



## Cabinet

**Monday 15 June 2020 at 4.00 pm**

This will be held as an online virtual meeting

The link to view this online meeting is available by clicking [HERE](#)

### Membership:

#### Lead Member Councillors:

#### Portfolio

M Butt (Chair)	Leader of the Council
McLennan (Vice-Chair)	Deputy Leader of the Council and Lead Member for Resources
Agha	Lead Member for Schools, Employment and Skills
Farah	Lead Member for Adult Social Care
Hirani	Lead Member for Public Health, Culture & Leisure
Miller	Lead Member for Community Safety and Engagement
M Patel	Lead Member for Children's Safeguarding, Early Help and Social Care
Krupa Sheth	Lead Member for Environment
Southwood	Lead Member for Housing & Welfare Reform
Tatler	Lead Member for Regeneration, Property & Planning

**For further information contact:** James Kinsella, Governance Manager, Tel: 020 8937 2063; Email: [james.kinsella@brent.gov.uk](mailto:james.kinsella@brent.gov.uk)

For electronic copies of minutes, reports and agendas, and to be alerted when the minutes of this meeting have been published visit: [democracy.brent.gov.uk](https://democracy.brent.gov.uk)

**The press and public are welcome to attend this as an online virtual meeting. The link to attend and view the meeting is available [HERE](#)**



## **Notes for Members - Declarations of Interest:**

If a Member is aware they have a Disclosable Pecuniary Interest\* in an item of business, they must declare its existence and nature at the start of the meeting or when it becomes apparent and must leave the room without participating in discussion of the item.

If a Member is aware they have a Personal Interest\*\* in an item of business, they must declare its existence and nature at the start of the meeting or when it becomes apparent.

If the Personal Interest is also significant enough to affect your judgement of a public interest and either it affects a financial position or relates to a regulatory matter then after disclosing the interest to the meeting the Member must leave the room without participating in discussion of the item, except that they may first make representations, answer questions or give evidence relating to the matter, provided that the public are allowed to attend the meeting for those purposes.

### **\*Disclosable Pecuniary Interests:**

- (a) **Employment, etc.** - Any employment, office, trade, profession or vocation carried on for profit gain.
- (b) **Sponsorship** - Any payment or other financial benefit in respect of expenses in carrying out duties as a member, or of election; including from a trade union.
- (c) **Contracts** - Any current contract for goods, services or works, between the Councillors or their partner (or a body in which one has a beneficial interest) and the council.
- (d) **Land** - Any beneficial interest in land which is within the council's area.
- (e) **Licences** - Any licence to occupy land in the council's area for a month or longer.
- (f) **Corporate tenancies** - Any tenancy between the council and a body in which the Councillor or their partner have a beneficial interest.
- (g) **Securities** - Any beneficial interest in securities of a body which has a place of business or land in the council's area, if the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body or of any one class of its issued share capital.

### **\*\*Personal Interests:**

The business relates to or affects:

(a) Anybody of which you are a member or in a position of general control or management, and:

- To which you are appointed by the council;
- which exercises functions of a public nature;
- which is directed is to charitable purposes;
- whose principal purposes include the influence of public opinion or policy (including a political party of trade union).

(b) The interests of a person from whom you have received gifts or hospitality of at least £50 as a member in the municipal year;

or

A decision in relation to that business might reasonably be regarded as affecting the well-being or financial position of:

- You yourself;
- a member of your family or your friend or any person with whom you have a close association or any person or body who is the subject of a registrable personal interest.



# Agenda

Introductions, if appropriate.

Item	Page
------	------

<b>1</b>	<b>Apologies for Absence</b>	
----------	------------------------------	--

<b>2</b>	<b>Declarations of Interest</b>	
----------	---------------------------------	--

Members are invited to declare at this stage of the meeting, the nature and existence of any relevant disclosable pecuniary or personal interests in the items on this agenda and to specify the item(s) to which they relate.

<b>3</b>	<b>Minutes of the Previous Meeting</b>	1 - 2
----------	--	-------

To approve the minutes of the previous meeting held on Monday 28 May 2020 as a correct record.

<b>4</b>	<b>Matters Arising (if any)</b>	
----------	---------------------------------	--

To consider any matters arising from the minutes of the previous meeting.

<b>5</b>	<b>Petitions (if any)</b>	
----------	---------------------------	--

To discuss any petitions from members of the public, in accordance with Standing Order 66.

<b>6</b>	<b>Reference of item considered by Scrutiny Committees (if any)</b>	
----------	---	--

There are no reference reports from either of the Council's Scrutiny Committees for consideration at this meeting.

## Community Well-being reports

<b>7</b>	<b>Brent Tenancy Strategy and Tenancy Management Policy</b>	3 - 36
----------	---	--------

This report seeks approval of the final Tenancy Strategy and Tenancy Management Policy. The Strategy sets out how all landlords in the borough should let and manage homes. The Tenancy Management Policy outlines how the council, in its role as a landlord, will manage Brent Council Homes in line with its strategies vision and commitments. Both documents have been subject to consultation, with the report highlighting the support received and how the feedback gained from all stakeholders throughout the development process has shaped both the strategy and policy.



**Ward Affected:**  
All Wards

**Lead Member:** Lead Member for Housing and Welfare Reform (Councillor Eleanor Southwood)  
**Contact Officer:** Emily-Rae Maxwell, Housing Partnerships Manager  
Tel: 020 8937 1131  
Email:Emily-Rae.Maxwell@brent.gov.uk

## Regeneration and Environment reports

### 8 Local Authority Discretionary Grant Fund

37 - 80

This report outlines the background and seeks approval to the proposed approach for Brent's Local Authority Discretionary Grants Scheme.

**Ward Affected:**  
All Wards

**Lead Member:** Lead Member for Regeneration, Property & Planning (Councillor Shama Tatler)  
**Contact Officer:** Kaya Chatterji, Economic Development Manager, Employment, Skills and Enterprise  
Tel: 020 8937 6673  
Email:kaya.chatterji@brent.gov.uk

### 9 Exclusion of Press and Public

No items have been identified in advance of the meeting that will require the exclusion of the press or public.

### 10 Any other urgent business

Notice of items to be raised under this heading must be given in writing to the Head of Executive and Member Services or their representative before the meeting. Any decisions taken urgently under this heading must comply with the provisions outlined in paragraph's 12 and 39 of the Council's Access to Information Rules (part 2 of the Constitution).

**Date of the next meeting:** Monday 20 July 2020





## LONDON BOROUGH OF BRENT

### MINUTES OF THE CABINET

Held as an online virtual meeting on Thursday 28 May 2020 at 4.00 pm

PRESENT: (In remote attendance) Councillors M Butt (Chair), Councillor McLennan (Vice-Chair) and Councillors Agha, Hirani, Miller, M Patel, Krupa Sheth, Southwood and Tatler.

#### 1. **Apologies for Absence**

Apologies for absence were received from Councillor Harbi Farah (Lead Member of Adult Social Care), Carolyn Downs (Chief Executive) and Phil Porter (Strategic Director, Community Wellbeing who was represented by Hakeem Osinaike Operational Director - Housing).

#### 2. **Declarations of Interest**

Councillor Amar Agaha declared a personal interest in Agenda Item 7 – National Non-Domestic Rates: Applications for Discretionary Rate Relief as one of the Council's appointed representatives on the South Kilburn Trust.

#### 3. **Minutes of the Previous Meeting**

**RESOLVED** that the minutes of the previous meeting held on Monday 20 April 2020 be approved as an accurate record of the meeting.

#### 4. **Matters Arising (if any)**

None.

#### 5. **Petitions (if any)**

None.

#### 6. **Reference of item considered by Scrutiny Committees (if any)**

None.

#### 7. **National Non-Domestic Rates – Applications for Discretionary Rate Relief**

Councillor Margaret McLennan (Deputy Leader) introduced the report detailing the new applications received for discretionary National Non-Domestic Rate relief from charitable and non-profit making organisations. Cabinet noted the existing policy and criteria upon which the award of discretionary rate relief was based (as detailed in Appendix 1 of the report), along with details of the applications received, as set out in Appendix 2 of the report. Members were also keen to recognise the valued service and support being provided by charitable and non-profit making



organisations across the borough as part of the co-ordinated emergency response to Covid 19.

**RESOLVED** that Cabinet approve the applications for discretionary rate relief in respect of National Non-Domestic Rate liability, as set out and detailed in Appendix 2 of the report.

8. **Authority to Award Contracts for the Purchase of Gas and Electricity (October 2020 to September 2022)**

Councillor Margaret McLennan (Deputy Leader) introduced the report seeking approval to award contracts for the supply of electricity and gas for a two-year period from the LASER Framework. Cabinet noted that the two-year timeframe had been designed to enable the Council to focus its efforts on reducing energy usage and to explore innovative ways of seeking to reduce its carbon footprint whilst closely following developments in the energy market as part of the wider focus on Brent's Climate and Ecological Emergency Strategy.

**RESOLVED** that Cabinet:

- (1) approve the award of a contract for the supply of electricity to NPower Limited for two years as from 1<sup>st</sup> October 2020 via a call-off from LASER Framework Y18003,
- (2) approve the award of a contract for the supply of gas to Total Gas and Power for two years from 1<sup>st</sup> October 2020 via a call-off from the LASER Framework Y18002; and
- (3) approve, alternatively to the recommendations at (1) and (2) above, the award of contracts for gas and electricity to the next ranked Suppliers on Lot 1 of each of the Frameworks referred to in section 5 of the report, if NPower Limited or Total Gas and Power cannot, or do not accept the offer of a Council contract. Such award shall be in accordance with the offer and award process described in section 5 of the report;
- (4) approve the Council's entry into an Access Agreement with Kent County Council referred to in section 5 of the report, to enable its participation and purchase of gas and electricity from the Frameworks referred to in (1) and (2) above.

9. **Exclusion of Press and Public**

There were no items that required the exclusion of the press or public.


10. **Any other urgent business**

None.

The meeting ended at 4.11 pm

COUNCILLOR MUHAMMED BUTT  
Chair



	<b>Cabinet</b> 15 June 2020
	<b>Report from Strategic Director, Community Well Being</b>
<b>Brent Tenancy Strategy and Tenancy Management Policy</b>	

<b>Wards Affected:</b>	All
<b>Key or Non-Key Decision:</b>	Key Decision
<b>Open or Part/Fully Exempt:</b> <small>(If exempt, please highlight relevant paragraph of Part 1, Schedule 12A of 1972 Local Government Act)</small>	Open
<b>No. of Appendices:</b>	Appendix 1 – Draft Tenancy Strategy Appendix 2 – Draft Tenancy Management Policy
<b>Background Papers:</b>	None
<b>Contact Officer(s):</b> <small>(Name, Title, Contact Details)</small>	Emily-Rae Maxwell Head of Housing and Neighbourhoods Tel: 020 8937 1131 <a href="mailto:Emily-Rae.Maxwell@brent.gov.uk">Emily-Rae.Maxwell@brent.gov.uk</a>  Hakeem Osinaike Operational Director, Housing Tel: 020 8937 2023 <a href="mailto:Hakeem.Osinaike@brent.gov.uk">Hakeem.Osinaike@brent.gov.uk</a>

## 1.0 Purpose of the Report

- 1.1 The Council is reviewing its Tenancy Strategy in order to fulfil duties under the Localism Act 2011. This strategy sets out how all landlords in the borough should let and manage homes. A Tenancy Management Policy is also presented and outlines how the council in its role as a landlord will manage Brent Council Homes in line with the Strategies vision and commitments. The Lead Member for Housing and Welfare Reform approved Officers to start the process of statutory consultation for both the strategy and policy and this consultation period has now been completed.
- 1.2 This report provides Cabinet with final drafts of the Tenancy Strategy and Tenancy Management Policy for approval.



- 1.3 This report shows the support received from partners to the approach proposed by the Council and how the feedback gained from all stakeholders throughout the development process has shaped the proposed strategy and policy.

## **2.0 Recommendations**

- 2.1 That Cabinet note the duty placed on the Council by the Localism Act 2011 to produce and publish a Tenancy Strategy and Tenancy Policy.
- 2.2 That Cabinet note and approve the content of the draft Tenancy Strategy.
- 2.3 That Cabinet note and approve the content of the draft Tenancy Policy.

## **3.0 Background**

- 3.1 Under section 150 of the Localism Act, the Council is required to develop and publish a Tenancy Strategy. This strategy must set out the Council's position on:
- The type of tenancies granted in the borough;
  - How a person's circumstances should be considered when deciding the type of tenancy to grant;
  - The length of time a tenancy will be granted for;
  - How tenancies will be managed towards the end, including the offer of a new tenancy.
- 3.2 The Act also requires social housing landlords to produce a Tenancy Management Policy that has regard to the Council's strategy and presents how each landlord will operationally grant and manage tenancies. In addition to The Act, the Regulator for Social Housing consumer standards includes a Tenancy Standard that outlines further expectations for social housing landlords to address within their tenancy management policy, specifically the management of mutual exchanges and successions.
- 3.3 As mentioned in previous reports, support for fixed term tenancies has changed dramatically since the Council's previous strategy that was published in 2012, shortly after the Localism Act 2011. In 2016, the Housing and Planning Act ("the 2016 Act") set out to make fixed term tenancies mandatory. This proposal in the 2016 Act was not enacted and the Government's reversal of this policy was confirmed in the government's green paper 'A new deal for social housing' 2018. This reversal was a catalyst for some large RPs including L&Q, Peabody and more recently Network Homes, to change their tenancy policies. Councils such as Royal Borough of Kensington and Chelsea have also taken the decision to promote security of tenure and end the use of fixed term tenancies.



- 3.4 This shift in the sector combined with Brent Housing Partnership transferring back into the Council created an opportunity to introduce a new way of working. This includes widening the scope of the strategy to include the Private Rented Sector (PRS) and developing an accompanying policy so the Council sets an example for how all landlords can practically manage homes and create security for Brent residents.

#### 4.0 Tenancy Strategy

- 4.1 It is important to note that although it is obligatory for the Council to prepare a Tenancy Strategy; social landlords are only required to have regard to its contents. Additionally, as the Council has chosen to widen the scope of the Localism Act to the PRS it is voluntary for PRS landlords.

- 4.2 The draft Tenancy Strategy sets out a vision that “*all Brent residents who are renting; to have a clear understanding of their tenancy, their rights and a guaranteed level of security in their home.*” The Council has developed this vision and four outcome based commitments as a framework for best practice rather than an approach that can be enforced. The success of this strategy will instead be dependent on the relationships built between the Council, RP’s and PRS landlords, utilising tools where the Council can influence. For a copy of the draft strategy, see *Appendix 1 – Draft Tenancy Strategy*.

- 4.3 **Commitment one:** When moving into a new home, Brent residents are offered the longest tenancy possible. To achieve this, the Council will;

- End the use of fixed term tenancies for Brent Council tenants.
- Encourage RPs to offer secure tenancies to Brent residents.
- Work with RPs allocations, and lettings team to highlight any members of the household considered vulnerable so they are granted a longer tenancy
- Maximise the use of incentives for private landlords to encourage longer tenancies at Local Housing Allowance rent levels.

- 4.4 **Commitment two:** Brent residents understand their tenancy agreement and how long their tenancy is for. To achieve this, the Council will;

- Proactively promote this strategy so residents understand what the Council expects from landlords in Brent
- Encourage all landlords to use interpreters at the point of sign up and the publication of tenancy agreements in other languages.
- Signpost to services in Brent who can offer independent advice to renters on their tenancy agreements.
- Encourage all social housing landlords to publish template tenancy agreements online including easy read versions and alternative formats where required



- Challenge all social housing providers of supported housing to regularly audit themselves against the 'real tenancy test' to ensure Brent residents living in supported housing are receiving their full tenancy rights.

