



# East Devon District Council Local Restrictions Support Grant Scheme

## Version Control

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DRAFT

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## Definitions

The following definitions are used within this document:

**'COVID-19' (coronavirus);** means the infectious disease caused by the most recently discovered coronavirus;

**'Department for Business, Energy & Industrial Strategy (BEIS)';** means the Government department responsible for the scheme and guidance;

**'Effective date';** means for eligibility of the grant, the date of the local restrictions. For the purpose of this scheme the date cannot be before 9<sup>th</sup> September 2020;

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

**'In-person services'** means services which are wholly or mainly provided by the business to their customers face to face and which **cannot** be provided by other means such as online or remotely by telephone, email, video link, or written communication;

**'Local lockdown';** means the same as **'Local restrictions'**;

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

**'Local restrictions';** and **'Localised restrictions'** means legally binding restrictions imposed on specific Local Authority areas or multiple Local Authority areas, where the Secretary of State for Health and Social Care requires the closure of businesses in a local area under regulations made using powers in Part 2A of the Public Health (Control of Disease) Act 1984 in response to the threat posed by coronavirus and commonly as part of a wider set of measures;

**'Local Restrictions Support Grant Scheme (the Grant Scheme)';** means the grant scheme developed in response to an announcement made by the Secretary of State for Business, Energy & Industrial Strategy made on 9<sup>th</sup> September 2020;

**'Local Restrictions Discretionary Support Grant Scheme (the Discretionary Scheme)';** means the discretionary grant scheme developed by the Council in line with Government guidance;

**'Rateable value';** means the rateable value for the hereditament shown in the Council's local rating list;

**'Ratepayer';** means the person who will receive the grant will be the person who, according to the Council's records, was the ratepayer liable for occupied rates in respect of the hereditament at the date of the local restrictions;

**'State Aid Framework';** means the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak published on 19 March 2020; and

**'Temporary Framework for State aid';** means the same as the **'State Aid Framework'**.

## 1.0 Purpose of the Scheme and background.

- 1.1 The purpose of this document is to determine eligibility for a payment under the Council's Local Restrictions Support Grant Scheme (the Grant Scheme).
- 1.2 The Grant Scheme has been developed in response to an announcement made by the Secretary of State for Business, Energy & Industrial Strategy made on 9<sup>th</sup> September 2020 which sets out circumstances whereby a grant payment may be made by the Council to a business which has to close due to localised restrictions being put in place to manage coronavirus and save lives.
- 1.3 Whilst the awarding of grants will be the Council's responsibility, the Department for Business, Energy & Industrial Strategy (BEIS) has set down criteria which **must** be met by each business making an application. The Department has also indicated the types of business which should be given the grant.
- 1.4 The scheme is broadly divided into two:
  - (a) **Scheme 1** - Grants for businesses who occupy hereditaments which appear on the Local Rating List at the date of the local lockdown and have had to close due to localised restrictions being put in place to manage coronavirus; and
  - (b) **Scheme 2** - Discretionary Grants for businesses who **do not** appear on the Local Rating List at the date of the local lockdown and have had to close due to localised restrictions being put in place to manage coronavirus.
- 1.5 The scheme **only** applies where local restrictions are put in place. Localised restrictions are legally binding restrictions imposed on specific Local Authority areas or multiple Local Authority areas, where the Secretary of State for Health and Social Care requires the closure of businesses in a local area under regulations made using powers in Part 2A of the Public Health (Control of Disease) Act 1984 in response to the threat posed by coronavirus and commonly as part of a wider set of measures.
- 1.6 Grants under this scheme will be available for the 2020/21 financial year only and will be issued for each three-week period that a business is closed following the implementation of statutory localised restrictions and business closures.
- 1.7 No grant shall be paid for any period where the localised restrictions were in place prior to 9<sup>th</sup> September 2020.
- 1.8 This document sets out the criteria which BEIS have provided to the Council to determine eligibility for the Local Restrictions Support Grant. It also outlines the approach the Council will take in determining whether an award should be paid or not.

