



# **Eastbourne Borough Council Additional Restrictions Grants (ARG) Scheme Phase 2**

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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 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;

**'Hereditament(s)';** means the assessment defined within Section 64 of the Local Government Finance Act 1988;

**'Local rating list';** means the list as defined by Section 41 of the Local Government Finance Act 1988

**'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;

**'Subsidies';** means the Government's replacement scheme for the previous state aid framework; 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 Phase 2 of 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 the Omicron variant of Coronavirus.
- 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 Funding under the Additional Restrictions Grant (ARG) scheme generally will be available for 2021/22 financial year only.
- 1.5 This scheme, the second phase of the Council's Additional Restrictions Grants scheme (Omicron), is designed to provide direct support to businesses who have been affected by the Omicron variant.

## **2.0 Funding**

- 2.1 Under the Additional Restrictions Grant Scheme (ARG) provisions, the Council received funding as local restrictions or widespread national restrictions were imposed. The funding is fixed until 31<sup>st</sup> March 2022 and, as such, the Council reserves the right to change the scheme itself or amend the level of awards depending on the number of applications received.

## **3.0 Eligibility criteria and awards**

- 3.1 The Council has decided that this phase of the Additional Restrictions Grant scheme will be divided into four distinct fund areas as follows:
- (a) Fund 1 - The Exceptional Hardship Scheme;
  - (b) Fund 2 – Taxi Drivers (now closed);
  - (c) Fund 3 - The Business Adaptation Grants scheme (now closed);
  - (d) Fund 4 – The Business Future Bids Fund (now closed); and
  - (e) Fund 5 - Businesses who failed to qualify for mandatory grants due to excess rateable values, which have subsequently been reduced (now closed).
- 3.2 Businesses may now apply for awards under Funds 1 only.
- 3.3 The full eligibility criteria for each fund is given below together with the level of grants available.

### **Fund 1 - The Exceptional hardship Scheme**

#### **Eligibility Criteria**

- 3.4 The Exceptional Hardship Fund is available for all micro, small or medium sized businesses. Businesses that were received either the Discretionary Hardship – Hospitality and Leisure Grant or the Omicron Hospitality & Leisure Grant will not be eligible for a grant under this scheme. Primary consideration will be given to those businesses within the personal care sector. Details of the businesses considered to be within this sector can be found in Appendix A.
- 3.5 The definitions of the size of business are as follows:
- A 'Micro' business is defined by s384A (and not excluded by s384B) of the Companies Act 2006 and must meet two of the following requirements in a year:
    - Turnover must not be more than £632,000 per annum
    - The Balance sheet total should not be more than £316,000; and
    - The number of employees should be less than 10.
  - A 'Small' business is defined by s382 and 383 (and not excluded by s384) of the Companies Act 2006 and must meet two of the following requirements in a year:
    - Turnover must not be more than £10.2 million per annum;
    - The Balance sheet total should not be more than £5.1 million; and

- The number of employees should be less than 50.
- A 'Medium-Sized' business is defined s465 and 466 (and not excluded by s467) of the Companies Act 2006 and must meet two of the following requirements in a year:
  - Turnover must not be more than £36 million per annum;
  - The Balance sheet total should not be more than £18 million; and
  - The number of employees should be less than 250

3.6 In all cases, businesses will need to demonstrate that they are experiencing exceptional financial hardship during the restriction period compared with a similar, non-COVID-19 crisis trading period.

3.7 The Council will require businesses to provide evidence of this or to certify that they meet the criteria, and it should be noted that priority will be given to businesses who have not been able to access other grant schemes.

### **Fund 1 Award Levels – The Exceptional hardship Scheme**

3.8 The Council has decided that where, the business meets the eligibility criteria for the Exceptional Hardship Fund, a one-off payment will be made. The level of this payment will be dependent on the size of the business and the number of applications that are received.

### **Fund 2 - Individuals who are drivers of Hackney Carriages or Private Hire vehicles**

3.9 All individuals who are drivers of a Hackney Carriage or Private Hire vehicle may apply for a one-off grant payment provided that:

- (a) at the effective date they held a license issued by Eastbourne Borough Council;
- (b) they have been continuously licensed since that time and continue to trade at the date of application for the grant;
- (c) they are wholly or mainly working as a Hackney Carriage or Private Hire driver and evidence of this, such as most recent accounts and / or proof of payment from their affiliated taxi or hire company;
- (d) they are registered with Her Majesty's Revenues and Customs as a self-employed person or, if they are a director of a private limited company, they operate in a manner that is analogous to that of a sole trader; and
- (e) have been severely impacted by the restrictions.