**4.5 Commitment three:** Brent residents are supported to stay in their home and or tenancy for as long as it remains suitable for them. To achieve this, the Council will;

- Support people at risk of homelessness to sustain their tenancy through the Councils Homelessness Prevention service.
- Challenge RPs to keep Brent residents in their tenancy if they are forced to leave their home (e.g. fear of violence) by enabling a transfer or reciprocal arrangement.
- Improve resources on our website so Brent residents or landlords know who to contact if they are worried about their tenancy and can access this information 24/7.
- Support and implement the expected end to no fault evictions' in the Private Rented Sector
- Facilitate downsizing initiatives with RP's through nominations agreements and support RP's to use new smaller homes built in the borough

**4.6 Commitment four:** Brent residents are supported if, or when their tenancy ends to avoid homelessness. To achieve this, the Council will;

- Ensure RPs fulfil their responsibilities under the Homelessness Reduction Act 2017 and work with the Council at the earliest possible point if a tenancy is likely to end.
- Offer training and publish information for RPs on what advice to provide if someone is at risk of a tenancy ending.
- Use Personalised Housing Plans to support Brent residents at risk of homelessness by clearly setting out alternative and accessible housing options
- Influence RPs reviewing fixed term tenancies and discourage ending tenancies unless a household's circumstances have significantly improved financially
- Promote the offer of a deposit guarantee scheme to help people in the PRS start a tenancy whilst a deposit is being held by another landlord.

## **5.0 Tenancy Management Policy**

**5.1** The draft policy applies to Brent Council tenants only, but through consultation (see section 6) RP's in the borough have stated they would adopt similar initiatives to the Council when reviewing their own policies. The draft policy centres on introducing three key changes, which are;



- Ending the use of Fixed Term Tenancies
- Offering joint tenancies
- Introducing the use of demoted tenancies

5.2 In addition to the proposed changes, the policy includes the Council's position on tackling tenancy fraud, successions, mutual exchanges and how tenancies will be brought to an end. For a copy of the draft policy see *Appendix 2 – Draft Tenancy Management Policy*

### 5.3 Fixed term tenancies

5.3.1 As of March 2020, there are 7,697 Council tenants in Brent, 1,108 of these are on a fixed term tenancy or will transfer to a fixed term tenancy once they have completed their one-year introductory tenancy. This policy will see the Council convert the 1,108 tenancies to a lifetime secure tenancy.

5.3.2 For those whose tenancies have now expired, the Council is continuing their tenancy on a rolling periodic basis whereby they maintain the same rights and responsibilities under their fixed term tenancy. The first cohort of fixed term tenancies were due for renewal in 2019. These tenancies will be prioritised following the adoption and approval of this policy to ensure these tenants are granted a secure tenancy in line with the proposed policy.

5.3.3 To introduce these changes, it is anticipated that tenancy reviews will be undertaken in a phased approach. Of the 978 households on a fixed term tenancy, 365 fixed term tenancies have expired and have converted to periodic tenancies. This accounts for 4.7% of all Brent Council tenancies. These tenancies will be prioritised for review and tenants will be converted to a secure tenancy. The service will analyse the expiry dates of the remaining 613 and where possible, ensure tenants are notified 6 months ahead of their tenancy ending and the process for converting the tenancy will start. If any tenants are in breach of their tenancy, a secure tenancy will be offered but the Council will apply to demote the tenancy via the Courts. When compared to an RP with a similar sized stock, the review of 1,000 tenancies took approximately one year of officer time and cost £36,000. This has been built into the existing function of the housing management service. Additionally, to maximise value, the Council will combine any verification and the renewal process with a tenancy audit.

### 5.4 Joint tenancies

5.4.1 A Joint Tenancy is where more than one person has the responsibility for meeting the requirements of the tenancy agreement. Both tenants are entitled to stay in the home until the end of the tenancy.

5.4.2 The policy proposes for the Council to offer a joint tenancy to a maximum of two people and recognises applications for joint tenancies where two people are married or in a civil partnership. Joint tenancies will not be offered to anyone else who may be living in the home. The Council will offer joint tenancies to couples who can prove they have been cohabiting for at least 24 months.



- 5.4.3 Joint tenants will have equal rights to the tenancy and an opportunity to have their say in consultation undertaken by the Council. In cases where the Council requires a ballot to support regeneration or the development of new Council homes, both tenants will have the opportunity to participate in the ballot.

## 5.5 Demoted Tenancies

- 5.5.1 Whilst the majority of tenants supported the move to secure tenancies, the concern was that issues such as anti-social behaviour would be more difficult to tackle. Although the concern is acknowledged, it is important to note that fixed-term tenancies should not be used to address other tenancy breaches and this should be dealt with in line with housing management processes and appropriate legislation.
- 5.5.2 If a tenant has been involved in antisocial behaviour and they are a secure tenant, the Council can demote the tenancy for 12 months by applying for a court order. A demoted tenancy reduces a tenant's rights and facilitates the eviction process if required. At the end of the 12-month period, if the tenant has complied with the court order their tenancy will automatically revert to a secure tenancy. If they have not complied with the order, the Council will serve a four-week notice stating that it has made a decision to seek possession of the property and obtain a possession order to evict the demoted tenant. The demoted tenant will have the opportunity to request a review of the decision to seek to evict them and the Council will carry out a review of such a decision if requested. If the review confirms the decision to seek possession of the property, the Council can apply to the Court for a possession order and end the demoted tenancy.
- 5.5.3 In cases where a tenant's anti-social behaviour is a result of a mental illness or there are known support needs, the Council will ensure a multi-agency approach is adopted before making applications to demote a tenancy. Applications to demote a tenancy will need to be signed off by the Housing Panel prior to the application going to court. The housing service will be required to demonstrate this action is proportionate.

## 6.0 **Engagement and Consultation process**

- 6.1 To ensure the strategy fulfilled its purpose under the Localism Act 2011 and ensure the social housing offer met the housing needs for Brent resident, the Council utilised best practice guidance published by Shelter to develop the draft strategy. Shelter advocate the use of a strong evidence base drawing on both data and the views of stakeholders as a foundation for any tenancy strategy.
- 6.2 To inform the content of this strategy a range of sources were used, these were:
- The London Housing Strategy
  - The London Borough of Brent 2016 Strategic Housing Market Assessment



- Findings from a study of affordable housing in Brent by Cambridge University
  - Analysis of rents against Local Housing Allowance rates
  - Homelessness and housing waiting list statistics for Brent
- 6.3 As a combined evidence base, these sources highlighted how the chronic shortage of genuinely affordable homes not only in Brent but also across London is affecting Brent residents.
- 6.4 A small group of five residents living in Temporary Accommodation were interviewed about the proposed changes. These households, particularly families with young children highlighted the importance of security. Most felt knowing a Council home could be a home for life would help families settle, particularly if they had previously been living in temporary accommodation for long periods. Their feedback also shaped the offer of joint tenancies and they felt it was a positive change but joint tenancies should also be offered to include cohabiting couples as well as couples who are married otherwise it could be considered discriminatory.
- 6.5 Existing Council tenants on both lifetime tenancies granted before the Localism Act 2012 and those currently on Fixed Term Tenancies were invited to take part in a focus group via Talkback. A group of 30 attended the session to give their feedback. Overall, this group supported the proposed changes but raised concerns about how effective implementation would be. Points for consideration included concern that 'bad neighbours' if not managed properly could end up with lifetime tenancies impacting the wider neighbourhood. As already mentioned, fixed term, tenancy is not a tool for tackling issues such as anti-social behaviour. However, through the accompanying Tenancy Management Policy, the Council is now proposing to introduce demoted tenancies (see point 5.5).
- 6.6 The Brent Housing Management Customer Experience Panel (which at the time of the meeting included five members) reviewed the draft strategy and policy against the findings of the consultation carried out with residents and approved both to progress through the Council's governance process.
- 6.7 In addition to residents, partners such as Registered Providers (RP's) and Advice4Renters played a significant role in the development of the strategy and policy. All organisations expressed full support for content the proposed strategy and seven organisation provided more in-depth feedback.
- 6.8 Advice4Renters applauded the Council for its forward thinking approach and the inclusion of PRS within the scope of the strategy. Recommendations from their feedback include:
- Develop a local model tenancy agreement and champion the use of longer tenancies within the PRS.
  - Champion initiatives such as community led housing so the PRS can be a long term and affordable housing option



- Supporting landlords to develop an understanding of the benefits system and develop contingencies when payments are delayed to avoid evictions.
- 6.9 Partners such as Network, L&Q and Octavia welcomed commitment 3 in the Strategy (see point 4.5) and the link to supporting downsizing through partnership working using nomination agreements as a tool for this. All partners who responded expressed an interest in the policy, as the launch of the strategy will mean RP's are required to review their policy and consider how this aligns with the Council's ambitions. The challenge however is to what extent the Council can influence the approach adopted by RP's as, as the Localism Act 2011 only requires an RP has to have regard to the Councils strategy and many have portfolios that cross numerous boroughs.
- 6.10 Both the strategy and policy were published on the Council's consultation hub and shared via social media. The Council received no direct feedback from residents or the Tenant Management Organisations. Officers believe that the lack of feedback is a result of residents being involved throughout the process of developing a strategy and policy. Resident associations provided further feedback in scheduled Neighbourhood Action Plan meetings. This gave officers an opportunity to explain how proposed changes could support the service to tackle issues such as ASB on estates. The proposal to introduce demoted tenancies was well supported by residents, specifically leaseholders.

## **7.0 Financial Implications**

- 7.1 The strategy will be delivered within existing budgetary framework within the Housing General Fund. The Council is planning to deliver a significant number of new properties in the coming financial years. In many cases, this will allow the council to offer permanent residences to those currently in Temporary Accommodation.
- 7.2 Minimum tenancies will not affect emergency temporary accommodation. The very nature of such accommodation is that it is designed to be short term, whilst a customer's claim for homelessness is assessed. Providing minimum tenancies for customer's would not be desirable for either the customer or the council.
- 7.3 The policy will be delivered within existing resources in the Housing Revenue Account (HRA). The 2019/20 staffing budgets for Housing Officers who undertake tenancy management function is £0.68m.
- 7.4 The purpose of ending fixed term tenancies is to provide tenants with a guaranteed security but this will also enable the council to focus officer time on tenancy management issues, such as preventing tenancy fraud and undertaking tenancy audits.

## **8.0 Legal Implications**



- 8.1 Under section 150(1) of the Localism Act 2011, a local housing authority (which includes Brent Council) must prepare and publish a tenancy strategy setting out matters to which the registered providers of social housing are to have regard in formulating policies relating to the following:
- (i) the kinds of tenancies they grant;
  - (ii) The circumstances in which they will grant a tenancy of a particular kind;
  - (iii) Where they grant tenancies for a term certain and the lengths of the terms;
- And
- (iv) The circumstances in which they will grant a further tenancy on the coming to an end of an existing tenancy.
- 8.2 A housing authority must have regard to its tenancy strategy in housing management functions (section 150(3) of the Localism Act 2011). A local housing authority must keep its tenancy strategy under review and may modify or replace it from time to time (section 150(5) of the Localism Act 2011).
- 8.3 Under section 151 of the Localism Act 2011, before adopting a tenancy strategy (and before making a modification to it reflecting a major change of policy), the local housing authority must do the following:
- i) send a copy of the draft tenancy strategy (or proposed modification) to every private registered provider of social housing for its district and give the private registered provider a reasonable opportunity to comment on those proposals;
  - ii) consult other such persons as the Secretary of State may proscribe by regulations (to date, no such regulations have been made);
  - iii) For a London borough Council, consult the Mayor of London.
- 8.4 When preparing or modifying its tenancy strategy, a local housing authority must have regard to the following: (i) its current allocation scheme under section 166A of the Housing Act 1996; (ii) its current homelessness strategy under section 1 of the Homelessness Act 2002; and (iii) in the case of a London borough Council, the London housing strategy which is prepared by the Mayor of London.
- 8.5 Under the Tenancy Standard provided by the Social Housing Regulator, it states that registered providers of social housing shall publish clear and accessible policies, which outline their approach to tenancy management, including interventions to sustain tenancies and prevent unnecessary evictions, tackling tenancy fraud, and set out:
- a. The type of tenancies they will grant



- b. Where they grant tenancies for a fixed term, the length of those terms
  - c. The circumstances in which they will grant tenancies of a particular type
  - d. Any exceptional circumstances in which they will grant fixed term tenancies for a term of less than five years in general needs housing following any probationary period
  - e. The circumstances in which they may or may not grant another tenancy on the expiry of the fixed term, in the same property or in a different property
  - f. The way in which a tenant or prospective tenant may appeal against or complain about the length of fixed term tenancy offered and the type of tenancy offered, and against a decision not to grant another tenancy on the expiry of the fixed term
  - g. Their policy on taking into account the needs of those households who are vulnerable by reason of age, disability or illness, and households with children, including through the provision of tenancies which provide a reasonable degree of stability
  - h. The advice and assistance they will give to tenants on finding alternative accommodation in the event that they decide not to grant another tenancy
  - i. Their policy on granting discretionary succession rights, taking account of the needs of vulnerable household members
- 8.6 Under section 82A of the Housing Act 1985, local housing authorities may apply to a county court for a demoted tenancy order. The court can only grant a demoted tenancy order if:-
- A. a notice seeking a demotion order has been served or it is just and equitable to dispense with that requirement (Housing Act 1985 s83 as amended);
  - B. it is satisfied that the tenant or a person residing in or visiting the dwelling-house has engaged or has threatened to engage in conduct to which section 153A or 153B of the Housing Act 1996 (anti-social behaviour or use of premises for unlawful purposes) applies, and
  - C. It is reasonable to make the order.
- 8.7 A demoted tenancy lacks security of tenure but (s143E of the 1996 Act) before bringing a possession claim, a landlord of a demoted tenant must serve on the tenant a notice of proceedings which (i) states that the court will be asked to make a possession order; (ii) sets out the reasons for the landlord's decision to apply for the order; and (iii) specifies the date after which proceedings for the



possession of the dwelling-house may be begun. Section 143F of the Housing Act 1996 provides a procedure for an internal review of the decision to seek possession. In the absence of a possession claim, if the tenant remains in occupation, s143B of the Housing Act 1996 provides that (in most circumstances), a demoted tenancy becomes a secure tenancy at the end of the period of one year (the demotion period) starting with the day the demotion order takes effect.

- 8.8 In July 2012, the Council's Executive (Cabinet) elected and agreed for the Council to grant introductory tenancies and flexible tenancies to new Council tenants.

## **9.0 Diversity Implications**

- 9.1 An equalities analysis has been undertaken to ensure the proposed changes introduced through the tenancy strategy and tenancy management policy to have due regard to the requirements outlined in the Equality Act 2010.
- 9.2 The primary aim of the tenancy strategy is to create stability and security for people renting so that they can experience similar benefits to home ownership. Evidence suggests that within our tenant population, younger tenants have experienced less security than older tenants due to the changes brought in by the Localism Act 2011 and the introduction of fixed term tenancies.
- 9.3 Introducing joint tenancies will have a positive impact in meeting the council's commitment to equalities. Joint tenancies will be available to all couples, married, in civic partnerships and cohabiting. This when offered was previously only available to those who were married.

### **Related Documents:**

Appendix 3 – Brent Council Tenancy Strategy 2012-2013

**Report sign off:**

***Phil Porter***

Strategic Director of Community Wellbeing



This page is intentionally left blank





LONDON BOROUGH OF BRENT

# Tenancy Strategy

2020–2024





## Foreword

As Lead member for Housing and Welfare Reform, I am delighted to launch this new Tenancy Strategy. Our commitment to 'Building a Better Brent' is not just about increasing the number of affordable homes in the borough, but making sure that these homes are a place where Brent residents can feel safe, secure and settled.

We want all Brent residents who are renting to have a clear understanding of their tenancy, their rights and a guaranteed level of security.

To deliver this vision, all social and private landlords need to play their part. In this strategy, the Council has committed to leading the way by ending the use of fixed term tenancies and offering all existing and future Council tenants a tenancy for life.

I am calling on all landlords to follow our lead and work with us to deliver the four commitments set out in this strategy.

Cllr Eleanor Southwood, Lead member for Housing and Welfare Reform

## 1.0 Introduction

In the London Borough of Brent, we have worked with partners, researchers and Brent residents to build a clear understanding of local housing need and how these needs can be met through:

- the types of tenancy granted
- how a person's circumstance should be considered when deciding the type of tenancy to grant
- the length of time a tenancy will be granted for
- and how tenancies will be managed towards the end including the offer of a new tenancy

The Localism Act 2012, was instrumental in empowering Councils to influence how social housing is offered and managed in the local area.

