



# West Devon Borough Council Additional Restrictions Grants (ARG) Scheme

Version 2

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## **Overview**

West Devon Borough Council (the Council) recognises the incredibly challenging trading conditions that exist at the moment. In response to this situation, this revised ARG policy increases the payment amounts to align with the LRGs Closed payment thresholds. This recognises the reality that staying open for limited trading opportunities, can be as, if not more expensive than being mandated to close. The threshold for accessing the grant payments has also been revised from 50% impact in trade to just 10%, to increase uptake.

Furthermore it introduces a “one off” lockdown payment from the ARG, similar to the Closed Business Lockdown Payment (CBLP), for those business that have not been mandated to close, and therefore cannot access the CBLP payment, but who do have retail premises as part of their business unit (hereditament).

The Council hopes that these steps will address any perceived or actual inequity of circumstance businesses face as a result of national policy implementation. The Council will continue to strive to make fair and fast payments to those businesses in need, within the framework set out by national government.

## **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 or higher 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, the date of the local restrictions or the date of widespread national restrictions. For the purpose of this scheme the date cannot be before 14<sup>th</sup> October 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 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;

**'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 9<sup>th</sup> September 2020 and amended on 9<sup>th</sup> 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;

**'Ratepayer'**; means 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 or widespread national 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 Additional Restrictions Grant Scheme (ARG). The Council, as the Business Rates Billing Authority is responsible for payment of these grants.
- 1.2 This discretionary grant scheme has been developed by the Council in response to an announcement made by the Secretary of State for Business, Energy & Industrial Strategy which sets out the basic circumstances whereby an additional restriction grant payment may be made by the Council to a business which has to close or are severely affected 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 largely be at the Council's discretion, the Department for Business, Energy & Industrial Strategy (BEIS) has set down criteria which **must** be met by each business making an application.
- 1.4 This scheme applies for the period of the current widespread national lockdown and any subsequent ones, including Tier 3 local restrictions from the end of the national lockdown that commenced on the 5<sup>th</sup> Jan 2021. National restrictions are nationally binding widespread restrictions imposed by Parliament under legislation. The current national restrictions are made under the Health Protection (Coronavirus, Restrictions) (England) (No. 4) Regulations 2020.
- 1.5 Additional Restrictions Grant funding will be available for the 2020/21 and 2021/22 financial years only.

## 2.0 Funding

- 2.1 Under the Additional Restrictions Grant Scheme (ARG) provisions, Local Authorities receive funding when local restrictions (LCAL3 or higher) or widespread national restrictions are imposed.
- 2.2 The Council has been allocated funds which will be used to;
  - support businesses during the widespread national restrictions;
  - provide strategic Economic Development projects both during and post the COVID-19 crisis; and
  - provide funding in case of further national or LCAL3 (or higher) restrictions before 31<sup>st</sup> March 2022.

### 3.0 Eligibility criteria and awards

- 3.1 The Council is able to use this funding for business support activities and Government envisage that this will primarily take the form of discretionary grants although it ~~can~~will be ~~used~~ for wider business support activities.
- 3.2 If Local Authorities use the Additional Restriction Grant for direct business support grants, Government has stated that the same conditions of grant **must** apply as for the Local Restrictions Support Grant (Closed) scheme. However, the Council will have the discretion to alter the amount of funding offered to individual businesses and the frequency of payment.
- 3.3 Government has stated that the Council *may* also consider making grant payments to those businesses which, while not legally forced to close are nonetheless impacted by the restrictions put in place to control the spread of COVID-19. Government has also stated that the Council may also wish to assist businesses which are outside of the rating system and which are effectively forced to close but, in all cases, will be awarded subject to evidence of need.
- 3.4 This document details the eligibility criteria for the widespread national restriction period 5<sup>th</sup> November 2020 until 2<sup>nd</sup> December 2020 and the subsequent widespread national restriction from 5<sup>th</sup> January 2021.

