, Leisure and Accommodation 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 the hospitality, leisure or accommodation sectors.
- 1.3 This support will take the form of a one-off grant payable only to a UK bank account belonging to the business. Applications must be received before midnight on 28 February 2022, although this date may be brought forward by Government. No payment in respect of this scheme will be issued after 31 March 2022. Scheme funding, availability and guidance may be altered by the Government without notice.
- 1.4 The scheme provides support to hospitality, leisure and accommodation businesses occupying hereditaments, which are on the Valuation Office Agency rating list and liable to pay business rates, on 30 December 2021. Businesses liable to pay business rates (or receiving exemptions) in respect of empty properties will not be eligible.
- 1.5 Any changes to the rating list (rateable value or to the hereditament) after 30 December 2021 will be ignored for the purposes of eligibility, unless it was factually clear to the Local Authority on 30 December 2021 that the rating list was inaccurate on that date. In order to prevent manifest errors, the Council at its absolute discretion may retrospectively alter the details on the rating list as at 30 December 2021. In all cases, including those where the rating list is deemed inaccurate, all grant payments must leave the Local Authority by 31 March 2022.
- 1.6 Businesses must have been trading on 30 December 2021 to be eligible to receive funding under this scheme.
- 1.7 For the purposes of this grant scheme, a business is considered to be trading if it is engaged in business activity. This should be interpreted as carrying on a trade or profession, or buying and selling goods or services in order to generate turnover. Fully constituted businesses in liquidation, dissolved, struck off or subject to a striking-off notice are not eligible under these conditions. To help further, some trading indicators are included below that can help assess what can be defined as trading for the purposes of the grant schemes. Indicators that a business is trading are:
 - The business continues to trade, including online, via delivery services etc.

- The business is not in liquidation, dissolved, struck off or subject to a striking-off notice or under notice
- The business is engaged in business activity; managing accounts, preparing for reopening, planning and implementing COVID-safe measures

This list of indicators is not exhaustive and the Council will use its discretion to determine if a business is trading.

2 Amounts of grant payable

- 2.1 Eligible businesses occupying hereditaments appearing on the local rating list with a rateable value of exactly £15,000 or under on 30 December 2021 will receive a payment of £2,667.
- 2.2 Eligible businesses occupying hereditaments appearing on the local rating list with a rateable value over £15,000 and less than £51,000 on 30 December 2021 will receive a payment of £4,000.
- 2.3 Eligible businesses occupying hereditaments appearing on the local rating list with a rateable value of exactly £51,000 or over on 30 December 2021 will receive a payment of £6,000.

3 Types of eligible business

- 3.1 Businesses will only be eligible where their main service falls within hospitality, leisure or accommodation. If a business operates services that could be considered hospitality or leisure, and also fall into another category, the main service will be determined by assessing which category constitutes 50% or more of their overall income. The main service principle will determine whether a business receives funding. Businesses will need to declare which is their main service. It will be the decision of the Council whether or not a business is eligible for a grant.
- 3.2 Hospitality definition: a business whose main function is to provide a venue for the consumption and sale of food and drink. The Council may use the following criteria to assess whether a business is eligible for a grant under this threshold:
 - Businesses offering in-person food and drink services to the general public.
 - Businesses that provide food and/or drink to be consumed on the premises, including outdoors.
- 3.3 Leisure definition: a business that provides opportunities, experiences and facilities, in particular for culture, recreation, entertainment, celebratory events, days and nights out, betting and gaming. Social mixing must be the primary purpose rather than a consequence of the activity.
- 3.4 Accommodation definition: a business whose main lodging provision is used for holiday, travel and other purposes. The Council may use the following criteria to assess whether a business is eligible for a grant under this threshold:
 - Businesses that provide accommodation for 'away from home' stays for work or leisure purposes.
 - Businesses that provide accommodation for short-term leisure and holiday purposes.

3.5 This following list sets out types of businesses that are eligible under the sector thresholds for this scheme. This list is not exhaustive, but indicative of the types of businesses that can be supported under this scheme:

Hospitality

- Food courts
- Public houses/pub restaurants
- Restaurants, roadside restaurants and cafés
- Wine bars

Leisure

- Casinos and gambling clubs
- Cinemas and theatres
- Museums, art galleries, stately homes, historic houses and tourist attractions
- Zoos and safari parks
- Amusement parks and arcades
- Wedding and events venues
- Night clubs and discotheques
- Arenas and concert halls
- Theme parks
- Soft play centres or areas
- Clubs and institutions, village halls and scout huts, cadet huts, etc.

Accommodation

- Caravan parks, sites and pitches
- Chalet parks
- Coaching inns
- Guest houses, B&Bs, boarding houses and hostels
- Hotels, lodges and country house hotels

- Holiday apartments, holiday homes and catered holiday homes
- Cottages or bungalows
- Campsites
- Canal boats or other vessels

3.6 Local Authorities may use the following criteria to assess whether a business is eligible for a grant under this threshold:

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

3.7 It is understood that in some cases it may not be materially clear whether a business falls into one of the eligible categories, so decisions on the eligibility of these businesses will be at the Council's discretion.