The Act removed the requirement for Registered Providers (RPs) and Councils to offer the most secure tenancy possible and introduced a new type of tenancy for Councils known as a fixed term tenancy. The aim of this was to allow social housing landlords to review a tenant's circumstance at the end of a tenancy and if improved support the household into alternative tenures such; as the private rented sector (PRS) or affordable home ownership.

The duty however, remained with the responsible Council to produce a tenancy strategy for social housing providers that communicates local housing need and how social housing should be offered in keeping with the Council's vision for residents.



We know there is a shortage of genuinely affordable homes across London, including Brent. The lack of genuinely affordable homes has resulted in households living in temporary accommodation for long periods of time. In some cases, up to 27 years. Brent also has the highest number of residents receiving housing benefit within the PRS.

We want all residents to fully benefit from moving into a home that is affordable so they can feel settled, build relationships and be a part of their local community. Developing a guaranteed level of security for all, is our priority.

The importance of security and stability is essential in all tenures. This has led the Council to extending the requirement outlined by the Localism Act 2011 to include the private rented sector (PRS).

This strategy will set out a vision and a set of desired outcomes that we will deliver over the next four years so all Brent residents who are renting whether this is social or private rented housing will feel secure in their homes.

All social housing landlords will be expected to review their tenancy policies to help us to deliver this strategy.

This strategy should be read alongside the Council's [Rent Guide](#), [Allocations Scheme](#) and [Homelessness and Rough Sleeper strategy](#) as well as the [London Housing strategy](#).

## 2.0 Vision

Our borough plan sets out a clear commitment to make Brent a great place to live and work, where people feel that they have opportunities to change their lives for the better '[Building a better Brent together – Borough Plan](#)'.

To achieve this, our vision for this strategy is for all Brent residents who are renting, to have a clear understanding of their tenancy, their rights and a guaranteed level of security in their home.

## 3.0 Equality and Diversity

Brent is the second most culturally diverse borough in the United Kingdom (UK).

This strategy supports the Council's commitment to championing equality and ensuring procedures are in place so all residents are treated fairly and without unlawful discrimination in line with the Equality Act 2010.

To develop this strategy, an equality impact assessment was undertaken.



## 4.0 Context

There is shortage of genuinely affordable homes in London, including Brent. At the time of writing this strategy, 2,889 households are on the councils housing register and the average waiting time is 14 years. The table below shows the number of households registered and the size of home required by number of bedrooms.

Number of bedrooms required	Number of households
One bedroom	470
Two bedrooms	755
Three bedrooms	1168
Four bedrooms	415
Five bedrooms	74
Six or more bedrooms	7

Table one: household need in Temporary Accommodation (June 2002)

To tackle this, we have kick-started building new council homes. We have also invested in our relationships with housing providers so we can see more new affordable housing than ever before that meets our residents' needs.

Our aim is to see 1,000 new affordable homes built here in Brent, every year for the next five years, 1,000 of which will be Brent Council homes.

This strategy will play a key part in ensuring Brent residents feel the maximum benefit of these new homes. The investment in more affordable homes will mean the council is less reliant on the PRS when supporting homeless households secure housing. It aims to protect those already living in affordable housing but are concerned that they

will be forced to move on if they are considered no longer 'in need'. And it will reassure people living in temporary accommodation can finally feel secure knowing that their new home is somewhere they can establish roots and build relationships with their neighbours.

To inform the content of this strategy, a range of sources were used to develop a comprehensive evidence base. This includes:

- The London Housing Strategy
- The London Borough of Brent 2016 Strategic Housing Market Assessment (SHMA)
- Findings from Cambridge University commissioned study 'Affordable housing products and their affordability to target client groups'
- Analysis of rents against Local Housing Allowance rates

## 5.0 Types of Tenancies

It is essential when granting tenancies, all tenants are told the type of tenancy they are being offered at the point of sign up. This should also be clearly presented in the tenancy agreement along with any rights specific to the type of tenancy. There are several tenancy types used for affordable housing in Brent, this varies depending on the landlord. This section outlines the different types of tenancy under the Housing Act 1980, 1988, 1996 and Localism Act 2011. These are:

**Introductory tenancies:** New Council tenants may be offered an introductory tenancy lasting up to 12 months. Similarly, RPs may choose to offer a probationary tenancy or a starter tenancy. Tenancies remain introductory until the end of a "trial period" which lasts for one



year after the date on which the tenancy was entered into, or the date on which the tenant was first entitled to possession, whichever is later. An introductory tenancy can be extended by a further six months.

**Secure tenancies:** A secure tenancy is a lifetime tenancy without a fixed term that is granted by the Council and can only be ended if the tenant breaches their tenancy conditions during the tenant's lifetime. A secure tenancy can only be granted by Councils which are local housing authorities.

**Assured tenancies:** An assured tenancy can be granted either with or without a fixed period, similar to a secure tenancy by an RP. An assured tenancy can only be ended if the tenant breaches their tenancy conditions during the tenant's lifetime if the tenancy has no fixed term and during the fixed term, if the tenancy has a fixed term.

**Assured shorthold tenancies:** an assured shorthold tenancy (AST) usually lasts for 6-12 months. An AST is the most common type of tenancy in the PRS for tenancies started on or after 15 January 1989. It is recommended this type of tenancy is not used by RPs for Social Rent, London Affordable Rent or Affordable Rent properties. The property must be the tenants main home and the landlord must not be living in the property.

**Demoted tenancy:** If a tenant has been involved in antisocial behaviour and they are a secure tenant, RPs can demote the tenancy for 12 months. This is achieved by obtaining a court order. A demoted tenancy reduces a tenant's rights and facilitates the eviction process if required. At the end of the 12-month period, if the tenant has complied with the court order their tenancy will automatically revert back to a secure or fixed term tenancy.

**Flexible secure tenancies (fixed term tenancy):** A flexible tenancy gives tenants the similar rights to a life time secure tenancy, but only last for a fixed period of time. Introduced by the Localism Act 2011, this tenancy type can only be granted by the Council. It is recommended if using this type of tenancy, it is offered for a minimum of 5 years following the completion of an introductory tenancy.

The Council encourages all landlords operating in the borough to offer the most secure tenancy possible. This can be assessed on an individual household.





**We want all Brent residents who are renting; to have a clear understanding of their tenancy, their rights and a guaranteed level of security**





## 6.0 Strategy commitments

### Commitment one: When moving into a new home, Brent residents are offered the longest tenancy possible

This strategy has presented a range of information showing how many households are forced to wait for a home they can afford. Commitment one of this strategy sets out the importance of granting Brent residents the longest possible tenancy so households feel safe to establish roots in their community and build lives knowing they will be there for a long period of time.

#### To achieve this commitment, we will:

- Review the use of fixed term tenancies for Council tenant and prioritise security of tenure
- Encourage RPs to offer secure tenancies to Brent residents
- Work with RPs allocations and lettings team to highlight any members of the household who would be considered vulnerable so they can be granted a longer tenancy
- Maximise the use of incentives for private landlords to encourage longer tenancies and rents at Local Housing Allowance levels.
- Champion initiatives such as community led housing so the PRS can be a long term and affordable housing option
- Develop a local model tenancy agreement and champion the use of longer tenancies within the PRS.

### Commitment two: Brent residents understand their tenancy agreement and how long the tenancy is

All Brent residents who are renting should be provided with a legal tenancy agreement which includes how long the tenancy is for. Commitment two in this strategy seeks to make the information within a tenancy agreement as accessible as possible.

#### To achieve this commitment, we will:

- Proactively promote this strategy so residents understand what the Council expects from landlords in Brent
- Champion the use of interpreters including British Sign Language at the point of sign up and publish tenancy agreement guidance in a range of languages
- Signpost to services in Brent who can offer independent advice to renters on their tenancy agreements
- Encourage all social housing landlords to publish template tenancy agreements online including easy read versions and alternative formats where required
- Encourage all social housing providers of supported housing to regularly audit themselves against the 'real tenancy test' to ensure Brent residents living in supported housing are receiving their full tenancy rights.
- The Council to develop a local model tenancy agreement for Brent PRS landlords to use.



## Commitment three: Brent residents are supported to stay in their home and or tenancy for as long as it remains suitable for them

Some tenants may require extra support to sustain their tenancy whether this is ongoing or a one off intervention. Commitment three aims to encourage all landlords to approach tenancy issues with a 'what can I do to help' mind-set, so, Brent residents can stay in their homes and landlords avoid costly and unnecessary evictions.

### To achieve this commitment, we will:

- Challenge RPs to keep Brent residents in their tenancy if they are forced to leave their home (e.g. fear of violence) by enabling a transfer or reciprocal arrangement
- Support people at risk of homelessness to sustain their tenancy through the Homelessness Prevention service.
- Improve resources on our website so Brent residents or landlords know who to contact if they are worried about their tenancy or receiving rent payments and can access information 24/7
- Support and implement the expected end to no fault evictions' in the Private Rented Sector
- Facilitate downsizing initiatives with RPs' through nomination agreements and support RPs' to use new smaller homes built in the borough

## Commitment four: Brent residents are supported if, or when their tenancy ends to avoid homelessness

Throughout this strategy, the focus has been to help keep Brent residents who are renting in their home. This may not always be possible. Commitment four acknowledges the importance that residents know what their housing options are and what support they can access if they do need to find a new home.

### To achieve this commitment, we will:

- Ensure RPs fulfil their responsibilities under the Homelessness Reduction Act 2017 and work with the Council at the earliest possible point if a tenancy is likely to end
- Offer training and publish information for RPs on what advice to provide if someone is at risk of a tenancy ending
- Use Personalised Housing Plans to support Brent residents at risk of homelessness by clearly setting out alternative and accessible housing options
- Influence RPs' reviewing fixed term tenancies and discourage ending tenancies unless a tenant's circumstances have significantly improved financially
- Promote the offer of a deposit guarantee scheme to help people in the PRS start a tenancy whilst a deposit is being held by another landlord.



## 7.0 Local Tenancy Policies

Every RP operating in Brent should publish a tenancy policy outlining their approach to the requirements set out in the strategy. These policies should be available online or provided on request to any resident. The Council will also publish its own tenancy policy.

Tenancy policies should include:

- The different types of accommodation offered and their purpose.
- The types of tenancy offered and how this links to different types of accommodation.
- How a household's needs are considered when granting a tenancy including vulnerable groups.
- The landlord's approach to targeting social and affordable housing to those most in need whilst supporting sustainable communities.
- The approach to tackling tenancy fraud.

If a landlord has chosen to adopt Flexible Tenancies, it should also include the following:

- How tenancies will be reviewed and any criteria a household would be assessed against.
- How to appeal against the type of tenancy granted or ending of tenancy.
- Support available when ending a tenancy.

## 8.0 Monitoring and delivering this strategy

The Localism Act 2011, requires the Council to take on the strategic responsibility of tenancies for the borough of Brent. There is however no requirement for RPs to adopt the content set out within this strategy.

We recognise however to successfully achieve our vision "*Brent residents who are renting; to have a clear understanding of their tenancy, their rights and a guaranteed level of security in their home*", we need the support of our RP partners and PRS landlords.

The Council has invested in a dedicated Housing Supply and Partnerships Service to continue developing the right relationships and identify even more opportunities to work together. Continuing to build on these partnerships and pooling knowledge and resource will ensure we can collectively deliver the affordable housing and services Brent residents want and need. So this can be effectively monitored, the Council's Housing Strategy and Delivery Board which includes representatives from most RPs will take on the operational responsibility for monitoring delivery of this strategy and feeding back to members. This strategy will expire in 2024. There is no statutory time period for reviewing this strategy but we will continue to monitor it specifically against any changes in legislation.



This page is intentionally left blank





LONDON BOROUGH OF BRENT

# Tenancy Management Policy

2020–2024





# 1.0 Introduction

The Localism Act 2011, requires the Council to produce and publish a tenancy strategy which sets out how social housing should be offered to meet local housing need. All social housing landlords are required to publish a tenancy management policy which has regard to content of the Council's tenancy strategy. This includes:

- the types of tenancy granted
- how a person's circumstance will be considered when deciding the type of tenancy to grant
- the length of time a tenancy will be granted for
- and how tenancies will be managed towards the end including the offer of a new tenancy

In addition to the Localism Act 2011, the Regulator for Social Housing consumer standards include a Tenancy Standard which outlines further expectations for social housing landlords to address within their tenancy policy, specifically the management of mutual exchanges and successions.

Brent Council is landlord to 8,000 Council tenants. The purpose of this policy to ensure current and future Council tenancies are managed consistently and supports the Council's vision for Brent residents who are renting; to have a clear understanding of their tenancy, their rights and a guaranteed level of security in their home.

This policy applies to Brent Council tenancies only.

# 2.0 Equality and Diversity

This policy supports the Council's commitment to championing equality and ensuring procedures are in place so all residents are treated fairly and without unlawful discrimination in line with the Equality Act 2010.

# 3.0 Links to the Council's corporate aims

Our [Borough Plan](#) sets out a clear commitment to make Brent a great place to live and work, where people feel that they have opportunities to change their lives for the better. It should be read alongside the Council's [Tenancy Strategy](#), [Allocations Scheme](#) and [Homelessness, and Rough Sleeper strategy](#).

# 4.0 Policy objectives

The aim of this policy is to ensure Council tenancies are offered and managed consistently by:

- Clearly outlining the type of tenancies offered by the Council and what could lead to a change in tenancy type e.g. demotion
- Ensuring tenants understand how they can make changes to their tenancy
- Explaining household members' right to succeed a tenancy and how this will be managed



## 4.0 Types of tenancy

### 4.1 Introductory Tenancy

All new Council tenants will be offered an introductory tenancy lasting up to 12 months. An introductory tenancy has the same rights as a secure tenancy but for this 12-month period a tenant cannot:

- Buy their Council home
- Apply or undertake a mutual exchange of their home
- Have a lodger
- Make any alterations to the home

Page 27

Throughout this 12-month period, the tenancy will be monitored (see section 8.1 for details). When a tenant has successfully completed their tenancy they will then be automatically granted a Secure tenancy.

If there is a breach of tenancy during this 12-month period, the Council can extend an introductory tenancy for a further 6 months. If the Council feels the breach is severe, it will terminate the introductory tenancy before the 12-month period or extended period ends. Any introductory tenancy not ended within this period will automatically become a secure tenancy.

If an introductory tenancy is ended, the tenant will be supported to access help and advice on alternative housing options if this occurs (see section 9.0 ending a tenancy)

### 4.2 Secure Tenancy

Once an introductory tenancy has been completed, a tenant will be offered a secure tenancy. A secure tenancy is a lifetime tenancy

meaning it cannot expire. This type of tenancy can only be granted by the Council and can only be broken if the tenant breaches their tenancy conditions.

Secure Tenants can:

- Pass on their tenancy when they die
- Exchange homes with another tenant via mutual exchange
- Buy their home
- Repair their home if we fail to do so
- Make improvements or alterations to their home (subject to permission)
- Have lodgers or sublet part of their home (subject to permission)

### 4.2 Fixed term tenancy

Prior to this policy, the Council offered fixed term tenancies, which are also known as flexible tenancies and are one type of secure tenancy. These tenancies ended after a five-year period and the tenants circumstances would be reviewed. Based on the review, the tenant would be offered another fixed term tenancy or if found to no longer require social housing be supported into an alternative tenure such as private rented or shared ownership. Through consultation with existing Council tenants and Brent residents in Temporary Accommodation, the Council has decided to end the use of fixed term tenancies.

Brent Council tenants who are currently on a fixed term tenancy will be converted to a secure tenancy without a fixed term (see section 4.2).



#### 4.4 Demoted tenancy

If a tenant has been involved in antisocial behaviour or, is using their home unlawfully, the Council can serve a four-week notice of its intention to seek to demote the tenancy for 12 months and thereafter apply for a court order to provide for this. A demoted tenancy order reduces a tenant's rights and facilitates the eviction process if required.

