

RECORD OF DECISION MADE UNDER DELEGATED AUTHORITY

PART 1 – PUBLIC DOCUMENT

Any interest to declare/ or conflict and any dispensation granted [*if applicable*]

SERVICE DIRECTORATE: CUSTOMERS

1. DECISION TAKEN

- 1.1 That the scheme at Appendix 1 is approved as the Council's Local Restrictions Support Grant (Closed) scheme from 02 December 2020 onwards
- 1.2 That the scheme at Appendix 2 is approved as the Councils Local Restrictions Support Grant (Open) scheme from 02 December 2020 onwards
- 1.3 That any amendments necessary to the schemes be delegated to the Service Director – Customers in consultation with the Executive Member for Finance & IT

2. DECISION TAKER

- 2.1 Anthony Roche, Managing Director

3. DATE DECISION TAKEN:

- 3.1 12 January 2021

4. REASON FOR DECISION

- 4.1 To ensure that the financial support provided by the Government reaches those businesses that qualify as quickly as possible.

5. ALTERNATIVE OPTIONS CONSIDERED

- 5.1 To follow normal procedures, which would require a decision by Cabinet, would not be possible if the Council wishes to distribute this support quickly. Tier 2 restrictions came into force from 02 December 2020 and Government's response to the pandemic is a constantly changing situation, therefore it is essential that the Council is able to provide financial support to qualifying businesses as quickly as possible.

6. CONSULTATION (INCLUDING THE EFFECT ON STAKEHOLDERS, PARTNERS AND THE PUBLIC)

- 6.1 The Executive and Deputy Executive Members for Finance & IT have been consulted on and are in support of these proposals. Whilst the introduction of the scheme is unlikely to be defined as an executive function (see legal implications at 9.1) the Chair of Overview and Scrutiny has been consulted on these proposals due to the urgency of the decision being taken.

7. FORWARD PLAN

Local Restrictions Support Grant (Open and Closed) from 02 December 2020 onwards

7.1 This decision is not a key Executive decision and has therefore not been referred to in the Forward Plan.

8. BACKGROUND/ RELEVANT CONSIDERATIONS

8.1 The Secretary of State for Business, Energy & Industrial Strategy (BEIS) announced on 09th September (and subsequently amended in October 2020 and November 2020) that grants would be made available to businesses that have been forced to close due to localised or widespread national restrictions being put in place to manage coronavirus and save lives. The scheme applies where local Tier 2 or Tier 3 restrictions are put in place.

8.2 North Hertfordshire was moved into Tier 2 on 02 December 2020, as a result, some businesses have been mandated to close. Businesses that have not been mandated to close but have been severely impacted by Tier 2 (or Tier 3) restrictions can apply for support under the LRSG (open) scheme.

8.3 North Hertfordshire was subsequently moved into Tier 3 on 19 December before moving into Tier 4 on 20th December. For ease the one day of Tier 3 will be included as an additional day in the Tier 4 scheme. For any future periods of North Hertfordshire being in Tier 2 or 3 then this scheme will apply.

8.4 Whilst the awarding of grants will be the Councils responsibility, the Department for Business, Energy & Industrial Strategy has indicated the types of businesses that should be awarded the grant as well as specific criteria which must be met for a business to be eligible for the grant;

8.5 For Businesses that have been mandated to close and meet the eligibility criteria, the LRSG (Closed) From December 02 onwards will apply as detailed in 8.7.

8.6 For Businesses that have been not been mandated to close but have been severely impacted and meet the eligibility criteria set out then the LRSG (Open) From December 02 onwards scheme will apply as detailed in 8.10.

For Tier 2 / 3 (Closed) all the following eligibility criteria must be met:

- a) Businesses which were open for business and providing direct in-person services at the time the restriction was imposed.
- b) The hereditament must be shown in the local rating list as at the effective date.
- c) Businesses that have been forced to close for a period of no less than 14 consecutive days as a result of regulations under the Public Health Act 1984

8.7 Businesses that are able to continue to trade because they do not depend on providing direct in person services from premises and can operate their services effectively remotely (i.e. solicitors, accountants) will not be eligible.

8.8 The grant amount payable will depend on the rateable value of the hereditament at the time of forced closure, there are three levels of payments, as follows;

- Rateable value of £15,000 and below will receive £667 per 14-day qualifying restriction period.
- Rateable value of above £15,000 and less than £51,000 will receive £1,000 per 14-day qualifying restriction period.
- Rateable value of £51,000 and above will receive £1,500 per 14-day qualifying restriction period.

8.9 Businesses mandated to close but not shown in the local rating system will not be eligible for a payment under the LRSG Tier 2/3 (Closed) scheme, they may however be eligible under the Additional Restrictions Grant scheme.

8.10 **For Tier 2 / 3 (Open) all the following eligibility criteria must be met:**

- a) Businesses that were established and trading on the day prior to the localised Tier 2 or Tier 3 restrictions being introduced.
- b) Businesses that provide hospitality, hotel, bed and breakfast and leisure businesses will be considered under this scheme
- c) Businesses in those sectors (b) that are not required to close but have been severely impacted by the restrictions on socialising are eligible.

8.11 For those businesses which appear in the local non-domestic rating list, the award will depend on the rateable value of the hereditament at the time of forced closure, there are three levels of payments, as follows;

- Rateable value of £15,000 and below will receive £467 per 14-day qualifying restriction period.
- Rateable value of above £15,000 and less than £51,000 will receive £700 per 14-day qualifying restriction period.
- Rateable value of £51,000 and above will receive £1,050 per 14-day qualifying restriction period

8.12 The Council has also decided to support businesses who meet the eligibility criteria at 8.10 but do not appear in the local non-domestic rates listing. These businesses will be required to supply evidence of fixed costs and demonstrate how they have been financially impacted.