## 2.0 Funding

- 2.1 Central Government will provide the Council with funding in two parts as follows:
- Funding to meet the cost of payments to businesses within the business rates system based on an assessment of the number of eligible business hereditaments; and
  - An additional 5% to be used as discretionary grant funding to support businesses which are closed, but are not in the business rating system, as well as businesses that may not be required to close but which are severely impacted.
- 2.2 In the case of the discretionary grants, the Council will limit the total awards to the level of funding available from Government.

## 3.0 Eligibility criteria and awards

- 3.1 Government, whilst wanting Councils to exercise their local knowledge and discretion, has set national criteria for the funds. In all cases, the Council will only consider businesses for grants where **all** of the criteria are met.

### **Scheme 1 – Local Restrictions Support Grant, Business rate paying businesses**

- 3.2 The Department for Business, Energy & Industrial Strategy (BEIS) has stated that businesses that were open as usual and providing in-person services to customers from their business premises and then required to close for a consecutive period of no less than three weeks as a result of regulations made under the Public Health (Control of Disease) Act 1984 will be eligible for this funding.
- 3.3 Guidance from the Department states that this could include, non-essential retail, personal services or cafes/restaurants that operate primarily as an in-person venue but have been forced to close these services and instead provide takeaway-only services.
- 3.4 Businesses in a local lockdown that is implemented for less than three weeks and businesses that are closed for less than three weeks are not eligible for grant funding.

### **Scheme 1 – Grant Awards**

- 3.5 The amount of grant in respect of Scheme 1 are fixed as follows:
- Businesses occupying hereditaments appearing on the local rating list with a rateable value less than £51,000 on the date of the commencement of the local lockdown will receive a payment of £1,000 **per** qualifying lockdown period; and
  - Businesses occupying hereditaments appearing on the local rating list with a rateable value of exactly £51,000 or above on the commencement date of the local lockdown, will receive £1,500 **per** qualifying lockdown period.

3.6 Any business failing to meet the criteria will not be awarded a Local Restrictions Support Grant.

### **Scheme 1 – Excluded businesses**

3.7 The following businesses will **not** be eligible for an award:

- (a) Businesses that are able to continue to trade because they **do not depend** on providing direct **in-person services** from premises and can operate their services effectively remotely (e.g. accountants, solicitors);
- (b) Businesses in areas outside the scope of the localised restrictions, as defined by Government;
- (c) Businesses that have chosen to close but not been required to will not be eligible;
- (d) Businesses which have already received grant payments that equal the maximum levels of State aid permitted under the de minimis and the COVID-19 Temporary State Aid Framework;
- (e) Businesses that were in administration, are insolvent or where a striking-off notice has been made at the date of the local lockdown; and
- (f) Businesses still subject to national closures (e.g. nightclubs).

### **Scheme 1 – Additional Criteria**

#### **The Effective Date**

3.8 The effective date for eligibility is the date of the local restrictions and, in **all** cases, the following must have existed at the effective date:

- The hereditament **MUST** be shown in the local rating list as at the date of the local restrictions;
- Any changes to the local rating List (Rateable Value or to the hereditament) after that date, including changes which have been backdated to this date, will be ignored for the purposes of eligibility;
- The Council is not required to adjust, pay or recover grants where the local rating list is subsequently amended retrospectively to the date of the local restrictions;
- In cases where it was factually clear to the Council that at the date of the local restrictions that the local rating List was inaccurate on that date, the Council *may* withhold the grant and/or award the grant based on their view of who would have been entitled to the grant had the list been accurate. The Department for Business, Energy and Industrial Strategy (BEIS) has stated that this provision is entirely at the discretion of the Council and is **only** intended to prevent manifest errors. It is not intended for ratepayers who subsequently challenge their Rateable Value; and
- Where a hereditament is exempt from rating as at the date of the local restrictions, no grant shall be payable.

## The Ratepayer

- 3.9 In **all** cases the following shall apply:
- The person who will receive the grant will be the person who, according to the Council's records, was the ratepayer in respect of the hereditament at the date of the local restrictions;
  - The ratepayer must be liable to occupied property rates at that date. It should be noted that grants will not be awarded where the hereditament is unoccupied;
  - Where the Council has reason to believe that the information it holds about the ratepayer at the date of the local restrictions is inaccurate, it may withhold or recover the grant and take reasonable steps to identify the correct ratepayer;
  - Where, it is subsequently determined that the records held are incorrect, the Council reserves the right to recover any grant incorrectly paid; and
  - Where any ratepayer misrepresents information or contrives to take advantage of the scheme, the Council will look to recover any grant paid and take appropriate legal action. Likewise, if any ratepayer is found to have falsified records in order to obtain a grant.