At the end of the 12-month period, if the tenant has complied with the court order their tenancy will automatically revert to a secure tenancy. If they have not complied with the order, the Council will serve a four-week notice stating that it has made a decision to seek possession of the property and obtain a possession order to evict the demoted tenant.

A demoted tenant will have the opportunity to appeal the decision to seek to evict and the Council will review the decision if requested. If the outcome review upholds the decision to seek possession of the property, the Council can apply to the Court for a possession order and end the demoted tenancy. If the review finds the Council should not uphold the decision to seek possession, the tenancy will revert to a secure tenancy.

The Council will not demote a tenancy more than once. If a tenant whose tenancy has previously been demoted but reverted back to a secure tenancy then engages in anti-social behaviour again, the Council will take steps to end the tenancy.

#### 4.5 Temporary tenancy – Licence agreement

A small number of Council homes may require major works. A decant to a temporary accommodation will be offered if it is considered unsafe for a household to remain at home during the work.

The tenant(s) will be offered a licence agreement for the duration of the works. When works are completed, the tenant(s) will be served with Notice to end the Licence agreement, return to their Council home, and continue their secure tenancy.

## 5.0 Sole and Joint tenancies

The Council offers both sole and joint tenancies to new households moving into a new Council home. This is subject to eligibility. It is the household's decision whether to enter into a joint or sole tenancy.

### 5.1 Sole tenancy

A sole tenancy is where one member of the household signs the tenancy and is responsible for ensuring the household fulfils the responsibilities set out within the tenancy agreement. This includes paying the rent and ensuring no one in the household is responsible for causing anti-social behaviour. Where there is a breach of tenancy, the sole tenant is accountable, even if a member of their household or guest is responsible.

### 5.2 Joint tenancy

A Joint Tenancy is where more than one person has the responsibility for meeting the requirements of the tenancy agreement. Both tenants are entitled to stay in the home until the end of the tenancy.

The Council will offer this tenancy to a maximum of two people and recognises applications for joint tenancies where two people are married or in a civil partnership. Joint tenancies will not be offered to anyone else who may be living in your home. In order to apply for a joint tenancy, you will need to provide proof of marriage or civil partnership and proof of joint residency for at least 12 months will



need to be provided. The Council will offer joint tenancies to couples who can prove they have been cohabiting for at least 24 months.

Joint tenants will have equal rights to the tenancy and an opportunity to have their say in consultation undertaken by the Council. In cases where the Council requires a ballot vote to support regeneration or the development of new council homes, both tenants will have the opportunity to participate in the vote.

## 6.0 Changes to a tenancy

### 6.1 Changing a sole tenancy to a joint tenancy

Existing tenants are able to convert their current tenancies to a Joint Tenancy. Both parties must agree to the respective partner being added to the tenancy. The Housing Officer will need to check whether this is lawfully possible for a joint tenancy to be assigned in accordance with s.91 of the Housing Act 1985. The tenant will be required to complete a Deed of Assignment. It is advised tenants seek independent legal advice.

Where the tenant has a statutory right of assignment, then it is not necessary to sign a new joint tenancy agreement; this will instead be recorded on the Council's system and both tenants will receive written confirmation of their joint tenancy. Where assignment is not possible or practical, the Council will consider granting a new joint tenancy to replace the previous sole tenancy.

Any applications for a sole tenancy to be converted to a joint tenancy will be refused under the following circumstances:

- The household cannot provide proof of marriage or civil partnership, or of joint residency for at least 12 months prior to the application
- There is outstanding action against the household for a breach of tenancy
- There are outstanding rent arrears
- There is a history of tenancy breaches
- The tenancy has been demoted
- The applicant is already named on another a tenancy

### 6.2 Changing a joint tenancy to a sole tenancy

In some situations, such as relationship breakdown, a household may wish to convert their joint tenancy to a sole tenancy. This again can be managed by a deed of Assignment. It is advised tenants seek independent legal advice.

The Housing Officer will need to check whether this is lawfully possible for a joint tenancy to be assigned in accordance with s.91 of the Housing Act 1985. The tenants who wishes to remove themselves from the tenancy will be required to complete a Deed of Assignment.

Where an assignment cannot be agreed between joint tenants, those who are married or in a civil partnership can apply to the Family Court to transfer the tenancy.

When one of the joint tenants moves out of the home, the remaining tenant should notify the Council. After 24 months, if both joint tenants have been unable to resolve their tenancy situation, or the absent tenant has not made contact, the remaining tenant can apply to the



Council for a new replacement sole tenancy to be granted. Prior to issuing a replacement tenancy, the Council will write to the absent tenant giving 14 days' notice to object and provide evidence as to why the tenancy should not be replaced.

This is subject to:

- No applications have been made to transfer the tenancy via Assignment or Court Order
- There are no outstanding breaches against the tenancy (*this will not apply where the absent tenant was sole cause of antisocial behaviour*)
- There are no outstanding rent arrears
- The home being specifically adapted for the absent tenant (in this case an alternative home may be offered)

The remaining tenant will be asked to serve a Notice to Quit. The Council will then issue a replacement tenancy.

### 6.3 Change of name

Tenants who change their name will need to provide evidence of the change before a tenancy agreement can be updated. The Council will accept the following documents as evidence:

- Government issued documents such as Passport or Driving licence
- Certificate of marriage, civil partnership or divorce/dissolution
- Confirmation from High Court if the change is via Deed Poll

## 7.0 Tackling tenancy fraud

There is a chronic shortage of Council homes across the country. In Brent, there are over 2,000 households in Temporary Accommodation. Tackling tenancy fraud is a priority for the Council.

The Council is committed to carrying out regular tenancy checks, designed primarily to deter and identify tenancy fraud in order to ensure the legitimate tenant occupies Council homes. This includes regularly using data to monitor who is living and registered to the household.

Action will be taken to evict tenants who have made false or misleading statement regarding their tenancies. The Council encourages all Brent residents and partners to help tackle tenancy fraud and report a Council tenant who they suspect:

- Have another home (including outside the UK)
- Got their home by giving false information
- Is subletting (renting) their home to someone else
- Left their home and it is now empty; or are letting others live in it
- Has applied for, or completed, the purchase of their tenancy under the Right to Buy Scheme when they are not entitled, or gave false information
- Has claimed succession on the death of a tenant and is not entitled to take over that tenancy



Tenancy fraud can be reported online [here](#) or by contacting call the Council's hotline number on 020 8937 1279. All calls are confidential and lines are open Monday to Friday, 9am to 5pm.

## 8.0 Monitoring & reviewing tenancies

### 8.1 Monitoring introductory and demoted tenancies

As stated in section 4.1, all new Council tenancies will be introductory tenancies. Throughout the 12-month introductory or demoted tenancy, the tenancy will be monitored.

Housing Officers will contact and visit introductory tenants throughout this 12-month period, specifically at 3 months, 6 months and 9 months. At 9 months Housing Officers will undertake a formal introductory tenancy review and make a recommendation on whether the tenancy should be allowed to continue, extended or terminated. This will be based on whether a tenant has paid their rent in full and on time and whether there have been reports of anti-social behaviour. Tenants will be informed in writing the outcome of their introductory tenancy review. Tenants have the right to appeal this recommendation.

During visits to the home, officers will also review how the home is being treated. Any malicious damage will be treated as a serious tenancy breach and the tenant(s) will be re-charged for any repairs carried out.

### 8.2 Monitoring secure tenancies

To monitor secure tenancies, the Council will undertake a programme of tenancy audits. Additionally, it will monitor contact reports from other residents flagging concerns with a tenant(s).

The Council can audit a Council home at any point. Tenants will be notified at least 24 hours in advance of a tenancy audit-taking place. The purpose of a tenancy audit is firstly to ensure the Council's records of the household and the home are up to date and accurate. During these audits, officers will be looking for the following:

- Changes to the household
- Identify households who may require support or an intervention e.g. hoarders
- Ensure the home has not been damaged or altered without permission
- Ensure pets are not being kept without permission
- Update tenancy records, including diversity data

The capturing of diversity data is essential to ensuring that the housing service can identify groups of people who may benefit from different initiatives run by the Council and its partners. An example of this is the Council's current commitment to raising the attainment and achievement of Black Caribbean boys. Tenants can update their own information using the housing portal or by contacting their housing officer. Over every four-year period, all Council homes will be audited at least once. Homes where issues or concerns are identified may be visited more than once.



The Council can carry out an unannounced tenancy audit, in response to:

- Alleged damage to the property or significant disrepair;
- Safeguarding concerns for the tenant; or
- Suspected tenancy fraud.

If when conducting a tenancy audit the Council is unable to gain access twice and has been unable to make contact within a 6-month period, the Housing Officer will start proceedings to take action in line with the [Empty property process](#).

In addition to the tenancy audits, tenants can update information about themselves and members of their household via the customer portal [\[Insert reference to customer portal\]](#). This includes listing who lives in the home or whether a member of the household has a disability.

## 9.0 Ending a tenancy

### 9.1 Ending a tenancy

If a Council tenant wants to move out of their home, they must send the Council a 'notice to quit'.

A copy of the form can be requested online [here](#) or by calling 020 8937 2400. [\[Insert reference to customer portal\]](#)

Once the Council receives the Notice to Quit, this starts the four-week notice period for the tenancy ending. All tenancies will end on a Monday. Up until the end date, tenants will be responsible for paying rent. If a tenant requires moving out earlier than the 4 week notice period, this would have to be agreed in advance with the Council. The tenant will not be allowed to enter the property after this date.

When leaving all tenants must give 'vacant possession', which means that, the tenant must leave the property:

- clean
- clear of furniture, anything else you own and all rubbish
- with no people or pets still living there

If a tenant does not leave the property clean and clear, they will be charged for the cost of cleaning and clearing out the property.

### 9.2 Ending a Joint tenancy

If one joint tenant ends the tenancy, the tenancy will end, even if the other joint tenant has not asked for the tenancy to end.

The Council will then at its discretion consider whether to offer a sole tenancy to the remaining tenant. This decision will be based on the remaining tenant's current circumstances e.g. vulnerability, custody of children. Where a tenancy is offered this may not be for the same home. Instead, the Council will review the housing needs of the remaining household and make an alternative offer. If this is declined, the tenancy will end.

### 9.3 Council termination of an introductory tenancy

If a tenant fails to pass the 12-month introductory tenancy the Council can terminate the tenancy under mandatory grounds under s.126 Housing Act 1996 at any time, subject to service of Notice and the tenants right to review. An introductory tenancy cannot be ended after the 12-month period has expired unless the introductory tenancy has been extended.

### 9.4 Council termination of a secure tenancy



The Council may terminate a secure tenancy by seeking possession under the grounds set out in Schedule 2 of the Housing Act 1985. If the Court grant possession to the Council and the tenant or household members have not left the property by the deadline set out by the Courts, the Council will seek a further possession order from the Court.

This includes mandatory grounds for possession for Anti-social behaviour in s.84A Housing Act 1985. If the Council ends a tenancy because of a tenancy breach, the tenant will be referred to the Council's homelessness prevention team.

### 9.5 Death of a tenant

In the unfortunate event of a death of a tenant, the tenancy can be transferred to an eligible family member. This is known as succession (see section 10). If there is no eligible family member wishing to succeed the tenancy the Council will end the tenancy by serving a Notice to Quit.

### 9.6 Development

The Council can terminate tenancies to support the development of new Council homes. The Mayor of London requires any tenants who would be affected have the opportunity to vote on whether the development goes ahead if it requires the demolition of their home. They will be offered an alternative home and given the opportunity to return to the new development once completed.

### 9.7 Right to appeal

All decisions including the type of tenancy offered by the Council and the length the tenancy is offered for can be appealed. Appeals should be made within 28 days of being notified of our decision directly the Housing Officer who will present the appeal to the Housing Panel.

## 10.0 Succeeding a tenancy

When a tenant dies, another family member may be entitled to inherit the tenancy. This is known in legal terms as a Succession.

### 10.1 Eligibility for Succession

Under s.87 of the Housing Act 1985, a tenancy that started before April 2012 can be succeeded by the deceased tenant's:

- husband/wife
- civil partner
- unmarried heterosexual partner
- same-sex partner
- grandfather/grandmother
- father/mother
- brother/sister
- uncle/aunt
- nephew/niece
- son/daughter
- stepson/stepdaughter
- adopted child
- grandson/granddaughter



Under s.86A of the Housing Act 1985 and s.160 of the Localism Act 2011, the following can succeed a tenancy that started on or after April 2012:

- husband/wife
- civil partner (registered under the Civil Partnership Act 2004)
- Family members under the age of 18 can succeed to a tenancy.

In such cases, a trustee would need to be agreed to hold the tenancy in trust for the child.

To succeed a tenancy, the individual must be one of the persons listed above. The deceased must also have been using the home as their main or principle home up until the date of death for at least 12 consecutive months. The successor must also have been living at the home during this period whilst married or in a civil partnership.

A succession will be refused if the applicant is unable to prove that they are a family member or that they live/had lived at the address.

If the tenancy has already been succeeded once, it cannot be succeeded again. This also applies if there has been an assignment of the tenancy, which includes assignment by mutual exchange or a property adjustment order under the Family Law Act.

If the deceased was admitted to hospital or a residential home for long-term care or treatment, then a succession cannot not take place.

Where more than one person applies for succession and there is no remaining joint tenant, priority goes to the tenant's spouse or civil partner. If there is no spouse or civil partner who qualifies, the family members must decide between them who will succeed. If they are

unable to agree, the Council will decide and this will be assessed on housing need.

## 10.2 Applying for a succession

If eligible to succeed a tenancy, a tenant must complete a 'request for succession' application form either and provide evidence of eligibility. This includes providing proof of the relationship to the deceased and living at the home. A copy of the form can be requested online [here](#) or by calling 020 8937 2400.

A Housing Officer will contact other organisations and agencies, and teams within the Council to confirm any of the information provided. This may include the Department of Work and Pensions (DWP) and our Council Tax and Benefits Team.

An applicant may also be asked to attend an interview. The Council acknowledges the loss of a family member is distressing and will seek to ensure any interviews are only held if absolutely necessary. Failure to attend an interview will prolong the application or result in an application being refused.

The Council will write to the applicant to confirm the outcome of their application to succeed a tenancy.

If successful, the applicant will be contacted to make arrangements to grant a new tenancy and set up their rent account. If unsuccessful, the Council will serve a Notice to Quit and remaining household members will be required to leave the property.

## 10.3 Discretionary tenancy

If a member of the household has no legal right to succeed, a Council tenancy they may still be granted a discretionary tenancy. This can apply if the tenancy has been succeeded once previously but the



household member has lived in the home for 10 years prior to the death of the tenant. This will not apply if the applicant will under occupy or the home is adapted and the adaptations are no longer required. Under these circumstances, the Council may offer an alternative property, which matches their housing need.

The Allocations panel will review all discretionary tenancies and determine whether a discretionary tenancy should be offered.

## 11.0 Mutual exchanges

The Council encourages the use of Mutual exchange for tenants who wish to downsize, upsize or want a change in location as an alternative to a transfer.

All secure tenants have a right to swap homes with another tenant under s.92 of the Housing Act 1985 (dealing with assignments) and s.158 of the Localism Act 2011 (requests for transfer).

To apply for a mutual exchange a tenant must first find a person to swap with. They can advertise in any way but it is recommended tenants use websites such as Home Swapper.

Once an exchange has been agreed between tenants, an application form must be completed. A copy of the form can be requested online [here](#) or by calling 020 8937 2400.

The Council will then process the application and inform the tenant in writing of the outcome within 42 days of receiving the application.

The Council can only refuse an application for reasons outlined in legislation (The Housing Act 1985 and the Housing Act 2004) these will be outlined if an application is refused.

Applications will not be approved if it would result in a Council home being under-occupied or overcrowded. However, where a Brent Council tenant has registered to downsize to a smaller home, they are permitted to have one room more than their housing need.

The Council will not allow mutual exchanges to take place if there are outstanding rent arrears or are in the process of taking action against the tenant.


## 12.0 Monitoring and review of policy

This Tenancy Policy will be subject to annual reviews and any changes will be approved by the Council's Cabinet. Amendments at other times will be made through the local decision making process. Any major changes will be consulted upon before a decision is taken to implement them.



