



# Eastbourne Borough Council Additional Restrictions Grants (ARG) Scheme

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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 LCAL 3 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 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 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 made on 31<sup>st</sup> October 2020 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 The scheme applies where local restrictions (LCAL3) 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 widespread restrictions imposed by Parliament under legislation. The current national restrictions are made under the Health Protection (Coronavirus, Restrictions) (England) (No. 4) Regulations 2020.
- 1.7 Grants under the Additional Restrictions Grant (ARG) scheme will be available for the 2020/21 and 2021/22 financial years only.
- 1.8 This scheme primarily details the awards that will be available during the current widespread national restrictions which run from 5<sup>th</sup> November 2020 to 2<sup>nd</sup> December 2020.
- 1.9 Where any area enters either a localised restriction (LCAL3) or where a national restriction applies, additional assistance may be given to businesses under the Council's Local Restrictions Support Grants (Closed) Scheme (as amended).
- 1.10 The Council has decided that, once the current widespread national restriction has ended, funding will be available for use in strategic economic development projects to support the local economy.

## 2.0 Funding

- 2.1 Under the Additional Restrictions Grant Scheme (ARG) provisions, Local Authorities will receive a one-off lump sum payment amounting to £20 per head in each area when local restrictions (LCAL3) or widespread national restrictions are imposed.
- 2.2 Once the Council's area is removed from local restrictions (LCAL3) or widespread national restrictions, no additional funding will be received from Government even if either the local restrictions or widespread national restrictions are re-instated.

## 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 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 severely 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 business which are outside of the rating system and which are effectively forced to close.

### Eligibility Criteria

- 3.4 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:
- (a) Where any business receives any Local Restriction Support Grant (OPEN) or Local Restriction Support Grant (CLOSED), no payment will be made from the Additional Restriction Grant; and
  - (b) If the business is required to **close** and has **no Non-Domestic rating assessment** and falls within one of the following categories, then an award will be granted. In all cases Businesses **must** have been trading the day prior to the widespread national restrictions or LCAL3 restrictions to be eligible to receive grant support. The categories are:

### Shared spaces

- 3.5 These are defined by the Council as businesses which do not have a separate assessment for Non-Domestic Rating (i.e. those businesses who do not occupy a separate

hereditament within the 2017 Rating List) and who, on the effective date were trading and shared the premises with other businesses.

- 3.6 Primarily, these businesses will not be assessed individually for Non-Domestic Rating on the basis that the landlord has paramount occupation of the premises.

### **Bed & Breakfast**

- 3.7 For the purpose of this scheme, these businesses are those who do not occupy a separate hereditament within the 2017 Rating List and who the Valuation Office Agency would deem to fall within the Council Tax Valuation List.

- 3.8 For the avoidance of doubt, the Council will consider this as a priority business if:
- (a) the Bed and Breakfast property is domestic and therefore subject to council tax rather than business rates;
  - (b) It provides short stay accommodation for no more than six persons at any one time within the past year; and
  - (c) The property is the sole or main residence of the proprietor(s) and the bed and breakfast use is subsidiary to the private use.

- 3.9 In determining subsidiary use the Council shall take into account:
- Whether the majority of the premises is being used for business purposes; and
  - If the premises have been adapted to alter the character of the property beyond that of a private house.

- 3.10 Where the Council has determined that the Bed and Breakfast premises should have been subject to Non-Domestic Rating, the business shall not be considered for an Additional Restriction Grant. The Council will only accept applications from businesses that are registered with the Council as Bed and Breakfast premises.

- 3.11 The Council has determined that any premises where it considers that the Bed and Breakfast business is basically 'home sharing' and where advertising is wholly undertaken through 'home sharing' websites will not receive a grant.

### **Food, Beverage, Event, hospitality and Leisure supply chain**

- 3.12 For the purposes of this scheme, businesses will be considered to meet this criterion if they are wholly or mainly providing goods and services to businesses undertaking the provision of food, beverage, hospitality or leisure or in the management of the flow of goods and services to those businesses.

### **Market Traders**

- 3.13 These will be businesses who are required to close (non-food etc.) and do not have a separate assessment for Non-Domestic Rating (i.e. those businesses who do not occupy a separate hereditament within the 2017 Rating List). The Council has decided that for the purpose of this scheme, market traders shall be defined as:

“a business or person who sells goods wholly or mainly to visiting members of the public from a stall, pitch or similar, from a place or market recognised by the Council as a market”.