### **Scheme 2 - Discretionary Grants – Business not on the local rating list**

- 3.10 The Council has been given discretion to award grants to businesses who:
- (a) are not on the local rating list at the date of the local restrictions; and
  - (b) are business that are required to close as a result of the local lockdown.
- 3.11 The Council has decided to make payments to retail, leisure and hospitality related businesses from this discretionary fund of £1,000 per business (not one per business premises) where:
- (a) a business is required to close and does not pay business rates; or
  - (b) a business is not required to close, but has been severely affected, for example as a result of customer businesses being closed

### **Scheme 2 – Discretionary Grant Awards**

- 3.12 The Council will prioritise discretionary grants to businesses unable to provide their usual in-person customer service from its premises. Specifically, this includes non-rates registered retail, hospitality and leisure businesses that are required to close as a result of a local lockdown. It also includes primary suppliers to these sectors (whether they have had to close or not) where it can be evidenced that income is severely affected. Home-based businesses can be considered through this scheme where they meet the same criteria.
- 3.13 In the event of a local lockdown, the grant support will be marketed as widely as possible. Applications for discretionary grants will be made online via the same Local Restrictions Support Grant web form as for Scheme 1.



- 3.14 It is important to manage the expectations of business owners who will be aware that the discretionary element is just 5% of the overall Local Restrictions Support Grant. As such, discretionary support can only be provided to a very limited number of businesses.
- 3.15 To ensure limited support funds maximise benefit to the local economy, only one grant application can be submitted by business with common directors. This will avoid one company director receiving multiple grants for closely associated but separately registered companies.
- 3.16 Discretionary grants of £1,000 will be awarded to eligible businesses in the same order that legitimate applications are received and until the fund is fully allocated. When the discretionary fund is fully allocated, this will be made clear on the relevant web page and web form to inform prospective applicants and avoid surplus applications being made.
- 3.17 Discretionary grants will be a one-off payment and will not be subject to the rolling payment structure of Scheme 1 (Business rate payers). In the event of a local lockdown lasting a further 3-week period, new applications for discretionary support grants will be considered via the same web form. In this instance, and to ensure help to the widest range of businesses, EDDC will not approve additional grants to existing recipients and will only prioritise applications from eligible businesses who did not receive a grant to cover any previous 3-week period.

## **Scheme 2 – Excluded businesses**

- 3.18 The following businesses will not be eligible for a discretionary award:
- (a) Businesses that are able to continue to trade from premises and can operate their services effectively remotely;
  - (b) Businesses in areas outside the scope of the localised restrictions, as defined by Government;
  - (c) Businesses that have chosen to close but not been required to do so;
  - (d) Businesses which have already received grant payments that equal the maximum levels of State aid permitted under the de minimis and the COVID-19 Temporary State Aid Framework;
  - (e) Businesses that were in administration, are insolvent or where a striking-off notice has been made at the date of the local lockdown are not eligible for funding under this scheme; and
  - (f) Businesses still subject to national closures.

## **4.0 How will grants be provided to Businesses?**

- 4.1 The Council is fully aware of the importance of these grants to assist businesses and support the local community and economy. The Local Restrictions Support Grant scheme will offer a lifeline to businesses who are struggling to survive during to the COVID-19 crisis.
- 4.2 In all cases, an application form is required, and this can be completed on-line at the Council's website [www.council.gov.uk/localrestrictions](http://www.council.gov.uk/localrestrictions)

Supplementary information may also be required, and all businesses should look to provide this, where requested to the Council as soon as possible.