This page is intentionally left blank



	<b>Cabinet</b> 15 June 2020
	<b>Report from the Strategic Director,  Regeneration and Environment</b>
<b>Local Authority Discretionary Grants Fund</b>	

<b>Wards Affected:</b>	All
<b>Key or Non-Key Decision:</b>	Key
<b>Open or Part/Fully Exempt:</b> <small>(If exempt, please highlight relevant paragraph of Part 1, Schedule 12A of 1972 Local Government Act)</small>	Open
<b>No. of Appendices:</b>	Four. Appendix A Matrix of eligibility and evidence Appendix B Proposed Ranking System Appendix C Local Authority Discretionary Grants Fund Guidance Appendix D Local Authority Discretionary Grants Fund Technical FAQs
<b>Background Papers:</b>	None
<b>Contact Officer(s):</b> <small>(Name, Title, Contact Details)</small>	Amar Dave Strategic Director of Regeneration & Environment Tel: 020 8937 1516 Email: <a href="mailto:amar.dave@brent.gov.uk">amar.dave@brent.gov.uk</a>

## 1.0 Purpose of the Report

- 1.1 To outline the background and proposed approach for Brent's Local Authority Discretionary Grants Scheme.

## 2.0 Recommendation(s)

- 2.1 That Cabinet approve the Local Authority Discretionary Grants Scheme for Brent as set out in this report, using the eligibility criteria specified in 4.2, 4.6, and 4.11 and agreeing a single tier grant payment of £5,000.
- 2.2 That Cabinet delegate to the Strategic Director of Regeneration and Environment the administration and award of grants under the Local Authority Discretionary Grants Scheme.



### **3.0 Background**

- 3.1 The Local Authority Discretionary Grants Scheme was announced on 1 May 2020 to provide grants to certain small businesses who are outside of the scope of the original Covid-19 business grant schemes (including but not limited to the Small Business Grant Fund and the Retail, Hospitality & Leisure Grant scheme).
- 3.2 Detailed guidance was released on 13 May 2020 and Technical FAQs were then published on 27 May 2020. Both sets of guidance are appended to this paper (Appendices C and D respectively). The guidance outlines that the Local Authority Discretionary Grants Scheme sets some mandatory criteria, but also provides a relatively large degree of local flexibility in determining where to focus funds.
- 3.3. It has been confirmed that the amount of funding for Brent will be £3.3m, which will be paid in early June 2020. In addition, the guidance confirms that the government will meet associated New Burdens costs.

### **4.0 Detail**

#### **4.1 Mandatory Criteria**

- 4.2 The Mandatory Criteria (set by government) are as follows:
- i. Businesses which have received cash grants from any central government Covid-19 related scheme (see 4.3 below) are ineligible for funding from the Discretionary Grants Fund. However, businesses that have received funding via the Self Employed Income Support Scheme (SEISS) or the Coronavirus Job Retention Scheme (CJRS) schemes can receive grants under the Local Authority Discretionary Grants Scheme providing they meet the wider criteria.
  - ii. Only businesses which were trading on 11 March 2020 are eligible for this scheme.
  - iii. Companies that are in administration, are insolvent or where a striking-off notice has been made are not eligible for funding under this scheme.
- 4.3 The cash grants from any central government Covid-19 related scheme referred to above include:
- Small Business Grant Fund
  - Retail, Hospitality and Leisure Grant
  - The Fisheries Response Fund
  - Domestic Seafood Supply Scheme (DSSS)
  - The Zoos Support Fund
  - The Dairy Hardship Fund
- 4.4 If a business does not meet these mandatory criteria, they will not be eligible for funding from this grant. There is no discretion over this.



## 4.5 Discretionary Criteria

4.6 The government has stated that the grant is 'primarily and predominantly' to support businesses who fall into the following categories:

- The business has ongoing fixed building-related costs.
- The business occupies a property, or part of a property, with a rateable value or annual mortgage/rent payments of less than £51,000 per annum.
- The business has experienced a significant reduction in revenue since 11 March due to COVID-19.
- The business is an SME, satisfying two or more of the following requirements in a year:
  - Turnover: Not more than £10.2 million
  - Balance sheet total: Not more than £5.1 million
  - Number of employees: a headcount of staff of less than 50

4.7 The council is proposing that these 'primarily and predominantly' criteria are also adopted as mandatory criteria for the purposes of its local grant scheme. This would mean that any business who does not meet all of the above four criteria will not be eligible for funding.

4.8 The only exception would be those businesses in shared spaces where the property's rateable value is above £51,000 but the individual business occupies only a small portion of the property. Those businesses will still be eligible for funding.

4.9 The government has asked local authorities to prioritise tenants of shared spaces, market traders, small charities, and B&Bs who pay council tax, but local authorities do have the discretion to exclude these types of businesses and/or award grants to other types of businesses that are important to the local economy.

4.10 The Technical FAQs (see Appendix D) published on 27<sup>th</sup> May 2020 state that '*...Local Authorities have discretion to decide which types of business are most relevant to their local economy and there will be no penalty for Local Authorities based on this prioritisation...*'.

4.11 Following consultation with Members, it is proposed that the council exercise its discretion to enact the following further restrictions on eligibility, in addition to those outlined in 4.6 above:

1. Only micro businesses will be eligible for grant funding under this scheme. This criterion supersedes the 'small business criteria' and any businesses with a headcount of more than 10 will be rejected even if they meet the definition of a small business provided above. Micro businesses are defined by the government guidance as having a headcount of 10 or fewer and one of the following:
  - A turnover of less than £632,000
  - A balance sheet of less than £316,000



2. Only businesses who have been trading for at least 12 months at the point of application will be eligible for grant funding under this scheme.
  3. Only those businesses who are actively trading in Brent (as opposed to simply registered in Brent) will be eligible for grant funding under this scheme.
  4. Only those businesses who can demonstrate a minimum of 50% loss in income due to Covid-19 will be eligible for grant funding under this scheme.
  5. The grant will be open to businesses of any sector providing they meet all the other criteria.
- 4.12 Under this proposal all criteria in both 4.6 and 4.11 above must be met by a business in order to be eligible for grant funding under this scheme.
- 4.13 It is anticipated that demand for grant funding under this scheme will considerably outstrip the amount of funding available and therefore the grant will not be able to support all businesses operating in Brent. More detail on managing demand is provided in the remainder of the report.

#### **4.14 Grant Award Tiers**

- 4.15 The government guidance at Appendix C states that there can be at least three levels of grant award - £25,000; £10,000 and any amount under £10,000 but does not specify how these tiers are to be determined.
- 4.16 It states that *'in taking decisions on the appropriate level of grant, local authorities may want to take into account the level of fixed costs faced by the business in question, the number of employees, whether businesses have had to close completely and are unable to trade online and the consequent scale of impact of COVID-19 losses. Bearing in mind the above, local authorities should set out clear criteria for determining the appropriate level of grant to give businesses clarity'*.
- 4.17 Following consultation with Members, it is proposed that the council exercise its discretion to award a single grant tier of £5,000 in order to support a larger number of businesses than would otherwise have been possible with a higher tier rate. There will be no £10,000 or £25,000 tier. The £3.3 million Brent allocation will enable up to 660 businesses to be awarded a £5,000 grant.

#### **4.18 Evidence checking**

- 4.19 The grant scheme will be administered via an online form. This online form is being created in-house and will have functionality to allow document upload in order that businesses provide required evidence that they meet the specified criteria.
- 4.20 Businesses will need to demonstrate that they meet the eligibility criteria. The evidence that will be requested is likely to include:
- Redacted payroll statements;
  - Bank account statements;



- Lease/tenancy agreements;
- Business rates bills;
- Evidence of invoice for market stalls/street trading licence and evidence of renewal fee receipt;
- Tax returns
- Evidence of fixed property costs e.g. utilities bills;
- Certificate of incorporation.

4.21 Awards will not be made without sufficient evidence that the criteria are being met.

4.22 Technical FAQs guidance at Appendix D on how to verify B&Bs is more complex than for standard businesses, charities, or street/market traders. The guidance states that:

*‘It is up to Local Authorities to set their own criteria for their local schemes and what they would class as a B&B. To be registered for council tax, B&Bs must have fewer than six bed spaces. We would expect properties to be wholly or mainly used as guest or boarding premises. Examples of relevant proof that Local Authorities may wish to consider for B&Bs include:*

- *Planning permission for change of use;*
- *A fire certificate obtained when setting up the B&B to get business insurance policy and public liability cover;*
- *A “hotel and mobile units television licence”, which covers up to 15 televisions and can be purchased online from TV Licensing;*
- *A music licence from PPL PRS Ltd, if they have a TV in public areas, such as a bar or breakfast room, which has the sound turned on;*
- *A personal and premise alcohol licence, if serving alcohol;*
- *Registered with local Environmental Health Officer when setting up the B&B to the property assessed.*

4.23 A full matrix showing the proposed eligibility criteria and accompanying evidence requirements is included in Appendix A. An element of self-declaration and self-certification will also be used to determine eligibility. See 4.42 below for further detail on how fraud will be combatted.

#### **4.24 Administration**

4.25 There a number of ways to administer the grant scheme in terms of accepting applications, for example accepting applications on a first come first served basis until the funding runs out, having a short window in which applications are accepted and then assessed, or a bidding round. All options have their advantages and disadvantages.

4.26 Operating on a first-come-first-served basis would not appear to be a fair mechanism and some businesses who are not aware of the scheme may miss out. This could be mitigated by clear and consistent promotion of the scheme in



advance of going live. Payments would also be able to be made more quickly and there would be no element of subjectivity involved in decision making.

- 4.27 A window for applications would allow businesses more time to apply. Officers would then need to determine applications based on the eligibility criteria outlined above. The window would be open for a maximum of 5 working days from go-live (estimated 16<sup>th</sup> June) and any applications or supporting information submitted after the window closes would not be considered. Payments would not be made until after the window has closed and sufficient checks have been made.
- 4.28 It is possible, although highly unlikely, that the fund will be under-subscribed. In that case, the window can be extended to allow more applications.
- 4.29 It is also possible, and more likely, that the fund will be over-subscribed and there will be more eligible businesses who meet all the criteria than there is funding available.
- 4.30 If this should occur, further sifting would be required in order to make decisions on how to award funding. In order for this to be transparent, a 'ranking system' would have to be applied in order to further prioritise and make grant awards.
- 4.31 Following consultation with members, it is proposed to allow a window for applications. The window will be open for a maximum of 5 working days with a 'ranking system' used to determine which businesses are awarded funding if the pot is over-subscribed. The proposed ranking system is included at Appendix B.

#### **4.32 Communication**

- 4.33 Clear communication around the scheme and its criteria will be crucial to demonstrate transparency around how decisions are to be made. The Employment, Skills, and Enterprise team will work closely with Communications to ensure that the scheme is publicised widely in advance of it opening. The following channels will be used:
- Business e-newsletter with over 7,000 subscribers
  - Direct email notification to every business who has enquired about the scheme to date
  - Press release and council website updates
  - Social media channels
  - Dissemination through key partners e.g. FSB and West London Business
- 4.34 This communication work will commence ahead of the scheme going live to ensure that as many businesses as possible are made aware and can start gathering the necessary evidence ahead of applications opening.

#### **4.35 Assessment of applications**

- 4.36 Applications will be considered by a dedicated review team with a recommendation made to a senior officer for approval. The process will be to



review the information disclosed in the application and confirm the evidence provided supports the disclosures.

4.37 The ranking system will then be applied in the event of over-subscription to the grant fund.

4.38 Once initial checks have been made to verify whether an applicant is eligible, those who do not meet all the criteria will be rejected and notified. Those who do meet all the criteria, who are in the top 660 after the ranking system has been applied, and where evidence has been checked and confirmed to be sufficient, will be passed to the Finance department for the following purposes:

- Undertake further fraud and bank verification checks to ensure the data provided by businesses is accurate
- Supplier set ups in Oracle to facilitate payments by BACS

4.39 Internal Audit will take a sample of completed applications and review each step of the process for accuracy and completeness. They will not be part of the approval process for each application.

4.40 Any award will be at the absolute discretion of the following:

- Head of Revenue and Benefits
- Head of Finance

4.41 Any representation regarding the appropriate administration of the Local Authority Discretionary Grants Scheme that cannot be resolved by the above will be referred to the Chief Executive or Director of Finance for determination.

#### **4.42 Combatting fraud**

4.43 In order to ensure that Local Authority Discretionary Grants Scheme is not subject to potential abuse, all submitted applications will require a statutory declaration of truth, a statement regarding data processing and a recovery of funds statement. This declaration allows for the council, through the corporate Anti-Fraud team, to carry out pre-payment checks in order to give greater assurance that the funds are being claimed correctly. Furthermore, the declaration carries warnings which further allow the council to consider taking criminal action against persons who have been found to have deliberately made false applications for the funding. It also allows for the recovery of funds which have been paid which should not have been.

#### **4.44 Demand**

4.45 If a single £5,000 grant award is agreed, this will help to support 660 businesses in the borough.

4.46 There is insufficient data available to suggest exactly how many businesses in Brent may be eligible for the Discretionary Grant based on the eligibility criteria.



It is extremely likely the grant will be oversubscribed, with more than 660 eligible applicants who meet every element of the proposed criteria.

- 4.47 Because of this, officers are recommending a short window for applications of no more than 5 working days.
- 4.48 A ranking system will then be used after the window has closed to determine which 660 applicants will receive grant funding. The proposed ranking system is included in Appendix B.

## **5.0 Financial Implications**

- 5.1 Total funding of £3.3m has been confirmed as the fixed allocation for Brent's Local Authority Discretionary Grants Scheme.
- 5.2 If a single £5,000 grant award is agreed, this will fund 660 grant awards.
- 5.3 It is possible that demand for the grant will exceed the amount of funding available. Therefore, financial controls will need to be embedded in the payments monitoring system to ensure the total amount spent does not exceed the total grant amount. The guidance from government is clear in that local authorities will not be reimbursed for payments above the fixed allocation.
- 5.4 The government has confirmed that New Burdens funding will apply.

## **6.0 Legal Implications**

- 6.1 The council has powers to administer and distribute grant funding pursuant to the S1 of the Localism Act 2011.
- 6.2 Under the United Kingdom's Withdrawal Agreement with the EU, obligations such as those under the Treaty for the Functioning of the European Union continue to apply and require the council to deal with all bidders for funding in a fair, open and transparent way. Therefore, the council must allow fair access to the funding by all potential recipients. This requires the council to advertise the availability of the funds and assess bidders and their bids on predetermined and pre-advertised criteria applicable to all in the same way. The criteria recommended for approval are detailed in Appendices A and B. They contain criteria specified by central government as mandatory in Appendices C and D as well as recommending certain discretionary criteria.
- 6.3 This requirement to apply predetermined and pre-advertised criteria also applies to the assessment of the grant sum to be paid to businesses. Officers recommend that a single £5,000 grant award is agreed. Whilst central government guidance at Appendices C and D refer to the possibility of making grants of £25,000, £10,000 or any amount under £10,000, the council retains discretion as to sums payable.
- 6.4 State Aid requirements will apply to the distribution of grant funding and the council must be satisfied that that all state aid requirements are met and complied



with. The council may make grant payments from the Local Authority Discretionary Grants Fund under either the De Minimis rules or the COVID-19 Temporary Framework for UK Authorities and the guidance document at Appendix C contains further information regarding state aid requirements together with sample state aid declarations for businesses to complete as part of the grant funding application process.

## **7.0 Equalities Implications**

7.1 None

**Report sign off:**

**Amar Dave**

Strategic Director of Regeneration and Environment.



