

## 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) Addendum 5 January 2021 onwards.
- 1.2 That the scheme at Appendix 2 is approved as the Council's Closed Business Lockdown Package (CBLP)
- 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 21 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, which would clearly not be possible if the Council wishes to distribute this support quickly. The national lockdown came into force on 05 January 2021 and it is essential that we can start making payments to qualifying businesses as soon 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 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**

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 On Monday 4 January 2021, the Prime Minister announced that from 5 January 2021 England would enter a period of national restrictions to manage the spread of coronavirus and save lives. See announcement:

<https://www.gov.uk/government/speeches/prime-ministers-address-to-the-nation-4-january-2021>

8.2 As a result of the national restrictions all non-essential retail, leisure, personal care, sports facilities and hospitality businesses have been forced to close, initially for a period of six weeks.

8.3 On Tuesday 5 January 2021, the Government announced further funding packages to support businesses that are legally required to close, the LRSG (Closed) Addendum: 5 January 2021 onwards and the Closed Business Lockdown Payment (CBLP)

8.4 Both schemes have the same eligibility criteria, exclusions, assessment of funding allocation and application closing dates and payment dates. The only difference between the schemes is that the CBLP is a one-off lump sum payment, whereas the LRSG (Closed) Addendum: 5 January onwards is not.

8.5 To make the funding as accessible as possible and ensure businesses are able to benefit from the financial support as quickly as possible, Government has set an expectation that the initial award of LRSG and the one-off payment of CBLP will be paid together, with the initial LRSG payment covering a 42 day period, rather than the 14 or 28-day periods under previous schemes.

8.6 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 grants under both schemes;

8.7 All of the following eligibility criteria **must** be met:

- Businesses which were open for business and have been mandated to close by Government including non-essential retail, leisure, personal care, sports facilities and hospitality businesses.
- Businesses occupying a hereditament shown in the local rating list as at the effective date.

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 for each scheme, as follows;

### Level of award under the LRSG

- Rateable value of £15,000 and below will receive £2,001 per 42-day qualifying restriction period.
- Rateable value of above £15,000 and less than £51,000 will receive £3,000 per 42-day qualifying restriction period.
- Rateable value of £51,000 and above will receive £4,500 per 42-day qualifying restriction period.

## 8.9 Level of award under the CBLP

- Rateable value of £15,000 and below will receive £4,000.
  - Rateable value of above £15,000 and less than £51,000 will receive £6,000.
  - Rateable value of £51,000 and above will receive £9,000.
- 8.10 Applicants will be able to apply via an online application form on our website. Payment will be made for an award under both schemes at the same time, for example a business occupying a hereditament with a rateable value of over £51,000 will receive a payment of £13,500 (£4,500 LRSG and £9,000 CBLP)
- 8.11 Applications must be received by the closing date – 31 March 2021 and all payments must be made to successful applicants by 30 April 2021.
- 8.12 Any business failing to meet the criteria and therefore not be eligible for a payment under either scheme may be eligible under the Council Additional Restrictions Grant (ARG) scheme.
- 8.13 Funding will be provided by Government to meet the costs of the payments and will be based on an assessment of the number of eligible businesses currently within the business rate system. Funding will be paid to the Council under S31 of the Local Government Act 2003. 90% of the funding assessment will initially be provided to Councils and through weekly Delta returns the level of funding will be monitored and topped up as required
- 8.14 As with previous grant schemes, these schemes will be regularly publicised as widely as possible by the Communications Team and through the Business Improvement Districts and Town Centre Managers to encourage businesses to apply and access the financial support available to them.

## 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 has had to close to localised or widespread national restrictions put in place to manage Coronavirus and save lives. Localised restriction 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 enforced closure due to the National restrictions which came into force on 05 January 2021.
- 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 1<sup>st</sup> 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. Costs associated with administering and payment of the schemes will be covered by the allocation of new burdens funding.

- 10.2 Whilst 90% of the funding will be provided to Councils initially, the level of grants paid will be monitored through weekly Delta returns and if required the funding will be topped up.

## **11. RISK IMPLICATIONS**

- 11.1 Whilst there is no specific date set to make this 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**

- 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 – Business Support Package for January Lockdown: 5 January 2021 onwards

**17. APPENDICES**

17.1 Appendix 1 – Local Restrictions Support Grant (Closed) Addendum: 05 January 2021 onwards

17.2 Appendix 2 – Closed Business Lockdown Payment (CBLP) Scheme

**NOTIFICATION DATE: 22 January 2021**

**Signature of Executive Member Consulted**

**(Ian Albert, Executive Member for Finance & IT)**

A handwritten signature in black ink, appearing to be 'Ian Albert', written over a horizontal dotted line.

**Date: 21 January 2021**

**Signature of Decision Taker**

A handwritten signature in black ink, appearing to be 'Anthony Roche', written in a cursive style.

**Anthony Roche, Managing Director**

**Call-in does not apply to NON-EXECUTIVE DECISIONS**