3.10 For the sake of clarity, it should be noted that to meet the definition of 'wholly or mainly', the individual must derive over 50% of their business income from the provision of a taxi or private hire service.

3.11 The Council will require all applicants to submit a full application and certify that they have been severely impacted by the restrictions. The Council may require evidence to support that.

## **Fund 2 - Award levels - Individuals who are drivers of Hackney Carriages or Private Hire vehicles**

3.12 Where all criteria are met, a single one-off payment of £500 will be made on completion of a valid application and at the end of the application period.

## **Fund 3 – Business Adaptations Grant**

3.13 As a direct response to the existing challenges facing businesses and the new measures introduced by Government, a fund has been created which will enable businesses to adapt their premises and/or their operations in order to continue to operate in a COVID-secure environment and generate income whilst legislation permits them to remain open and/or when restrictions are removed, and they are able to reopen.

3.14 To qualify, the business must meet the following criteria:

- (a) the business must be either 'micro', 'small' or 'medium-sized' as defined within this scheme. Awards will not be available to large businesses
- (b) the business has been mandated to close at the effective date or if able to remain open has been severely affected by the restrictions;
- (c) the business has had to (or will be required to) carry out adjustments and improvements to their business in order to assist them to continue to operate, keep staff in employment, improve their business, or to ensure the health and safety of their employees and customers in response to the current impact of COVID-19 or to develop new operating practices and diversify their businesses in order to capitalise on new opportunities;
- (d) the business has all up-to-date and relevant certificate(s) to show compliance with laws and regulations relevant to its trade (for example a food hygiene certificate, a license to sell alcohol, permission to operate a pavement seating area etc.);
- (e) the business will continue to trade and is ensuring (will continue to ensure), adherence to all COVID regulations; and
- (f) the business must not be part of any national chain or national franchise arrangement

3.15 Funding is intended to defray costs incurred by businesses as a direct result of making adaptations to their business or diversifying their operations in response to the introduction of COVID restrictions. Businesses may apply for funding irrespective of whether other business grants have been claimed from the Council, however only one application will be accepted from any business from this fund.

3.16 The following expenditure will **not** qualify for a grant:

- Equipment and adaptations which are not COVID-secure and do not follow the guidance and legislation set out by Her Majesty's Government;
- Acquisition of land or buildings either directly or indirectly connected to making businesses COVID-secure;
- Direct subsidy of customer's purchases;
- Consultancy, design and statutory application fees;
- Professional fees (e.g. legal fees, accountancy fees, surveyors or architect's fees and charges); or

- Personal protective equipment consumable items such as masks, gloves, sanitiser or refills etc.

### **Fund 3 - Award levels – Business Adaptations Grants**

- 3.17 Where the Council is satisfied that an eligible business has or will incur relevant expenditure, a 'one off' grant may be made of up to £1,500.
- 3.18 The Council will require each successful business to provide evidence of relevant expenditure. Should any funds either not be used for the defined purpose or remain unspent, the Council will require the amounts to be repaid.

### **Fund 4 – The Business Futures Bid Fund**

- 3.19 The Council is keen to develop new businesses within its area and to provide general business support to ensure all businesses are able to recover from the COVID crisis. This fund has been designed to provide grants for specific projects and initiatives that will support the Eastbourne area economy.
- 3.20 For this particular fund, applications will **only** be accepted from:
- Trade associations;
  - Not for profit organisations;
  - Business representatives such as Chambers of commerce; and
  - Other similar organisations.
- 3.21 Where an application is made, the organisation must produce to the Council clear proposals of how any award would be used and which sectors of business will be promoted. The Council will be expecting the organisation to present a rational, realistic and costed business case to support their application.
- 3.22 No applications will be accepted that support only a single business or a very limited number of businesses and the Council will prioritise applications which support a wide range of businesses both existing and new.

### **Fund 4 - Award levels – Business Futures Bid Fund**

- 3.23 The Council has decided to allocate a total of £200,000 to this fund. Each application will be considered on its own merits and there is **no** specified level of award although the Council will expect any bidding organisation to clearly show how the award will directly benefit businesses generally and the economy in the Council's area.