This page is intentionally left blank



## Appendix A: Matrix of Eligibility and Evidence

Criteria	Evidence required
<p>Business must not be eligible for any other COVID19 government cash grant including:</p> <ul style="list-style-type: none"> <li>• Small Business (SB) Grant Fund</li> <li>• Retail, Hospitality and Leisure (RHL) Grant</li> <li>• The Fisheries Response Fund</li> <li>• Domestic Seafood Supply Scheme (DSSS)</li> <li>• The Zoos Support Fund</li> <li>• The Dairy Hardship Fund</li> </ul>	<p>Capita to check if business previously received a SB or RHL grant or is eligible for one. If yes, business is rejected.</p> <p>Self declaration required to show that business is not eligible for any of the other Covid-19 government cash grants.</p>
<p>Businesses must have been trading on 11 March 2020 and for 12 months prior to this date.</p>	<p>Bank statements to show business was trading on 11 March 2020 and 12 months prior.</p>
<p>Companies that are in administration, are insolvent or where a striking-off notice has been made are not eligible for funding under this scheme.</p>	<p>2 checks to be made using government tools:</p> <p><a href="https://www.gov.uk/find-out-if-a-company-is-in-financial-trouble">https://www.gov.uk/find-out-if-a-company-is-in-financial-trouble</a></p> <p><a href="https://www.gov.uk/search-bankruptcy-insolvency-register">https://www.gov.uk/search-bankruptcy-insolvency-register</a></p> <p>Company Name and Registration Number will be required for this.</p> <p>Certificate of Incorporation.</p>
<p>Company must be trading in Brent (as opposed to just registered in Brent).</p>	<p>Evidence from bank accounts or invoices showing trading taking place in Brent.</p> <p>If a B&amp;B, any of the following will also be required:</p> <ul style="list-style-type: none"> <li>• Planning permission for change of use;</li> <li>• A fire certificate obtained when setting up the B&amp;B to get business insurance policy and public liability cover;</li> <li>• A “hotel and mobile units television licence”, which covers up to 15 televisions and can be purchased online from TV Licensing;</li> <li>• A music licence from PPL PRS Ltd, if they have a TV in public areas, such as a bar or breakfast room, which has the sound turned on;</li> </ul>



	<ul style="list-style-type: none"> <li>• A personal and premise alcohol licence, if serving alcohol;</li> <li>• Registered with local Environmental Health Officer when setting up the B&amp;B to the property assessed.</li> </ul>
<p>Business must be able to evidence a minimum of 50% loss of income incurred due to Covid-19.</p> <p>This will be measured as either a drop in income from Jan-Feb 2020 compared with March – April 2020 OR from March – April 2019 compared with March – April 2020.</p>	<p>Bank statements from January – February 2020 and March-April 2020 evidencing drop in income between the two time periods.</p> <p><b>OR</b> bank statements from March - April 2019 (inclusive) and comparison bank statements from March - April 2020 (inclusive) evidencing loss of income this year compared to last year.</p>
<p>Businesses must occupy a property, or part of a property, with a rateable value or annual mortgage/rent payments of less than £51,000 per annum.</p>	<ul style="list-style-type: none"> <li>• Most recent business rates bill where applicable.</li> <li>• If the business does not have their own business rates account, evidence of their annual rent/mortgage payments to illustrate these are less than £51,000 per annum.</li> </ul>
<p>Businesses must evidence that they have fixed ongoing property-related costs (e.g. rent payments evidenced by a contract or lease)</p>	<ul style="list-style-type: none"> <li>• Most recent tax return (and no earlier than 2018/2019)</li> </ul> <p>If no tax return is available then the following will be accepted:</p> <ul style="list-style-type: none"> <li>• Lease/tenancy agreements;</li> <li>• Evidence of invoice for market stalls/street trading licence and evidence of renewal fee receipt;</li> <li>• Utilities bills.</li> </ul>
<p>Must have 10 or fewer employees and meet at least <b>1 of the 2</b> following criteria:</p> <ul style="list-style-type: none"> <li>- A turnover of less than £632,000</li> <li>- A balance sheet of less than £316,000</li> </ul>	<p>Redacted payroll data and most recent BACS transfer amount evidenced on bank account statement (ideally from April 2020)</p> <p>Self declaration of annual turnover accompanied by copy of accounts from 2019/20 financial year. If these are not available, a copy of accounts from 2018/19 must be provided.</p>

Applicants must meet **all of the above** criteria in order to be eligible. If any one of the criteria is not met, the applicant will be rejected and their application will not be considered.

If they meet all the above criteria, they may also be subject to the proposed ranking system which is detailed in Appendix B.



## **Appendix B: Ranking System in case of excessive demand.**

It is possible, although highly unlikely, that the fund will be under-subscribed. In that case, the window can be extended to allow more applications. However, it is more likely that the fund will be over-subscribed and there will be more eligible businesses who meet all the criteria than there is funding available.

In order to manage demand and ensure businesses who have been most impacted by the COVID-19 lockdown measures are supported, a ranking system will be put in place as part of the decision making process. For simplicity and transparency, the principles will be aligned to the key eligibility criteria, specifically the number of employees, loss of income and fixed property costs.

The criteria and ranking approach are set out in the table below, where the higher numerical rank represents the higher priority to be considered as part of the decision making and selection process.

<b>Criteria</b>	<b>Sub Criteria</b>	<b>Ranking Range</b>
Number of employees	8 - 10 employees	3-4
	5 - 7 employees	2-3
	Fewer than 5 employees	1-2
Loss of income	Over 91% loss of income	3-4
	Between 71% and 90% loss of income	2-3
	Between 50% and 70% loss of income	1-2
Percentage of fixed costs as a proportion of total costs	Total fixed costs greater than 75% of total costs	3-4
	Total fixed costs between 50% and 75% of total costs	2-3
	Total fixed costs less than 50% of total costs	1-2



This page is intentionally left blank





# Grant Funding Schemes

Local Authority Discretionary Grants Fund –  
guidance for local authorities





© Crown copyright 2020

This publication is licensed under the terms of the Open Government Licence v3.0 except where otherwise stated. To view this licence, visit [nationalarchives.gov.uk/doc/open-government-licence/version/3](https://nationalarchives.gov.uk/doc/open-government-licence/version/3) or write to the Information Policy Team, The National Archives, Kew, London TW9 4DU, or email: [psi@nationalarchives.gov.uk](mailto:psi@nationalarchives.gov.uk).

Where we have identified any third-party copyright information you will need to obtain permission from the copyright holders concerned.

Any enquiries regarding this publication should be sent to us at:  
[enquiries@beis.gov.uk](mailto:enquiries@beis.gov.uk)



---

# Contents

About this guidance	4
Introduction	4
How will the grants be provided?	4
How much funding will be provided to businesses?	5
Who will benefit from these schemes?	6
Eligibility	7
Who will receive this funding?	8
Will these grant schemes be subject to tax?	8
Managing the risk of fraud	8
Post event assurance	8
Monitoring and reporting requirements	9
State aid	9
Annex A: Post-payment reporting	11
Annex B: State aid – Sample paragraphs that could be included in letters to grant recipients	12



## About this guidance

1. This guidance is intended to support local authorities in administering the Local Authority Discretionary Grants Fund announced on 1 May 2020. This guidance applies to England only.
2. This guidance sets out the criteria which local government should consider as they manage the Local Authority Discretionary Grants Fund. This does not replace [existing guidance](#) for the Small Business Grant Fund (SBGF) or the Retail Hospitality and Leisure Grant Fund (RHLGF).
3. Local authority enquiries on this measure should be addressed to [businessgrantfunds@beis.gov.uk](mailto:businessgrantfunds@beis.gov.uk). Businesses seeking information should refer to their local authority for further information on their discretionary scheme.

## Introduction

4. In response to the Coronavirus, COVID-19, the government announced there would be support for small businesses, and businesses in the retail, hospitality and leisure sectors, delivered through the Small Business Grant Fund and the Retail, Leisure and Hospitality Grant Fund.
5. This additional fund is aimed at small and micro businesses who were not eligible for the Small Business Grant Fund or the Retail, Leisure and Hospitality Fund.

## How will the grants be provided?

6. Local authorities will be responsible for delivering grants to eligible businesses. Section 1 of the Localism Act 2011 provides all local authorities with the vires to make these payments.
7. The cost to local authorities of these grant payments will be met in one of two ways:
  - Where they have or plan to spend all of the grants fund allocation for the Small Business Grants Fund and Retail, Hospitality and Leisure Grants Fund, they will receive an additional payment of 5% of their funding allocation (using a grant under section 31 of the Local Government Act 2003).
  - Local authorities that, having taken all reasonable steps to provide grants to eligible businesses for the Small Business Grants Fund and/or the Retail, Hospitality and Leisure Grants Fund, still have unspent initial grants funds allocation, will fund the grants from this unspent residual. Local authorities with a projected underspend of more than 5% cannot allocate awards above their 5% threshold.
8. In either case, we will continue to monitor each local authority's spend performance for the Small Business, Retail, Hospitality and Leisure Grants Funds and the Local Authority Discretionary Grants Fund and ensure they have sufficient funding and the correct 5% cap for the Discretionary Grants Fund and will top up funding where necessary.



9. We will use the data return from local authorities of Monday 4th May 2020, which includes a projection of spend totals for the Small Business and Retail, Hospitality and Leisure Grants Funds, as the baseline for calculating either:
  - The 5% funding envelope that each local authority can utilise to meet the costs of this discretionary grants scheme, where they have residual funding available;
  - Or, the allocation of the additional amount of grant to be paid to those local authorities expecting to have no residual funding or not enough residual funding from the initial allocation of Small Business and Retail, Hospitality and Leisure Grants Funds.
10. This is a baseline to provide the fixed minimum 5% allocation for each local authority, to give certainty. We do not want to penalise local authorities that subsequently manage to achieve a higher number of business hereditaments supported and grants awarded; their 5% allocation will be adjusted upwards.
11. We are committed to meeting the delivery costs to local authorities for this scheme and will meet associated New Burdens costs.
12. Local authorities that will be responsible for making payments to businesses and which will receive funding from government are billing authorities in England.
13. This grant scheme widens access to support to businesses who are struggling to survive due to the Corona virus shutdown but are unable to access other grant funding. Local authorities should make payments as quickly as possible to support struggling businesses. We anticipate that the first payments made under the scheme will be received by businesses by early June.

## How much funding will be provided to businesses?

14. Local authorities may disburse grants to the value of £25,000, £10,000 or any amount under £10,000. The value of the payment to be made to a business is at the discretion of the local authority.
15. Grants under the Local Authority Discretionary Grants Fund are capped at £25,000.
16. The next level payment under the Local Authority Discretionary Grants Fund is £10,000.
17. Local authorities have discretion to make payments of any amount under £10,000. It will be for local authorities to adapt this approach to local circumstances, such as providing support for micro-businesses with fixed costs or support for businesses that are crucial for their local economies. We expect that payments of under £10,000 may be appropriate in many cases.
18. In taking decisions on the appropriate level of grant, local authorities may want to take into account the level of fixed costs faced by the business in question, the number of employees, whether businesses have had to close completely and are unable to trade online and the consequent scale of impact of COVID-19 losses.
19. Bearing in mind the above, local authorities should set out clear criteria for determining the appropriate level of grant to give businesses clarity.



## Who will benefit from these schemes?

20. These grants are primarily and predominantly aimed at:
- Small and micro businesses, as defined in Section 33 Part 2 of the Small Business, Enterprise and Employment Act 2015 and the Companies Act 2006.
  - Businesses with relatively high ongoing fixed property-related costs
  - Businesses which can demonstrate that they have suffered a significant fall in income due to the COVID-19 crisis
  - Businesses which occupy property, or part of a property, with a rateable value or annual rent or annual mortgage payments below £51,000.
21. To be a small business, under the Companies Act 2006, a business must satisfy two or more of the following requirements in a year—
- Turnover: Not more than £10.2 million
  - Balance sheet total: Not more than 5.1 million
  - Number of employees: a headcount of staff of less than 50
22. To be a micro business, under the Companies Act 2006, a business must satisfy two or more of the following requirements—
- Turnover: Not more than £632,000
  - Balance sheet total: Not more than £316,000
  - Number of employees: a headcount of staff of not more than 10
23. We want local authorities to exercise their local knowledge and discretion and we recognise that economic need will vary across the country, so we are setting some national criteria for the funds but allowing local authorities to determine which cases to support within those criteria.
24. We are asking local authorities to prioritise the following types of businesses for grants from within this funding pot:
- Small businesses in shared offices or other flexible workspaces. Examples could include units in industrial parks, science parks and incubators which do not have their own business rates assessment;
  - Regular market traders with fixed building costs, such as rent, who do not have their own business rates assessment;
  - Bed & Breakfasts which pay Council Tax instead of business rates; and
  - Charity properties in receipt of charitable business rates relief which would otherwise have been eligible for Small Business Rates Relief or Rural Rate Relief.



25. The list set out above is not intended to be exhaustive but is intended to guide local authorities as to the types of business that the government considers should be a priority for the scheme. Authorities should determine for themselves whether particular situations not listed are broadly similar in nature to those above and, if so, whether they should be eligible for grants from this discretionary fund.
26. Where limits to funding available for this scheme require local authorities to prioritise which types of businesses will receive funding, it will be at the local authorities discretion as to which types of business are most relevant to their local economy. There will be no penalty for local authorities because of their use of discretion to prioritise some business types.
27. Local authorities should set out the scope of their discretionary grant scheme on their website, providing clear guidance on which types of business are being prioritised, as well as the rationale for the level of grant to be provided (either £25,000, £10,000 or less than £10,000).
28. Local authorities may wish to consider collaborating as they design their discretionary schemes to ensure there is consistency where they are working across a functional economic area (e.g. a Mayoral Combined Authority or Local Enterprise Partnership area) and may want to engage with MCAs and LEPs to ensure alignment and reduce duplication with other local discretionary business grants that may have been established.

## Eligibility

29. This grant funding is for businesses that are not eligible for other support schemes. Businesses which are eligible for cash grants from any central government COVID-related scheme (apart from SEISS) are ineligible for funding from the Discretionary Grants Fund. Such grant schemes include but are not limited to:
  - Small Business Grant Fund
    - Retail, Hospitality and Leisure Grant
    - The Fisheries Response Fund
    - Domestic Seafood Supply Scheme (DSSS).
    - The Zoos Support Fund
    - The Dairy Hardship Fund
30. Businesses who have applied for the Coronavirus Job Retention Scheme are eligible to apply for this scheme.
31. Businesses who are eligible for the Self-Employed Income support scheme (SEISS) are eligible to apply for this scheme as well.
32. Only businesses which were trading on 11 March 2020 are eligible for this scheme.
33. Companies that are in administration, are insolvent or where a striking-off notice has been made are not eligible for funding under this scheme.



## Who will receive this funding?

- 34. It is recognised that local authorities will need to run some form of application process.
- 35. This will allow local authorities to undertake proportionate pre-payment checks to confirm eligibility relative to their local scheme and to allow each local authority to determine how to use its discretion in relation to the appropriate level of grant. Prepayment checks must include confirming that by accepting payments recipients are in compliance with State aid rules.
- 36. Local authorities must use their discretion in identifying the right person to receive this funding, based on their application process.
- 37. The local authority must call or write to the business, stating that by accepting the grant payment, the business confirms that they are eligible for the grant scheme, including that any payments accepted will be in compliance with State aid requirements. Suggested wording for State aid declarations is included at Annex B.

## Will these grant schemes be subject to tax?

- 38. Grant income received by a business is taxable therefore funding paid under the Local Authority Discretionary Grants Fund will be subject to tax.
- 39. Only businesses which make an overall profit once grant income is included will be subject to tax.

## Managing the risk of fraud

- 40. The government will not accept deliberate manipulation and fraud - and any business caught falsifying their records to gain grant money will face prosecution and any funding issued will be subject to claw back, as may any grants paid in error.
- 41. The government Grants Management Function and Counter Fraud Function will make their digital assurance tool, Spotlight, available to local authorities, and will offer support in using the tool and interpreting results. Alongside other checks conducted by local authorities, the tool can help with pre-payment and post payment assurance. We also want local authorities to work with us and each other in identifying and sharing good practice, including protecting eligible businesses which may be targeted by fraudsters pretending to be central or local government or acting on their behalf.

## Post event assurance

- 42. Post payment, the government Grants Management Function and Counter Fraud Function will support local authorities to carry out post-event assurance work to identify high risk payments.