#### Eligibility Criteria - widespread national restriction period

- 3.5 For the purposes of this scheme the Council has decided that the following eligibility criteria must be met in order to receive an Additional Restriction Grant (ARG) during the widespread national restriction period.
- 3.6 In line with Government guidance, the Council's Additional Restrictions Grants (ARG) scheme will support businesses that have had their trade affected by the current restrictions. This includes closed businesses that don't pay business rates as well as businesses that have not been required to close but are still impacted by the restrictions.
- 3.7 The Council particularly encourages applications from businesses both within and which supply the retail, hospitality and leisure sectors, including the events sector. In prioritising support to those businesses most adversely impacted by the current restrictions, the Council will be proactive in communicating the availability of the Additional Restrictions Grants (ARG) to retail, hospitality and leisure related businesses, including those with whom the Council had contact in relation to the previous Local Authority Discretionary Business Grants. Businesses in these sectors will still have to evidence they have been impacted as set out in 3.9 below.
- 3.8 Businesses and organisations which are not included within the specific list of exclusions detailed within this scheme will be able to apply to the Additional Restrictions Grants (ARG) scheme if sufficient evidence can be provided that they have been impacted by the current national restrictions or future Tier 3 / 4 local restrictions. This includes non-

excluded home-based and mobile businesses that can evidence they are registered companies or sole traders.

- 3.9 Each application will be considered on a case-by-case basis and the Council considers ‘impact’ to describe an evident drop in the businesses’ normal trading, income or service provision of at least 10% compared to a more representative period of comparable trading. It should be shown that this decreased level of trade is a direct consequence of the period of national restrictions, and not as a result of more predictable (e.g. seasonal) fluctuations in demand.
- 3.10 Full details on how to claim are shown in Section 4.
- 3.11 To prevent an overspend from the Council’s allocation of funding, applications will not be accepted from any business that is eligible for an award from the Local Restrictions Support Grant (Closed) Scheme.
- 3.12 Only one Additional Restrictions Grants (ARG) will be awarded to any business covering the national restriction period (5<sup>th</sup> Nov 2020 to 2<sup>nd</sup> Dec 2020) and for the subsequent national restriction which commenced on 5<sup>th</sup> January 2021 the Council will make an initial payment to cover an initial period of 6 weeks. The Council will make further payments on a pro-rata basis if the current national restriction period is extended. This scheme will apply for future national lock downs and local restrictions for which the ARG is open.

### Award Levels

- 3.13 The Council has decided the following grant award levels for the widespread national restrictions. The awards shown reflect a 28-day payment period. Any other period will be calculated on a pro-rata period. The ARG funding amounts set out below match exactly the funding available through the LRGS Closed (addendum) scheme, so no business will be worse off as a result.

| <b>Total payment per 28 days (where the widespread national restrictions are for a greater period, payments will be calculated pro-rata)</b>   |   |
|--|---|
| Where the business suffers a financial impact; <b>or</b> where the business is closed, and the business is not subject to Non-Domestic rating; | <b>Lower grant level</b><br>£500<br><b>Upper grant level</b><br>£1334 |
| Where the business suffers a financial impact and is subject to Non-Domestic rating (Business Rates);<br>RV £0 - £15,000                       | £1334   |
| Where the business suffers a financial impact and is subject to Non-Domestic rating (Business Rates);<br>RV over £15,001 - £50,999             | £2,000  |
| Where the business suffers a financial impact and is subject to Non-Domestic rating (Business Rates);  | £3,000  |

|            |  |
|------------|--|
| RV £51,000 |  |
|------------|--|

In taking decision on the appropriate level of grant, the Council will take into account the level of fixed costs faced by the business in question, whether they are unable to trade online and the consequent scale of coronavirus losses.

### **3.14 ARG “one off” lockdown payment**

Businesses that are not mandated to close, pay business rates and have a customer facing retail element to their hereditament (for example, they are predominantly a manufacturer but have a small retail unit as well) will also be eligible for an additional ARG payment matched to the Closed Business Lockdown Payment (CBLP) grant scheme amounts.

Those businesses will receive a one of payment in relation to the national lockdown that started on 5<sup>th</sup> January. Should any future national lockdown periods occur, the same principle will apply, subject to there being available funding.

The grant amount is based on the rateable value of your business. If your business has a rateable value of:

- exactly £15,000 or under on 5 January 2021, you will receive £4,000
- £15,001 and less than £51,000 on 5 January 2021, you will receive £6,000
- exactly £51,000 or above on 5 January 2021, you will receive £9,000

The Council has decided to implement the ARG “one off” lockdown payment, because it recognises that footfall has dramatically fallen, and open businesses are generally just as impacted as those mandated to close. Furthermore, they have additional and ongoing costs, as staff may not be furloughed and premises need to be occupied, heated and stocked.

