

	Delegated Decision to be made by Chief Executive under emergency decision making powers
	Report from the Strategic Director of Customer and Digital Services
Local Restrictions Support Grant 2020 Update	

Wards Affected:	All
Key or Non-Key Decision:	Key
Open or Part/Fully Exempt: (If exempt, please highlight relevant paragraph of Part 1, Schedule 12A of 1972 Local Government Act)	Open
No. of Appendices:	One Appendix 1: Draft Discretionary Scheme
Background Papers:	None
Contact Officer(s):	Peter Cosgrove, Head of Revenue and Debt, 020 8937 2307 Email: peter.cosgrove@brent.gov.uk

1.0 Purpose of the Report

- 1.1 To update previous decision relating to local restrictions in light of release of regulations (2020 No. 1200) The Health Protection (Coronavirus, Restrictions) (England)(No. 4) Regulations 2020, and in particular their impact on support to businesses in Brent.
- 1.2 To provide a way forward so that support is provided as quickly as possible in accordance with the guidance and funding provided by government in particular for the Additional Restrictions Grant.
- 1.3 The report includes a draft policy to provide support under the Additional Restrictions Grant, appendix one.

2.0 Recommendation(s)

- 2.1 That the Chief Executive, using urgency powers, approves the implementation of the mandatory grants as set out in paragraphs 3.2, which are the Local Restrictions Grant (Sector), the mandatory parts of the Local Restrictions Support Grant (Open) and Local Restrictions Support Grants (Closed) Addendum.

- 2.2 That the Chief Executive, using urgency powers, approve the draft discretionary grant scheme in principle as set out in paragraph 3.2 and appendix one, and note that the finalised version of the discretionary grant scheme, will be made by the Strategic Director of Customer and Digital Services and Director of Finance, in consultation with the relevant Lead Members.
- 2.3 That the Chief Executive note that any amendments to the discretionary grant scheme that may be required to the policy will be made by and under the authority of the Strategic Director of Customer and Digital Services and the Director of Finance in consultation with the relevant Lead Members.

3.0 Detail

Grant Schemes and required action

- 3.1 Guidance was received from government on 8 November 2020
- 3.2 While there are now five schemes running the request here relates to the requirements for a discretionary scheme under the Additional Restrictions Grant. This funding tranche is for a discretionary scheme as drafted in appendix one. It may support those not legally forced to close but severely impacted by the restrictions for example businesses which supply the retail, hospitality, and leisure sectors, or businesses in the events sector, businesses that may be outside the rates system or larger businesses important to the local economy. Funding is based on a £20 per head formula the government allocation to Brent is £6,595,420. Unlike the other grants that relate to specific lockdown scenarios this grant will not be increased and may be used in 2020/21 and 2021/22. It is important that this is approved by the Chief Executive using urgency powers so that the scheme can be promoted and payments made as quickly as possible to help businesses remain trading during this period

4.0 Financial Implications

- 4.1 The financial implications are set out throughout this report, however in summary the grant funding is provided by government.
- 4.2 The discretionary grant scheme (Additional Restrictions Grant) is limited to £6,595,420 across 2020/21 and 2022/23. The scheme utilisation will be limited to that total amount across both financial years.

5.0 Legal Implications

Local Restrictions Support Grant

- 5.1 The trigger for business payments is only when a local restriction is imposed upon Brent pursuant to Part 2A of the Public Health (Control of Diseases) Act 1984. A Regulation has been issued as SI 2020 No. 1200, namely The Health Protection (Coronavirus, Restrictions) (England)(No. 4) Regulations 2020.

- 5.2 Pursuant to Part 3 of the Constitution, paragraph 9.7 of the Responsibility for Functions the Finance Director, can exercise the powers set out in paragraph 9 of the table in paragraph 9.5 which provides that Chief Officers can “(a) make grants or give financial assistance to organisations; (b) Provided that where the grant or other financial assistance involves the distribution of funds received from a third party the grant or other financial assistance complies with the financial conditions under which the funds have been received by the Council”. However, these powers to give grants are subject to state aid rules and under the existing De Minimis rules, payments can be made to any one organisation over a three year fiscal period provided that doing so does not exceed the €200,000 threshold. Payments made where the De Minimis threshold has been reached should be paid under the Covid-19 Temporary Framework for UK Authorities in which the threshold of €800,000. Furthermore, pursuant to paragraph 3(a)(c) in the table in paragraph 9.5 of Part 3 of the Council’s Constitution, the Director of Finance and Strategic Directors do not have power to authorise grants in excess of £1m unless the Cabinet delegates such authority to officers to do so.
- 5.3 The Director of Finance and the Strategic Directors are not prohibited from making or agreeing policies unless the making of a decision in relation to policy would or would likely to be in conflict or result in a change in policy agreed by the Council or the Cabinet (save for exceptions relating to planning applications) (cf. paragraph 10.1(a) of Part 3 of the Council’s Constitution). On 12 October 2020, the Chief Executive exercised executive functions using her urgency powers to implement mandatory and discretionary grants in relation to local restrictions support grant and mandatory grants in relation to test and trace support payments. Therefore, the recommendations in this report do not involve any conflict or change in policy agreed by the Cabinet or previously by the Chief Executive in the exercise of her urgency powers.
- 5.4 The Chief Executive can agree the eligibility criteria of the discretionary scheme as set out in paragraph 3.2(v) above and appendix one under her urgency powers pursuant to paragraph 9.3.2 of Part 3 of the Council’s Constitution where the Chief Executive can exercise executive and non-executive functions where the matter is urgent and not prohibited by law. In this case the Chief Executive is invited to agree these measures under her urgency powers.