## Monitoring and reporting requirements

43. Local authorities will be required to report on their progress in developing and delivering the Local Authority Discretionary Grant Fund weekly to BEIS alongside the existing reporting on the Small Business Grants Fund and Retail, Hospitality and Leisure Grants Fund. Criteria for local authority schemes must be published and shared with BEIS.
44. Once the scheme is developed and payments are made, reports from June onward will cover:
  - Numbers of businesses provided £25,000 grants
  - Numbers of businesses provided £10,000 grants
  - Numbers of businesses provided less than £10,000 grants
  - Total funding paid out in relation to the discretionary grant scheme paying less than £10,000
  - Expected date of completion of all grant payments to businesses
  - Issues encountered in implementing the scheme to allow BEIS to support development of solutions with local authorities.
45. We will also contact a sample of LAs each month to:
  - Check they are awarding in line with the mandatory criteria;
  - Understand the ways in which they are using their discretion.
46. Annex A contains information on Post Payment Monitoring requirements.

## State aid

47. The United Kingdom left the EU on 31 January 2020, nonetheless under the Withdrawal Agreement the State aid rules continue to apply during a transition period, subject to regulation by the EU Commission. The local authority must be satisfied that all State aid requirements have been fully met and complied with when making grant payments, 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, the approved COVID-19 Temporary Framework for UK Authorities, and any relevant reporting requirements to the EU Commission.
48. Local authorities have a discretion to make payments to eligible recipients under either the De Minimis rules or the COVID-19 Temporary Framework for UK Authorities (provided all the relevant conditions are met).
49. Payments of up to and including £10,000 can be provided under the De Minimis rules, meaning applicants can receive up to €200,000 of aid within a three year period.
50. Payments of up to and including £25,000 (or £10,000 where the De Minimis threshold has been reached) should be paid under the COVID-19 Temporary Framework for UK Authorities. Local authorities should note the conditions attached to the Temporary Framework, including the €800,000 threshold per undertaking (€120 000 per



undertaking active in the fishery and aquaculture sector or €100 000 per undertaking active in the primary production of agricultural products), and requirement for recipients to declare they were not an undertaking in difficulty on 31 December 2019. An 'undertaking in difficulty' is defined by GBER (2014) as an undertaking in which at least one of the following circumstances occurs:

- a) In the case of a limited liability company (other than an SME that has been in existence for less than three years), where more than half of its subscribed share capital has disappeared as a result of accumulated losses. This is the case when deduction of accumulated losses from reserves (and all other elements generally considered as part of the own funds of the company) leads to a negative cumulative amount that exceeds half of the subscribed share capital.
- b) In the case of a company where at least some members have unlimited liability for the debt of the company (other than an SME that has been in existence for less than three years), where more than half of its capital as shown in the company accounts has disappeared as a result of accumulated losses.
- c) Where the undertaking is subject to collective insolvency proceedings or fulfils the criteria under its domestic law for being placed in collective insolvency proceedings at the request of its creditors.
- d) Where the undertaking has received rescue aid and has not yet reimbursed the loan or terminated the guarantee, or has received restructuring aid and is still subject to a restructuring plan.
- e) In the case of an undertaking that is not an SME, where, for the past two years:
  - i) The undertaking's book debt to equity ratio has been greater than 7.5 and
  - ii) The undertaking's EBITDA interest coverage ratio has been below 1.0.

51. Annex B of this guidance contains two sample declarations which local authorities may wish to use with either payments under the De Minimis rules or under the COVID-19 Temporary Framework for UK Authorities. Where local authorities have further questions about De Minimis or other aspects of State aid law, they should seek advice from their legal department in the first instance.



## Annex A: Post-payment reporting

### Background

1. Local authorities will be required to report weekly to BEIS on the Local Authority Discretionary Grants Fund, alongside the existing reporting on the Small Business Grants Fund and Retail, Hospitality and Leisure Grants Fund
2. Reports will cover:
  - Numbers of businesses provided £25,000 grants
  - Numbers of businesses provided £10,000 grants
  - Numbers of businesses provided less than £10,000 grants
  - Total funding paid out in relation to the discretionary grant scheme paying less than £10,000
  - Expected date of completion of all grant payments to businesses
  - Issues encountered in implementing the scheme to allow BEIS to support development of solutions with local authorities
3. The return will be completed using the DELTA Reporting system.

### Process

4. Local authorities are required to complete the weekly return for BEIS by 10am Monday (from early June), reporting on the previous Monday – Sunday period.
5. Each weekly report will only cover grants provided by local authorities to eligible business during the period of the previous week as per paragraph 4. The Cities and Local Growth Unit will consolidate the reports to create a cumulative total and monitor progress against the allocation of funding per local authority.

### Definitions

<b>Total number of grants provided under each level of the scheme (£25,000; £10,000; and less than £10,000)</b>	Number of grants paid (in that week) to the eligible businesses identified by the local authorities.
<b>Total funding paid out in relation to the discretionary grant scheme paying less than £10,000</b>	This should reflect the amount of money paid in grants against the under £10k grant in the reporting week under this scheme.
<b>Expected Date of Completing all payments to Eligible Businesses</b>	Date at which the local authorities believes it will have provided all grants under the scheme.
<b>Comments</b>	Highlight in this box issues that local authorities are encountering while implementing the schemes.



## Annex B: State aid – Sample paragraphs that could be included in letters to grant recipients

### Template to send to beneficiaries of aid awarded based on the UK COVID-19 Temporary Framework<sup>1</sup>

Dear [Name of Aid Recipient]

#### **Confirmation of State Aid received under the COVID-19 Temporary Framework for UK Authorities scheme**

Following the outbreak of the Coronavirus, the European Commission has approved schemes to aid businesses affected by the Coronavirus outbreak on the basis of their Temporary Framework, including the COVID-19 Temporary Framework scheme for the UK.

The maximum level of aid that a company may receive is €800 000 (€120 000 per undertaking active in the fishery and aquaculture sector or €100 000 per undertaking active in the primary production of agricultural products). This is across all UK schemes under the terms of the European Commission's Temporary Framework. The Euro equivalent of the Sterling aid amount is calculated using the Commission exchange rate<sup>2</sup> applicable on the date the aid is offered.

Any aid provided under this scheme will be relevant if you wish to apply, or have applied, for any other aid granted on the basis of the European Commission's Temporary Framework. You will need to declare this amount to any other aid awarding body who requests information from you on how much aid you have received. You must retain this letter for four years after the conclusion of the UK's transition from the EU and produce it on any request from the UK public authorities or the European Commission.

Aid may be granted to undertakings that were not in difficulty (within the meaning of Article 2(18) of the General Block Exemption Regulation<sup>3</sup>) on 31 December 2019, but that faced difficulties or entered in difficulty thereafter as a result of the COVID-19 outbreak<sup>4</sup>.

This aid is in addition any aid that you may have received under the De Minimis regulation allowing aid of up to €200,000 to any one organisation over a three fiscal year period (i.e. your current fiscal year and previous two fiscal years), and any other approved aid you have received under other State aid rules, such as aid granted under the General Block Exemption Regulation.

---

<sup>1</sup> Approval reference.

<sup>2</sup> [https://ec.europa.eu/info/funding-tenders/how-eu-funding-works/information-contractors-and-beneficiaries/exchange-rate-infoeuro\\_en](https://ec.europa.eu/info/funding-tenders/how-eu-funding-works/information-contractors-and-beneficiaries/exchange-rate-infoeuro_en)

<sup>3</sup> <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:02014R0651-20170710>

<sup>4</sup> If you are an undertaking in difficulty within the meaning of Article 2(18) of the General Block Exemption Regulation you may still be entitled to de minimis aid if you have received less than €200,000 in de minimis aid in the last three years. You should contact us if you consider that you may qualify for de minimis aid on this basis.



### **Confirmation of State aid received under x Scheme, and Undertaking in Difficulty status**

Please sign the attached statement confirming your eligibility, in principle, for aid.

I confirm that I have received the following aid under measures approved within the European Commission's Temporary Framework between March 2020 and December 2020.

I confirm that my undertaking was not in difficulty (within the meaning of Article 2(18) of the General Block Exemption Regulation) on 31 December 2019.

<b>Body providing the assistance/ aid</b>	<b>Value of assistance (in €)</b>	<b>Date of assistance</b>

### **Declaration**

<b>Company</b>	
<b>Company Representative Name</b>	
<b>Signature</b>	
<b>Date</b>	



## Template to send to beneficiaries of aid awarded based on De Minimis Rules

Dear [ ]

The value of the grant payment to be provided to [name of undertaking] by [name of local authority] is £ [ ] (Euros [ ]).

This award shall comply with the EU law on State aid on the basis that, including this award, [name of undertaking] shall not receive more than €200,000 in total of de minimis aid within the current financial year or the previous two financial years). The de minimis Regulations 1407/2013 (as published in the Official Journal of the European Union L352 24.12.2013) can be found at:

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2013:352:0001:0008:EN:PDF>

Amount of de minimis aid	Date of aid	Organisation providing aid	Nature of aid

I confirm that:

- 1) I am authorised to sign on behalf of \_\_\_\_\_[name of undertaking]; and
- 2) \_\_\_\_\_[name of undertaking] shall not exceed its De minimis threshold by accepting this grant payment.

SIGNATURE:

NAME:

POSITION:

BUSINESS:

ADDRESS:

I confirm that I wish to accept the grant payment in relation to the above premises.

DATE:



---

This publication is available from: [www.gov.uk/beis](http://www.gov.uk/beis)

If you need a version of this document in a more accessible format, please email [enquiries@beis.gov.uk](mailto:enquiries@beis.gov.uk). Please tell us what format you need. It will help us if you say what assistive technology you use.



This page is intentionally left blank



# Local Authority Discretionary Grant Fund – Frequently Asked Questions (FAQs) for Local Authorities

Local Authority Discretionary Grant Fund Guidance





© Crown copyright, 2020

*Copyright in the typographical arrangement rests with the Crown.*

You may re-use this information (not including logos) free of charge in any format or medium, under the terms of the Open Government Licence. To view this licence visit <http://www.nationalarchives.gov.uk/doc/open-government-licence/version/3/>

This document/publication is also available on our website at <https://www.gov.uk/government/organisations/department-for-business-energy-and-industrial-strategy>

If you have any enquiries regarding this document/publication, complete the form at <https://www.gov.uk/contact-business-brexit-helpline> or write to us at: [enquiries@beis.gov.uk](mailto:enquiries@beis.gov.uk)

Department of Business, Energy and Industrial Strategy  
1 Victoria Street  
London  
SW1H 0ET  
Telephone: 020 7215 5000



# Contents

About this document.....	3
Eligibility.....	4
Local Authority allocations.....	10
Grant amounts.....	11
Delivery.....	11
Counter Fraud.....	12
Local Authority publication of grant criteria.....	13
Monitoring.....	13
State aid.....	13

About this document



1. The Local Authority Discretionary Grant Fund was announced on 1 May 2020. Guidance for the scheme has been published and updated on GOV.UK.
2. This document is aimed at Local Authorities to provide answers to Frequently Asked Questions regarding the criteria and management of the funding scheme.
3. For further information on business support, please see [www.businesssupport.gov.uk](http://www.businesssupport.gov.uk)

## Eligibility

### General

4. **Does this scheme allow one grant per property as with the previous grant schemes?**

It is a matter for Local Authorities to determine how many grants a business should receive. As businesses based in shared spaces are one of the priority groups, we would expect to see instances of more than one grant per property.

5. **Can a business receive more than one grant under this scheme (i.e. if based across multiple properties)?**

This is permissible under this grant, however it is up to Local Authorities to determine how to structure their own local schemes and whether to allow businesses to apply for a grant for more than one property.

6. **What are the mandatory criteria for this scheme referred to in para 44 of the guidance?**

The mandatory criteria are those set out in paras 29-33. That is:

- i. Businesses which have received cash grants from any central government Covid-19 related scheme are ineligible for funding from the Discretionary Grants Fund. However, businesses which have received funding via the SEISS or CJRS schemes can receive grants under the Discretionary Grants Fund.
- ii. Only businesses which were trading on 11 March 2020 are eligible for this scheme.
- iii. Companies that are in administration, are insolvent or where a striking-off notice has been made are not eligible for funding under this scheme.

7. **Do all four business descriptions in para 20 of the guidance (small and micro business; relatively high ongoing fixed property-related costs; significant fall in income; rateable value, rent or mortgage payment below £51k) need to apply for a business to be eligible?**

The scheme is primarily and predominantly for businesses which fit into these categories. However, it is for Local Authorities to decide what criteria makes most sense for their local area, and what the requirements will be for businesses applying for their grant schemes. All payments must be made in line with the mandatory eligibility criteria.

8. **The guidance says grants are 'primarily and predominantly aimed at' small and micro businesses. Does that rule out Local Authorities giving the grant to larger businesses?**

Although there is a discretion for Local Authorities to pay out to individual businesses



who do not meet the criteria, the funds are primarily and predominantly designed to support businesses meeting the criteria at para 20. Local Authorities must decide what is right to support their local economies.

**9. Is there scope to provide grants to businesses without premises costs?**

There is discretion for Local Authorities to pay out to businesses who do not meet the criteria the funds are primarily and predominantly designed to support and Local Authorities must decide what is right to support their local economies. However, as this funding is primarily aimed at businesses with high ongoing fixed property-related costs we expect the majority of grants to go to businesses with premises costs.

**10. If a business pays business rates and meets all of the eligibility criteria (e.g. a business in their own office space) can they still receive discretionary grant?**

As long as it is not eligible for any other HMG grant funding, a business can be considered for a discretionary grant.

**11. If a newer businesses was fitting out a property prior to 11 March but never got round to opening/trading would it be eligible for this fund?**

The mandatory criteria requires that a business was trading as of 11 March. Grant payments can only be paid to firms that meet the mandatory requirements.

**12. How is a 'significant fall in income due to the COVID-19 crisis' and 'high ongoing fixed property-related costs' (para 20) defined?**

These grants are primarily aimed at those types of businesses set out in para 20, however we have not given a definition of high fixed property costs or significant fall in income. This provides Local Authorities with the flexibility to design their local fund to respond to their local situation.

**13. What are evidence requirements for 'significant fall in income'? Can this be via disclaimer? Are Local Authorities expected to assess profit and loss accounts alongside bank statements?**

We would expect this to be backed up with at minimum a statement from the business, which could be evidenced by supporting financial documents.

**14. Can mooring or marina fees be counted as a 'fixed property cost' for businesses that involve boat tours, floating restaurants etc?**

Yes. This could count as a fixed property cost.

**15. Is there still an absolute rateable value limit of £51,000 for businesses receiving this fund?**

This fund is primarily and predominantly directed to small and micro businesses. However, Local Authorities have discretion to determine who else is eligible to receive funding through their schemes.

**16. Should Local Authorities target Hospitality and Leisure businesses rated above £51,000 as they will remain closed longest?**

It is for Local Authorities to determine which sectors they wish to prioritise and how best to support their local economies.



## Small Business

**17. Are the two business types defined to support verification of eligibility or because there is an expectation they will receive different levels of grant?**

Legal definitions of small and microbusinesses have been included as useful information for Local Authorities. It is up to Local Authorities to decide how they structure their schemes.

**18. In the definition of small and micro businesses in paras 21-22, what does 'Balance sheet total' refer to? Is this a figure based on Assets, Liabilities or Equity?**

'Balance sheet total' is defined in the Finance Act 2016 as the aggregate of the amounts shown as assets in a company's balance sheet at the end of the financial year.

## Other schemes

**19. How can Local Authorities verify whether businesses are eligible for other schemes not managed by Local Authorities?**

Local Authorities will be able to check their own records on the Small Business Grant Fund and Retail, Hospitality & Leisure Fund. For other grant funding schemes we anticipate businesses using a self-declaration process. Where checks discover that payments have been made in error or have been claimed as a result of fraud there will need to be recovery action.

**20. Are applicants that are eligible for the Self-Employment Income Support Scheme also eligible for the Local Authority Discretionary Grant Fund?**

Businesses who are eligible for or in receipt of the Self-Employment Income Support Scheme (SEISS) are eligible to apply for this scheme as well. See latest version of guidance, published 22 May.