- 3.14 All market traders must prove to the Council that as at the effective date, they had a regular pitch or stall within the Council’s area from which they sold goods to visiting members of the public.
- 3.15 For the purposes of this scheme, ‘regular’ is defined as at least weekly. Where the market trader traded less frequently, the Council will not consider the business as priority for a grant.
- 3.16 Where a market trader operates in more than one local authority area (including in the East Sussex area), the applicant will need to certify that they trade primarily in the Council’s area or have fixed business base within the Council’s area. Where a grant is claimed from another authority, no grant will be awarded by the Council

### **Home Based ‘in person’ businesses**

- 3.17 The Council has decided that businesses that are primarily home based may be awarded a grant. However, the business must, at the effective date, provided services that are wholly or mainly ‘in person’ and which cannot be provided remotely.
- 3.18 In all cases, the business must prove that it is a clearly defined business, undertaking a recognised trade. All businesses must provide evidence of trading such as VAT registration, business bank accounts, business accounts, details of company or Limited Liability Partnership registration if appropriate.
- 3.19 Where the applicant is self-employed and in receipt of the Self-Employed Income Support Scheme grants (SEISS) no award will be made.

### **Arts and entertainment**

- 3.20 The Council has decided that any organisations or businesses that provide entertainment to visiting members of the public and would include organisations such as amateur dramatics groups and local theatres. Businesses meeting the criteria will be eligible to claim.

### **Agricultural**

- 3.21 Agricultural businesses (will be allowed to claim a grant provided they are wholly for the science or practice of farming, including cultivation of the soil for the growing of crops and the rearing of animals to provide food, wool, and other products.

### **Award Levels**

- 3.22 The Council has decided the following grant award levels will be paid for the current widespread national restrictions. This will be a single payment covering the period 5<sup>th</sup> November 2020 to 2<sup>nd</sup> December 2020.

Business Type	Grant (5 <sup>th</sup> November 2020 to 2 <sup>nd</sup> December 2020)	
Bed and Breakfast	£1,334	
Supply Chain - Food, Beverage, Events, Hospitality and Leisure	For businesses with a rateable value of £15k or under	£1,334
	For businesses with a rateable value of more than £15k and less than £51k	£2,000
	For businesses with a rateable value of more than £51k	£3,000
Market traders	£667	
Shared Spaces	£1,334	
Agriculture	£1,334	
Homebased business	£800	
Arts and Entertainment	£1,334	

### Excluded businesses – both local and national restrictions

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

- (a) Businesses in areas outside the scope of the localised restrictions, as defined by Government and not subject to a widespread national restriction;
- (b) Businesses that have chosen to close but not been required to, will not be eligible;
- (c) 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;
- (d) 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;
- (e) Show homes;
- (f) Car parking;
- (g) Storage containers;
- (h) Storage premises;
- (i) Yards, land or properties used for storage only;
- (j) Containers;
- (k) Advertising or advertising stations or hoardings;
- (l) Communication stations or telecommunication equipment
- (m) Solar panel sites;
- (n) ATM's, cash machines or equivalent
- (o) Schools / Academies / Educational establishments and premises;
- (p) Lockers; and
- (q) Beach huts or similar structures.

### The Effective Date

3.24 The effective date for eligibility is the date of the widespread national or local restrictions (LCAL3). Businesses **must** have been trading on the day prior to the national or LCAL3



restrictions to be eligible to receive grant support. The current effective date for the national restrictions will be 5<sup>th</sup> November 2020.

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

- 3.25 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.
- 3.26 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.
- 3.27 Where, it is subsequently determined that the records held are incorrect, the Council reserves the right to recover any grant incorrectly paid.
- 3.28 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 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 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 Details of how to obtain grants are available on the Council's website: <https://www.lewes-eastbourne.gov.uk/community/covid-19/help-for-businesses/?opentab=6>
- 4.3 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.
- 4.4 The Council reserves the right request any supplementary information from businesses, and they should look to provide this, where requested, as soon as possible.
- 4.5 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.
- 4.6 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 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 Service Delivery 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 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 The Council will operate an internal review process and will accept an applicant's request for a review of its decision.
- 8.2 As such requests should be emailed to [Specialistrevs@lewes-eastbourne.gov.uk](mailto:Specialistrevs@lewes-eastbourne.gov.uk) 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) 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, 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.