4 Process

4.1 The Council will run an application process for all applicants for the grant and must be satisfied that businesses that have previously received related grants meet the eligibility criteria for the Omicron Hospitality and Leisure Grant. As a minimum, the Council requires the following information on all applicants:

- a. Name of business
- b. Business Trading Address including postcode
- c. Unique identifier (preferably Company Reference Number (CRN)) if applicable. If not applicable, VAT Registration Number, Self Assessment/Partnership Number, National Insurance Number, Unique Taxpayer Reference, Registered Charity Number will also be acceptable)
- d. High level SIC Code
- e. Nature of Business
- f. Date business established
- g. Number of employees
- h. Business rate account number

4.2 The Council may share data relating to grant recipients with the Department for Business, Energy and Industrial Strategy (BEIS). The BEIS privacy notice, setting out how BEIS will handle personal data across all COVID-19 business grant schemes, can be found here: <https://www.gov.uk/government/publications/covid-19-grant-schemes-privacynotice/covid-19-grant-schemes-privacy-notice>.

4.3 The Council is required to undertake pre-payment checks prior to the award of a grant and this may mean that assessment of applications is slower than with previous grants.

5 Exclusions to Omicron Hospitality, Leisure and Accommodation Grant funding

5.1 For these purposes, the definition of a hospitality business excludes: food kiosks and businesses whose main service (generating 50% or more of income) is a takeaway (not applicable to those that have adapted to offer takeaways during periods of restrictions, in alignment with previous COVID-19 business grant schemes).

5.2 For these purposes, the definition of a leisure business excludes: all retail businesses, coach tour operators, tour operators, gyms and sports businesses where physical exercise or training is conducted on an individual or group basis (including dance and fitness studios, sports centres and clubs, sports courts, swimming pools and golf courses – this list is not exhaustive).

5.3 For these purposes, the definition of an accommodation business excludes: private dwellings, education accommodation, residential homes, care homes, residential family centres and beach huts.

5.4 The proposed exclusions in the list at paragraphs 5.1, 5.2 and 5.3 are not intended to be exhaustive and the Council will determine those cases where eligibility is unclear.

5.5 Businesses that are not within the rating system will not be eligible to receive funding under this scheme.

5.6 Businesses that have already received grant payments that equal the maximum permitted subsidy allowances will not be eligible to receive funding (see section 8).

5.7 Businesses that are in administration, insolvent or where a striking-off notice has been made, are not eligible for funding under this scheme.

6 Tax liability

6.1 Grant income received by a business is taxable. The Omicron Hospitality, Leisure and Accommodation Grant will need to be included as income in the tax return of the business. It is the business's responsibility to ensure that its tax affairs are in order.

6.2 Only businesses that make an overall profit once grant income is included will be subject to tax.

6.3 Payments made to businesses before 5 April 2022 will fall into the 2021/22 tax year. Unincorporated businesses will be taxed when they receive the grant income.

6.4 If requested or instructed to do so, the Council will share details of grants paid with Her Majesty's Revenue and Customs

7 Managing the risk of fraud and payments in error

7.1 The Council will email or write to successful businesses stating that by accepting the grant payment the business confirms that they are eligible for the grant scheme.

7.2 Neither the Council nor the Government will accept deliberate manipulation and fraud. Any business caught falsifying their records to gain additional grant money will

face prosecution and any funding issued will be recovered, as may any grants paid in error.