6.0 Consultation with Ward Members and Stakeholders

- 6.1 Schemes referred to in this report have come as part of the government’s urgent response to the Covid-19 pandemic. As such there has been no consultation but briefings will be provided for all Members through the normal Council channels.
- 6.2 As mentioned above, the Cabinet Member for Resources , Cabinet Member for Regeneration, Property and Planning and Chair of the relevant scrutiny committee with be consulted where appropriate.
- 6.3 In addition to this, the Council will promote both schemes through its website, newsletters and social media.

7.0 Human Resources/Property Implications (if appropriate)

7.1 None

Related Documents

2020 No. 1200) The Health Protection (Coronavirus, Restrictions) (England)(No. 4) Regulations 2020

Report sign off:

STRATEGIC DIRECTOR NAME

Strategic Director of Customer and
Digital Services Peter Gadsdon

Additional Restrictions Grant (Discretionary Policy): Draft

Government Guidance

The Council is required to have in place a local discretionary scheme to support those affected by required closure but not on the Business Rates list. The fund is £6,595,420 and will not be topped up but can be spent up to 31st March 2022.

The Council's Discretionary Policy will comply with the government guidance.

This policy is written in accordance with guidance published in November 2020 and will be updated as and when required by changes in guidance.

The key elements required of the discretionary scheme are:

- i. Businesses required to close by regulation
- ii. Other businesses that may have no choice but to close, e.g. because their customer's businesses are closed; because essential suppliers are closed
- iii. Businesses that have been severely impacted by the restrictions put in place to control the spread of COVID-19
- iv. Payments made, will be up to the Council to decide the frequency and the amount.
- v. The guidance provides the examples of micro-businesses with fixed costs and businesses crucial to the local economy, number of employees, whether they are closed and if open the extent to which trade is down, scale of drop on revenue
- vi. The Council may use an application process
- vii. 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 comply with State aid requirements.
- viii. The Council is required to use its discretion in identifying the right business owner to receive this funding, based on its application process.

Details of Draft Scheme

The discretionary scheme for Brent will work as follows:

- i. Businesses wishing to apply must do so using the on-line application process to be provided
- ii. Where the business occupies a commercial property, or part of a property,
- iii. Businesses operating from domestic properties are not excluded

- iv. Businesses must have been trading on the first full day of National or LCAL3 restrictions to be eligible for support.
- v. Businesses must provide evidence that they have closed in accordance with regulations, or if not closed how their business has been affected, in particular by providing evidence of changes in revenue:
 - This will done by evidencing changes to the payments into the bank account of the business or person affected for the period they have been affected.
 - Where a business states that it is cash and does not have regular income into its bank, it will not qualify, as the council will be unable to verify loss of revenue.
- vi. Where a business can evidence that they have expenditure that they cannot meet, vital to the support of their business a grant may be made depending on the amount of expenditure, e.g. rent. No more than one grant will be paid per month per business.
- vii. Once an application has been made, the council will allow subsequent grants to the same business if the situation has not changed and further expenditure can be evidenced.
- viii. Grants will not be paid to companies that are in administration, insolvent, ceased trading or a striking-off notice has been made.
- ix. Businesses that have already received grant payments that equal the maximum levels of state aid will not qualify.
- x. The Council will check the declaration and use all resources available to do so.
- xi. The Council will monitor expenditure on a monthly basis to ensure the grant allocation is not exceeded.
- xii. In light of xi. above the Council will keep the scheme under review and amend it from time to time as required.

Evidence checking

The grant scheme will be administered via an online form. This online form is specific to the Council and will be built in-house. It will have functionality to allow document upload in order that businesses provide required evidence that they meet the specified criteria.

- i. Businesses will need to demonstrate that they meet the eligibility criteria. The evidence that will be requested is likely to include:
 - Bank account statements;

- Evidence of the bill that needs paying (e.g rent or licence fees etc.)
 - Lease/tenancy agreements;
 - Evidence of fixed property costs e.g. utilities bills;
 - Certificate of incorporation.
- ii. Awards will not be made without sufficient evidence that the criteria are being met.

Administration

Given the limited funding available to the Council the scheme will operate on a first come first service basis backed, where feasible, by clear and consistent promotion of the scheme in advance of any local restrictions being authorised.

Communication

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:

- i. Business e-newsletter with over 7,000 subscribers
- ii. Direct email notification to every business who has enquired about the scheme to date
- iii. Press release and council website updates
- iv. Social media channels
- v. Dissemination through key partners e.g. FSB and West London Business

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.

Assessment of applications

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.

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 will be referred for

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

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.

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

- i. Head of Revenue and Debt
- ii. Head of Finance

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.

There is no appeal mechanism but applicants can utilise the Council's complaint process if required.

Combatting fraud

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.