8.13 Funding will be provided by Government to meet the costs of the payments and will be based on an assessment of the businesses currently within the business rate system. Funding will be paid to the Council under S31 of the Local Government Act 2003.

8.14 Applicants will be able to apply via an online application process on our website. The application product, called Ascendant has been procured specifically for the purpose of administering the Business grants. The cost of Ascendant (£4,500) was met from the new burden funding allocation.

8.15 To avoid businesses having to make multiple applications for schemes running at the same time, due to changing restrictions, the Council will wherever possible use a single set of information to calculate an award under one or more schemes. The online form will be tailored to facilitate this approach.

8.16 As with previous grant schemes this scheme will be regularly publicised as widely as possible by the Communications Team and through the Business Improvement Districts to encourage businesses to apply and access the financial support available to them.

8.17 Whilst there are no specific timeframes in which payments must be made, applications will be processed as quickly as possible with payments being made via daily BACS runs to ensure the businesses receive timely payments.

9. LEGAL IMPLICATIONS

9.1 The Local Restrictions Support Grant has been developed by the Council in response to an announcement made by the Secretary of State for Business, Energy & Industrial Strategy on 09 September 2020 (and subsequently updated in October

and November 2020) to provide financial assistance to businesses that have had to close due to localised or widespread national restrictions put in place to manage Coronavirus and save lives. Localised restrictions are legally binding restrictions imposed under powers that originate under Part 2A of the Public Health (Control of Disease) Act 1984, national under the Health Protection (Coronavirus, Restrictions) (England) (No. 4) Regulations 2020/1200. The Public Health powers are non-executive and delegated to the Service Director: Regulatory as per 14.6.10(a)(iv).

- 9.2 Section 14.6.5 of the Council's Constitution details the delegation of authority to the Managing Director. 14.6.5 (a) lists the functions delegated to the Managing Director and at 14.6.5 (a) (iv) it states: *In cases of emergency or urgency (where possible in consultation with the Leader of the Council) to carry out any Council or Executive function, power or duty.*
- 9.3 This decision is considered urgent to ensure that the Council can start receiving applications and awarding financial support to eligible businesses during the period of Localised Tier 2 restrictions which came into force on 02 December 2020 and any qualifying period of Tier 2 or Tier 3 restrictions thereafter.
- 9.4 When making grant payments, the Council must be satisfied that all State Aid requirements have been fully met and complied with, including, where required, compliance with all relevant conditions of the EU State Aid De-Minimis Regulation, the EU Commission Temporary Framework for State Aid measures to support the economy in the current COVID-19 outbreak and the approved Covid-19 Temporary Framework for UK Authorities.
- 9.5 With effect from 1st January 2021 the EU State Aid regime no longer applies in the UK and the new UK based regime and enforcement body has yet to be created, although guidance has been issued following the "Trade and Co-operation Agreement" signed as part of Brexit arrangements which state that subsidies are permissible if they can be shown to be;
- proportionate;
 - pursuing a public policy objective such as addressing social difficulties or distributional concerns.
- As such the Council is subject to far less specific restrictions on State Aid, therefore, if providing the grant support as detailed in this report is deemed appropriate by the Council it would appear to be justified as it is pursuing the public policy objective of addressing social difficulties and is a proportionate measure being used to achieve this aim.

10. FINANCIAL IMPLICATIONS

- 10.1 There are no direct financial implications to the Council. Funding will be provided by Government to cover the grants. Costs associated with administering and payment of the schemes will be covered by the allocation of new burdens funding.

11. RISK IMPLICATIONS

- 11.1 Whilst there is no specific date set to make this scheme live, it is essential that the Council can provide the available financial support to local businesses as quickly as possible. Seeking a formal Cabinet decision in this regard will build in unnecessary delay and businesses will continue to suffer financially.
- 11.2 There could be significant reputational risk to the Council if it is seen to be slow in implementing this assistance to businesses.

12. EQUALITIES IMPLICATIONS

Local Restrictions Support Grant (Open and Closed) from 02 December 2020 onwards

12.1 In line with the Public Sector Equality Duty, public bodies must, in the exercise of their functions, give due regard to the need to eliminate discrimination, harassment, victimisation, to advance equality of opportunity and foster good relations between those who share a protected characteristic and those who do not.

12.2 The Council is implementing Government policy designed to provide financial support to businesses that must close during the period of restrictions due to the COVID-19 pandemic.

13. SOCIAL VALUE IMPLICATIONS

13.1 *The Social Value Act and “go local” policy do not apply to this decision.*

14. ENVIRONMENTAL IMPLICATIONS

14.1. There are no known Environmental impacts or requirements that apply to this report.

15. HUMAN RESOURCE IMPLICATIONS

15.1 There are no Human Resources implications in this report.

16. BACKGROUND PAPERS

16.1 Department for Business, Energy & Industrial Strategy – Local Restrictions Support Grant Guidance (closed) final guidance

17. APPENDICES

17.1 Appendix 1 – Local Restrictions Support Grant (closed) From December 2020 onwards

17.2 Appendix 2 – Local Restrictions Support Grant (open) From December 2020 onwards

NOTIFICATION DATE

15 January 2020

Signature of Executive Member Consulted
(Cllr Ian Albert, Executive Member for Finance and IT)



Date 11 January 2021

Signature of Decision Taker



Managing Director

Call-in does not apply to NON-EXECUTIVE DECISIONS

Local Restrictions Support Grant (Open and Closed) from 02 December 2020 onwards