**21. Why has the eligibility criteria about the Self-Employment Income Support Scheme changed?**

Following feedback from our stakeholders, we have changed the eligibility criteria to allow those eligible for the Self-Employment Income Support Scheme to apply for discretionary grants. New guidance clarifying this was issued on 22 May 2020.

**22. Are businesses that have accessed loan or deferral schemes (e.g. Deferral of VAT, the Coronavirus Business Interruption Loan Scheme) eligible for grants under this scheme?**

Yes – it is only where businesses have received grant funding from Government that they are ineligible for support under this scheme. Paragraphs 29-33 of the guidance cover eligibility for the scheme.

**23. Businesses who have applied to the Coronavirus Job Retention Scheme are eligible for grants. Does this also apply to businesses that have claimed Statutory Sick Pay for staff sick with coronavirus?**

Yes, claiming Statutory Sick Pay for staff would not make a company ineligible for a grant under the discretionary scheme.

**24. Exemptions in paragraph 29 of the guidance refers both to eligibility for other schemes and businesses who have received cash grants, which is it?**



Any business that is eligible for an HMG Covid-19 grant funding scheme is not eligible for the Local Authority Discretionary Grants Fund.

**25. Can a business that pays business rates but is not covered by the previous scheme due to the nature of their business be covered by this scheme?**

Yes. Businesses that were not in the scope of the Small Business Grants Fund or Retail, Hospitality and Leisure Grants Fund can receive grants through this scheme as long as they meet the mandatory criteria laid out in the guidance. It is for Local Authorities to choose the businesses they wish to support through this scheme.

**26. Where an owner has two limited businesses and one has a rate liability and has had a grant but the other has no liability can a discretionary grant be considered?**

There is no reason that the second business cannot be considered. It is up to the Local Authority to decide how they award their grants against their local priorities.

## Discretion

**27. Where can Local Authorities use discretion to deviate from the guidance?**

Local Authorities are being given discretion to structure and target these grants as they deem appropriate for their local business base. However, there are a small number of mandatory criteria that must apply to all businesses receiving a grant. These are laid out in paras 29-33 in the guidance.

They include the stipulation that businesses that are eligible for cash grants from any central government COVID-19 related scheme are ineligible for funding from the Discretionary Grants Fund. This is not an element that Local Authorities have discretion over. However, the SEISS has been removed from the list in the latest version of the guidance, published 22 May.

**28. Do Local Authorities have to include all four of the priority groups (Shared spaces, market traders, bed & breakfasts and charities) or can they pick which to prioritise these or other businesses? The funding provided may not cover these groups and other businesses in need in the area.**

This fund is designed to primarily and predominantly support small and micro businesses, while allowing Local Authorities to exercise their local knowledge and discretion on what particular needs exist within their area. The above list, presented in para 24 of the guidance, provides some priority groups that were not eligible for the Small Business Grants Fund or Retail, Hospitality and Leisure Fund and which Government is asking Local Authorities to prioritise for this scheme.

However Local Authorities have discretion to decide which types of business are most relevant to their local economy and there will be no penalty for Local Authorities based on this prioritisation. Local Authorities are required to publish their criteria on their websites.

## Striking-off notices

**29. Para 33 excludes those with striking-off notice. Why has this exclusion been included in this fund and not previous grant schemes?**

This grant has been created to provide support to active businesses. Businesses that were in liquidation or were dissolved as of the 11 March will not be eligible. Businesses that were in administration as of 11 March or those that fall into administration or are dissolved after 11 March and before their grant is paid will also not be eligible.



A business that has applied to be removed from Companies House should not get grant funding. This is an extension of the principle about businesses in administration – where the business is no longer operating, they should not get funding.

**30. A striking-off notice may be in place due to a delay in relation to filing a confirmation statement or accounts. Is the intention that this would make a business ineligible?**

Yes – where a striking off notice has been made, a business is not eligible for a discretionary grant.

## Market traders

**31. What is a 'regular' market trader, as mentioned in para 24 of the guidance?**

Government is not setting any strict definition of a 'regular' market trader. However in most cases we expect 'regular' traders to be those which, before Covid-19 restrictions, traded most days of the week. Traders that only traded in occasional markets (e.g. once a month) would not be considered 'regular'. However, each Local Authority should set their own criteria, and Government is not mandating a particular definition.

**32. Can market traders that operate in more than one Local Authority apply to grants from both?**

It is up to Local Authorities to assess what is reasonable in the circumstances depending on the business's fixed costs. The guidance does not exclude a business receiving grants from more than one local authority.

**33. Does the Government consider annual pitch fees and storage costs to be 'fixed property costs' for market traders?**

Yes, pitch fees and storage costs would count as fixed property costs.

**34. What will be done if the Local Authority where the trader is resident decides not to pay grants to regular market traders?**

It is up to Local Authorities to decide how to structure and prioritise their grant funding. There will be no penalty for Local Authorities based on this prioritisation. They must publish details of how their scheme will work.

**35. Market traders may have storage premises covered by Small Business Rates Relief. Is the intention that we exclude them from the Discretionary Grant Fund despite the pitch costs not being covered?**

Businesses which have received funding from other grant schemes are not eligible for funding under the discretionary grant scheme.

## Shared Space

**36. Is a business in a shared workspace expected to know or be able to prove the rateable value (below £51k) of the total premises within which they work?**

It is for Local Authorities to determine if an applicant meets the criteria of a local discretionary scheme. Where a rateable value is not available, the guidance suggests considering annual rent or annual mortgage costs as a proxy.



**37. Businesses in shared offices may have shared directors, i.e. two companies trading from same premises. Would there be an intention to restrict grants in these cases?**

Both businesses can be assessed. The different costs incurred by the companies would have to be identifiable (i.e. the property/utility costs paid by each business for the space).

**38. How should councils assess what portion of a larger shared space a business occupies, as this will have to be done without reference to the VOA?**

It is for Local Authorities to determine if an applicant meets the criteria of a local discretionary scheme. Where a rateable value is not available, the guidance suggests considering annual rent or annual mortgage costs as a proxy.

**39. Do shared spaces include other premises such as antiques centres where individual traders rent a space/stand from the landlord or forecourts in retail space?**

It is for Local Authorities to determine if an applicant meets the criteria of a local discretionary scheme. These businesses would be in scope for the overall Local Authority Discretionary Fund as long as they meet the mandatory criteria. The definition of 'regular market trader' in these FAQs may also be a relevant consideration for local authorities in these circumstances.

**40. If a premises is shared and the landlord paying business rates has received funding but another business in the space has no business rates account, can Local Authorities now fund this other business?**

Yes. One of the key aims of this funding is to provide grants to businesses who have been unable to access previous grant support due to their premises being in shared space.

## **B&Bs**

**41. The guidance mentioned B&Bs that pay council tax. What does Government class as a B&B? Does renting a room on Airbnb count?**

It is up to Local Authorities to set their own criteria for their local schemes and what they would class as a B&B. To be registered for council tax, B&Bs must have fewer than six bed spaces. We would expect properties to be wholly or mainly used as guest or boarding premises. Examples of relevant proof that Local Authorities may wish to consider for B&Bs include:

- Planning permission for change of use;
- A fire certificate obtained when setting up the B&B to get business insurance policy and public liability cover;
- A "hotel and mobile units television licence", which covers up to 15 televisions and can be purchased online from TV Licensing;
- A music licence from PPL PRS Ltd, if they have a TV in public areas, such as a bar or breakfast room, which has the sound turned on;
- A personal and premise alcohol licence, if serving alcohol;
- Registered with local Environmental Health Officer when setting up the B&B to the property assessed.

**42. Can Local Authorities include self-catering properties (within strict criteria for occupancy) in their funds?**



Yes – it is up to Local Authorities to determine what kind of businesses they wish to support through this scheme.

**43. As well as including B&Bs who pay council tax, is there an expectation this is extended to care homes also paying council tax?**

Care homes that pay council tax are not in the list of property types that Government has asked Local Authorities to prioritise. However, if Local Authorities wish to make grant payments to businesses in that position, then they are free to consider doing so.

## Other businesses

**44. Will parish councils be eligible for this fund?**

It is not expected that Parish and town councils would be eligible to receive a grant. Where town and parish councils have set up organisations, including trusts, that meet the grant criteria, they may be eligible and parish and town councils should liaise with their relevant local authorities to determine whether this is the case.

**45. Many suppliers to the retail, hospitality and leisure sectors who have lost demand missed out on the previous grants. Can they be included here?**

It is up to Local Authorities to determine what kind of businesses they wish to support through this scheme.

**46. Businesses based in a residential dwelling may take fixed property costs to include their house mortgages etc. Could support be given to these businesses?**

It is up to Local Authorities to determine what kind of businesses they wish to support through this scheme. Tax and insurance details should identify the separate costs of a home-based business. Local Authorities should take steps to understand the specific costs of the business.

## Local Authority allocations

**47. How many Local Authorities are expected to benefit from the additional £617m allocation announced by the Government?**

Each of the 314 billing authorities currently involved in the delivery of the Small Business Grants Fund and Retail, Hospitality & Leisure Fund will receive a fixed minimum allocation for the Local Authority Discretionary Grant Fund as a 5% uplift of the value of its in scope hereditaments as identified at 3 May 2020. Individual letters were issued to all 314 Local Authorities on 20 May 2020 with a detailed explanation of their allocation.

**48. Where Local Authorities have more than 5% estimated unused monies from the initial allocation can this be used to support more businesses or is it capped at 5%?**

Local Authorities with a projected underspend of more than 5% cannot allocate funding from their initial allocation to the Discretionary Fund above their 5% threshold. However, Local Authorities could – if they chose to do so – top up the Discretionary Fund using their own wider, non-ringfenced, budgets.

**49. Can you clarify how the 5% allocation may be adjusted upwards based on grants awarded?**

Local Authorities that manage to achieve a higher number of grants paid through the



Small Business Grants Fund and Retail, Hospitality & Leisure Grants Fund after their 3 May estimate will have their 5% allocation adjusted upwards.

**50. If a Local Authority has issued cheques for the other two funds and not all of those have been cashed, what does this mean for the allocation? Will the Local Authority be asked to carry on at risk?**

The individual allocations for the discretionary scheme were based on the number of hereditaments that each local authority estimated to be in scope of the first two grant schemes not grants paid.

## Grant amounts

**51. Why are Local Authorities not able to pay grants of between £10k and £25k?**

The scheme has been designed to reflect the previous two schemes in grant size, however to provide more flexibility to Local Authorities to design their own local schemes they can award grants of under £10k and we anticipate that many payments made under this scheme will be for sums less than £10k.

**52. Is there any guidance or expectation on £25k/£10k/£<10k allocations?**

No – it is for Local Authorities to determine the level of payments they make, in line with the criteria for their local discretionary scheme.

**53. Is there still an expectation that £25k grants are for businesses in the Retail, Hospitality and Leisure sectors?**

No – it is for Local Authorities to determine the level of payments they make, in line with the criteria for their local discretionary scheme.

**54. Will Local Authorities be penalised if they use a flat-rate scheme at a level of £10k?**

No – it is for Local Authorities to determine the level of payments they make, in line with the criteria for their local discretionary scheme which they must publish

## Delivery

**55. Will giving each Local Authority discretion to design their schemes mean businesses that may get a grant in one place wouldn't get it in another? Is this fair?**

This funding is aimed at small and micro businesses impacted by Covid-19 that were not eligible for previous grant funding support. Government has established a small number of mandatory national criteria for eligibility but we recognise that economic need will vary across the country. Therefore we want Local Authorities to exercise their local knowledge and discretion to determine which cases to support within those mandatory criteria.

We encourage Local Authorities to consider collaborating within their functional economic area (e.g. a Mayoral Combined Authority or Local Enterprise Partnership area) to ensure consistency and alignment with neighbouring authorities.

**56. Does Government anticipate that decisions taken on awards under the Discretionary Fund would be taken by officers under delegated powers, or by councillors?**

Section 1 of the Localism Act 2011 provides Local Authorities with the powers to make



these payments. It is up to Local Authorities to determine how local decision-making on grants should operate in their area.

**57. What timeframes are expected for this new grant process?**

This grant scheme has been designed to widen access to support for businesses that are struggling to cope with impacts from Covid-19 and are unable to access other grant funding. Local Authorities should therefore aim to make payments as quickly as possible. Due to the need to establish local schemes, we anticipate that the first payments made to businesses under the scheme will take place in early June.

**58. How should Local Authorities prioritise grants awards where applications are oversubscribed?**

We recognise that economic need will vary across the country and want Local Authorities to exercise their local knowledge and use discretion to determine which types of business are most relevant to their local economy. There will be no penalty for Local Authorities based on this prioritisation.

**59. Could a Local Authority provide its funding in rounds, rather than on a first-come, first-served basis? This could provide a better chance to compare applications, assess need and allocate more fairly.**

It is up to individual Local Authorities how they structure their local grant schemes. We know that some are planning to conduct their funding schemes in rounds.

**60. Could a Local Authority set an application cut-off and pay an initial grant (e.g. £5k) and then top up those grants if sufficient funding remains?**

It is up to individual Local Authorities how they structure their local grant schemes. Topping up of grants can be part of a local scheme.

**61. What dispute mechanism will be in place for this grant scheme?**

It is for Local Authorities to apply the guidance and manage the scheme through their usual processes.

**62. Is Government expecting Local Authorities to coordinate across LEP areas or can they keep discussion mainly within their county?**

Local Authorities may wish to consider collaborating as they design their discretionary schemes to ensure there is consistency where they are working across a functional economic area (e.g. a Mayoral Combined Authority or Local Enterprise Partnership area) and may want to engage with MCAs and LEPs to ensure alignment and reduce duplication with other local discretionary business grants that may have been established.

## Counter Fraud

**63. What level of validation does Government expect Local Authorities to provide as evidence? Will an application/declaration and a Spotlight check be sufficient?**

The level of validation is down to Local Authorities to determine.

The Government Grants Management Function and Counter Fraud Function have made their digital assurance tool, Spotlight, available to Local Authorities, and will offer support in using the tool and interpreting results. Spotlight, or other digital due diligence tools, can be used as part of any checks and due diligence but it should not be relied upon as the sole method of checking.



**64. Do Local Authorities have the same assurances as with the other two grant schemes regarding clawback by BEIS for fraud or error overpayments that reasonable efforts to recover won't leave the Local Authority liable?**

We are reviewing the funding accountability letter issued for the Small Business Grants Fund and Retail, Hospitality & Leisure Fund and will confirm the position regarding the Local Authority Discretionary Grants Fund soon.

## Local Authority publication of grant criteria

**65. Local Authorities don't have definitive numbers to budget. How can they publish details on the amounts available without knowing the number of eligible businesses?**

Local Authorities will need to publish the details of their scheme on their website, including the criteria they are using to prioritise the types of businesses which will receive grants, and how they are assessing the level of grants that companies will receive. The published details do not have to include a breakdown of the specific number and size of grants to be paid.

**66. What is the deadline for Local Authorities 'setting out the scope of their discretionary grant scheme on their website', as per para 27?**

Local Authorities should set out the scope of their schemes as soon as possible. It should be published before or in parallel with the launch of the application process.

## Monitoring

**67. How soon will the weekly monitoring begin? Will the Government be looking to publish these results publicly?**

Monitoring will begin at some point in June. We are expecting to publish the results of this monitoring.

## State aid

**68. The guidance (para 37) says the Local Authority must 'call or write to the business' stating that by accepting the grant payment, the business confirms that they are eligible for the grant scheme, including that any payments accepted will be in compliance with State aid requirements. As businesses will have to fill out an application form, can Local Authorities include a State aid disclaimer confirming that they are eligible in their view and accept State aid responsibilities?**

Yes – it is the responsibility of Local Authorities to confirm before payment that any grants are paid in compliance with State aid requirements. This could be done as part of the application process.

**69. What is the position regarding franchises in the Discretionary scheme? For example, some breweries are turning down grants due to State aid limits, but some of their pubs and properties are franchises. Could the Discretionary Fund support franchises in these kinds of cases?**



All schemes and payments must be compliant with State aid law. It is the responsibility of businesses to understand their position in relation in relation to State aid.