8 Subsidy Allowances

- 8.1 The EU State aid rules no longer apply to subsidies granted in the UK following the end of the transition period, which ended on 31 December 2020. This does not impact the limited circumstances in which State aid rules still apply under the Withdrawal Agreement, specifically Article 10 of the Northern Ireland Protocol. However, in the vast majority of cases this will not apply. The United Kingdom remains bound by its international commitments, including subsidy obligations set out in the Trade and Cooperation Agreement (TCA) with the EU. BEIS Guidance for public authorities explaining the subsidies chapter of the TCA, World Trade Organisation rules on subsidies, and other international commitments can be found here: <https://www.gov.uk/government/publications/complying-with-the-uksinternational-obligations-on-subsidy-control-guidance-for-public-authorities> .
- 8.2 The below scheme rules should be applied to applicants at the level of economic actor, which is defined as an entity or a group of entities constituting a single economic entity regardless of its legal status, that is engaged in an economic activity by offering goods or services on a market.
- 8.3 There are three subsidy allowances for the COVID-19 Business Grant Schemes set out below: Small Amounts of Financial Assistance Allowance, the COVID-19 Business Grant Allowance and the COVID-19 Business Grant Special Allowance.
- 8.4 The Government has concluded that the COVID-19 Business Grant Allowance and the COVID-19 Business Grant Special Allowance are compatible with the principles set out in Article 366 of the TCA and are targeted, proportionate, and effective in order to remedy difficulties caused by the COVID-19 pandemic for the purposes of Article 364(3). These two allowances constitute subsidy schemes for the purposes of Article 373(4) of the TCA and the transparency requirements at Article 369 of the TCA.
- 8.5 Grants may be paid in accordance with Article 364(4) of the TCA, which enables an applicant to receive up to a maximum level of subsidy without engaging Chapter 3 of the TCA. This allowance is up to 325,000 Special Drawing Rights, to a single economic actor over a rolling period of three fiscal years (the “Relevant Period”), which is the equivalent of £335,000 as at 2 March 2021. When calculating the amount of subsidy an applicant has received under Article 364(4) of the TCA in a Relevant Period, a local authority should have regard to any subsidy given under Article 364(4) and any subsidy given under Commission Regulation (EU) No 1407/2013 (the De Minimis Regulation). An applicant may elect not to receive grants under the Small Amounts of Financial Assistance Allowance and instead receive grants only using the below allowances available under this scheme.
- 8.6 Where the Small Amounts of Financial Assistance Allowance has been reached or an applicant has elected not to receive a grant under this allowance, grants may be paid in compliance with the Principles set out in Article 366 of the TCA and in compliance with Article 364(3) of the TCA under the COVID-19 Business Grant Allowance (subsidies granted on a temporary basis to respond to a national or global economic emergency). For the purposes of the COVID-19 Business Grant Schemes, this allowance is £1,900,000 per single economic actor. This allowance includes any grants previously received under other COVID-19 Business Grant Schemes using

the COVID-19 Business Grant Allowance and any State aid previously received under Section 3.1 of the European Commission's Temporary Framework across any other UK scheme. This may be combined with the Small Amounts of Financial Assistance Allowance to equal £2,235,000 (subject to the exact amount applicable under the Small Amounts of Financial Assistance Allowance using the Special Drawing Right calculator, and any other support an applicant has received under the Small Amounts of Financial Assistance Allowance in the Relevant Period). COVID-19 Business Grant Special Allowance

- 8.7 Where an applicant has reached its limit under the Small Amounts of Financial Assistance Allowance and COVID-19 Business Grant Allowance, it may be able to access a further allowance of funding under the COVID-19 Business Grant Schemes of up to £10,000,000 per single economic actor, provided the following conditions are met:
- a. The Special Allowance covers only the applicant's uncovered fixed costs incurred during the period between 1 March 2020 and the date of application, including such costs incurred in any part of that period ('eligible period');
 - b. Applicants must demonstrate a decline in turnover during the eligible period of at least 30% compared to the same period in 2019. The calculation of losses will be based on audited accounts or official statutory accounts filed at Companies House, or approved accounts submitted to HMRC which includes information on the applicant's profit and loss;
 - c. 'Uncovered fixed costs' means fixed costs not otherwise covered by profit, insurance or other subsidies;
 - d. The grant payment must not exceed 70% of the applicant's uncovered fixed costs, except for micro and small enterprises (for the purposes of this scheme defined as less than 50 employees and less than £9,000,000 of annual turnover and/or annual balance sheet), where the grant payment must not exceed 90% of the uncovered fixed costs;
 - e. Grant payments under this allowance must not exceed £10,000,000 per single economic actor. This allowance includes any subsidies previously received in accordance with Section 3.12 of the European Commission's Temporary Framework or previously received under the COVID-19 Business Grant Schemes using this COVID-19 Business Grant Special Allowance; all figures used must be gross, that is, before any deduction of tax or other charge;
 - f. Grants provided under this allowance shall not be cumulated with other subsidies for the same costs.
- 8.8 Grants provided in excess of the Small Amounts of Financial Assistance Allowance may not be granted to applicants that were defined as an 'undertaking in difficulty' (as defined in Annex C below) on 31 December 2019. In derogation to the above, grants can be granted to micro or small enterprises (as defined above) that were already in difficulty on 31 December 2019 provided that they are not subject to collective insolvency proceedings.
- 8.9 For the avoidance of doubt, grants under the Small Amounts of Financial Assistance Allowance, the COVID-19 Business Grant Allowance and the COVID-19 Business Grant Special Allowance may be combined for a potential total allowance of

£12,235,000 (taking into account all grants previously received under the COVID-19 business grants schemes and subject to the exact amount applicable under the Small Amounts of Financial Assistance Allowance using the Special Drawing Right calculator and the three fiscal year period applicable to the Small Amounts of Financial Assistance Allowance).

9 Appeal Rights

- 9.1 Any appeal against decisions made by the Council in respect of this scheme should be addressed to the Revenue and Benefit Services Manager.
- 9.2 Appeals will be considered by the Revenue and Benefit Services Manager and the Director for connected Chelmsford.