### **Excluded businesses**

3.14 The following businesses will **not** be eligible for an award:

- Businesses which can obtain a grant under the Local Restrictions Support Grant Scheme (Closed);
- Businesses in areas outside the scope of the restrictions, as defined by Government and not subject to a widespread national restriction;
- 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; and
- Businesses that were in administration, are insolvent or where a striking-off notice has been made at the date of the local restriction or widespread national restriction.

3.15 In addition to the above and to ensure limited grant funds are prioritised to those businesses most impacted by the current national restrictions, the following businesses and hereditaments are specifically excluded from Council’s Additional Restrictions Grants (ARG) scheme:

- Any properties or parts of properties used for personal use

- Charitable business receiving other help from public funds;
- Show homes;
- Car parking;
- Storage containers; Containers; Storage premises;
- Yards, land or properties used for storage only;
- Advertising or advertising stations or hoardings;
- Communication stations or telecommunication equipment;
- Solar panel sites;
- ATM's, cash machines or equivalent;
- Schools / Academies / Educational establishments and premises (which are publicly funded);
- Lockers; Beach huts or similar structures;
- Businesses in the accommodation sector that advertise solely on home sharing websites;
- Businesses in the accommodation sector that are second homes, whole homes or part homes that are also let to paying guests; and
- Businesses that are able to trade as they are not wholly dependent on providing 'in person' services from the premises.

## **The Effective Date**

- 3.16 The effective date for eligibility is the date of any widespread national restriction. Businesses **must** have been trading on the day prior to national restrictions to be eligible to receive grant support.

## **Who can receive the grant?**

- 3.17 Government has stated that 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. Where there is no entry in the rating list for the business, the Council will have discretion to determine who should receive the grant.
- 3.18 Where the Council has reason to believe that the information it holds about the ratepayer or applicant at the effective date is inaccurate, it may withhold or recover the grant and take reasonable steps to identify the correct ratepayer or applicant.
- 3.19 Where, it is subsequently determined that the records held are incorrect, the Council reserves the right to recover any grant incorrectly paid.
- 3.20 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 person 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 Council's Additional Restrictions Grant (ARG) scheme together with the Local Restrictions Support Grant (Closed) will offer a lifeline to businesses who are struggling to survive during to the COVID-19 crisis.
- 4.2 Full details of the Council's scheme, including how to apply are available online at: <https://www.westdevon.gov.uk/ARGhttps://www.westdevon.gov.uk/covid19businesses>
- 4.3 The application form is available to complete and end date for each application period is shown on the Council's website.
- 4.4 All applicant businesses will be required to upload up to date bank statement(s) (for the account used by the business). This must contain the name of account, sort code and account number for verification purposes. The statement(s) should include recent transactions to show trading at the beginning of the national lockdown.
- 4.5 The Council will undertake both pre- and post-payment anti-fraud checks. Any attempt to fraudulently claim public grant funding will result in funds being recovered and legal action being taken.

- 4.6 In all cases, businesses will be required to confirm that they are eligible to receive the grants. Businesses are under an obligation to notify the Council should they no longer meet the eligibility criteria for any additional grants.
- 4.7 The Council reserves the right request any supplementary information from businesses, and they should look to provide this, where requested, as soon as possible.
- 4.8 An application for an Additional Restriction Grant is deemed to have been made when a duly completed application form is received via the Council's online procedure.
- 4.9 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 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 This scheme is considered a matter of urgency by the Head of Paid Service under Part 3a of the scheme of delegation and shall be delegated to him in consultation with the Chairman and Vice-Chairman of the Executive subject to a report being made to the next meeting of the Executive.
- 6.2 Officers of the Council will administer the scheme and the S151 Officer, Director of Place and Enterprise are authorised to make technical amendments to the scheme, and, to determine individual awards as required outside of the levels specified in 3.13 in rare circumstances.
- 6.3 The Council reserves the right to change this scheme at any time.

## **7.0 Notification of Decisions**

- 7.1 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.

## **8.0 Reviews of Decisions**

- 8.1 All grants will be approved by the S151 Officer, Director of Place and Enterprise and Head of Customer Improvement. This decision will be final and there will be no appeal process.

## **9.0 Complaints**

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

## **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 Fraud tools such as the digital due diligence tool Spotlight and the National Fraud Initiative (NFI) tool will be used as part of the assurance process.
- 11.3 Applicants should note that, where a grant is paid by the Council, details of each individual grant may be passed to Government.

## **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.