### **Fund 5 – Businesses who failed to qualify for mandatory grants due to excess rateable values, which have subsequently been reduced**

- 3.24 The final fund is specific to those businesses who:

- (a) Would have qualified for any grant under any of the local restriction mandatory schemes but for the fact that the business' rateable value exceeded the limit prescribed in the relevant grant scheme on the scheme's effective date; or any business who had a retrospective amendment to the rateable value which alters the level of grant they would have received had the change been processed prior to the scheme closing date; and
- (b) The award shall be made at the level that would have been awarded under the retrospective local restriction mandatory scheme in line with the rateable value in the Local Rating List. Or the difference between any grant the business may have already received under the scheme and the level that would have been awarded under the retrospective local restriction mandatory scheme in line with the rateable value in the Local Rating List.

### **Fund 5 - Award levels**

- 3.25 The award shall be made at the level that would have been awarded under the respective local restriction mandatory scheme in line with the rateable value in the Local Rating List.

### **Excluded businesses – Funds 1,2 and 3**

- 3.26 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) Businesses that consist of or are:
    - i. Show homes;
    - ii. Car parking;
    - iii. Storage containers;
    - iv. Storage premises;
    - v. Yards, land or properties used for storage only;
    - vi. Containers;
    - vii. Advertising or advertising stations or hoardings;
    - viii. Communication stations or telecommunication equipment
    - ix. Solar panel sites;
    - x. ATM's, cash machines or equivalent
    - xi. Schools / Academies / Educational establishments and premises;
    - xii. Lockers; and
    - xiii. Beach huts or similar structures.

## **The Effective Date**

3.27 The effective date for eligibility is the date of the commencement of this scheme.

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

3.28 In the case of Funds 1,2 and 3, 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, such as where an individual is self-employed, the Council will have discretion to determine who should receive the grant.

3.29 In the case of Fund 4, grants will be awarded to the bidding organisation. Where the initiative is to be undertaken over a relatively long period, the Council may decide to provide the grant in a series of instalments.

3.30 Where the Council has reason to believe that the information it holds about the applicant or business at the effective date is inaccurate, it may withhold or recover the grant.

3.31 Where, it is subsequently determined that any records held are incorrect, the Council reserves the right to recover any grant incorrectly paid.

3.32 Where any business, organisation 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?**

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/>

4.3 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.

4.4 An application window of two weeks will be available during which time applications will be accepted. Grants will only be awarded at the end of the application period and the Council will look to notify successful applicants as soon as practicable.

4.5 Depending on the number of applications received, the Council reserves the right to amend the grant levels in each or any fund. Likewise if any fund (1,2,3 or 4) is under

subscribed, any remaining monies may be transferred into other funds within the Additional Restrictions Grant scheme.

- 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 to request any supplementary information from businesses, and they should look to provide this, where requested, as soon as possible.

## **5.0 Subsidies and EU State Aid**

- 5.1 The EU State aid rules no longer apply to subsidies granted in the UK following the end of the transition period.
- 5.2 The United Kingdom remains bound by its international commitments, including subsidy obligations set out in the Trade and Cooperation Agreement (TCA) with the EU.
- 5.3 The Council can still pay out subsidies under previously approved schemes and this includes subsidies related to COVID-19 that have previously been given under the EU State aid Temporary Framework.
- 5.4 These rules will be replaced by the Subsidy Control Act when it receives Royal Assent.
- 5.5 The Council reserves the right to withhold any award where entitlement is in doubt or where further enquiries are to be made.

## **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 The Council will be undertaking post assurance checks, specifically for Funds 3 and 4, to validate that the grant paid has been used for the purposes declared in any application. The Council may carry out random checks to ensure full compliance by businesses making the application
- 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.

**Appendix A**

1. Hereditaments that meet the eligibility criteria will be occupied hereditaments which are in the personal care sector.
  
2. The Council considers personal care to mean:
  - Spas, sauna, and steam rooms;
  - Tanning salons;
  - Nail salons;
  - Massage centres, massage treatments;
  - Tattoo and piercing studios;
  - Holistic therapy (reflexology, massage, acupuncture);
  - Hairdressing salons;
  - Barbers;
  - Beauty salons;
  - Beauticians.