- 4.3 An application for a Local Restrictions Support Grant is deemed to have been made when a duly completed application form is received via the Council's online procedure.
- 4.4 Only one grant will be awarded to any business in any one period of lockdown (either from Scheme 1 or Scheme 2)
- 4.5 In order to fairly administer the discretionary scheme (Scheme 2) as it has limited funding, the Council has decided that awards will be determined as follows:
- (a) Claims can be made by business any time from the date of the imposition of the local restrictions up to 1 month after restrictions have been lifted;
  - (b) Any businesses wishing to claim should complete the necessary form on the Council's website This will also include the provision of such evidence as required by the Council;
  - (c) All claims will be made online and will be on a 'first come- first serve' basis; and
  - (d) Depending on the number of applications and the amount left in the grant fund, the Council reserves the right to change the level of funding available.
- 4.6 All monies paid through the Discretionary Business Grant scheme will be funded by Central Government and paid to the Council under S31 of the Local Government Act 2003. However, as mentioned earlier, the funds are limited and, as such, the Council is not able to award a grant where funds are no longer available.

## **5.0 EU State Aid requirements**

- 5.1 Any Local Restrictions Support Grant is given as aid under the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak published on 19 March 2020. This means that businesses receiving support under these provisions can receive up to €800,000 in aid over three years (being the current and the previous two years).
- 5.2 Any grant awarded is required to comply with the EU law on State Aid. This will involve the applicant declaring to the Council if they have received any other de minimis State aid or aid provided under the EU Commission COVID-19 Temporary Framework.
- 5.3 If the applicant has not received any other de minimis State aid, they will be required to verify that to the Council.

## **6.0 Scheme of Delegation**

- 6.1 The Council, in line has approved this scheme on behalf of the Council.
- 6.2 Officers of the Council will administer the scheme and the **Section 151 Officer** is authorised to make technical scheme amendments to ensure it meets the criteria set by the Council and, in line with Government guidance.

## **7.0 Notification of Decisions**

- 7.1 Applications will be considered on behalf of the Council by the Revenues and Benefits Services and Economic Development.
- 7.2 All decisions made by the Council shall be notified to the applicant either in writing or by email. A decision shall be made as soon as practicable after an application is received.

## **8.0 Reviews of Decisions**

- 8.1 The Council will operate an internal review process and will accept an applicant's request for an appeal of its decision.
- 8.2 All such, requests must be made in writing to the Council within 14 days of the Council's decision and should state the reasons why the applicant is aggrieved with the decision of the Council. New information may be submitted at this stage to support the applicant's appeal.
- 8.3 The application will be reconsidered by a senior officer, as soon as practicable and the applicant informed in writing or by email of the decision.

## **9.0 Complaints**

- 9.1 The Council's 'Complaints Procedure' (available on the Council's website) will be applied in the event of any complaint received about this scheme.

## **10.0 Other grant conditions**

### **Taxation and the provision of information to Her Majesty's Revenues and Customs (HMRC)**

- 10.1 The Council has been informed by Government that all payments under this scheme are taxable.
- 10.2 The Council does not accept any responsibility in relation to an applicant's tax liabilities and all applicants should make their own enquiries to establish any tax position.
- 10.3 All applicants should note that the Council is required to inform Her Majesty's Revenue and Customs (HMRC) of all payments made to businesses.

### **Special Cases**

- 10.4 The Council recognises that there will be occasions when a business does not satisfy the criteria for a discretionary grant (Scheme 2). The criteria are not restrictive and nothing in

them shall be taken as restricting the Council's ability to depart from its general policy as to the award of grants if it sees fit to do so, bearing in mind the facts of the case.

## **11.0 Managing the risk of fraud**

11.1 Neither the Council, nor the Government will accept deliberate manipulation of the scheme or fraud. Any applicant caught falsifying information to gain grant money or failing to declare entitlement to any of the specified grants will face prosecution and any funding issued will be recovered from them.

11.2 Applicants should note that, where a grant is paid by the Council, details of each individual grant may be passed to Government.

## **12.0 Recovery of amounts incorrectly paid**

12.1 If it is established that **any** award has been made incorrectly due to fraud, error, misrepresentation or incorrect information provided to the Council by an applicant or their representative(s), the Council will look to recover the amount in full.

## **13.0 Data Protection and use of data**

13.1 All information and data provided by applicants shall be dealt with in accordance with the Council's Data Protection policy and Privacy Notices which are available on the Council's website.