

# COUNCILLORS' INFORMATION BULLETIN

Tuesday, 11 January 2022

**Bulletin No: IB/1113**

## INFORMATION ITEM

## Pages

### 1 **Delegated Planning Decisions**

**3 - 4**

Delegated planning decisions for the week beginning 3 January 2022 are attached. Contact for enquiries: Jean McPherson, Group Manager (Development Management) on [jean.mcpherson@crawley.gov.uk](mailto:jean.mcpherson@crawley.gov.uk).

### 2 **Temporary Traffic Regulation Orders**

**5 - 12**

The following documents are attached in relation to Temporary Traffic Regulation Orders:

- List of Temporary Traffic Regulation Orders.
- Jordans Crescent, Langley Green (Appendix A).
- Brighton Road (Appendix B).
- Kilnmead to The Boulevard, Northgate (Appendix C).

### 3 **Action Taken Under Delegated Authority: Covid-19 Additional Relief Fund (CARF)**

**13 - 22**

On 10 January 2022 Councillor Lamb, as Leader of the Council took the decision to approve the Council's Covid-19 Additional Relief Fund Discretionary Relief Guidelines and give delegated authority to designated senior officers to make relief awards within those guidelines.

So the Council can start supporting its businesses as soon as possible this decision has been taken using the Special Urgency Procedures set out in the Constitution and has also been Protected from Call-In by the Chief Executive.

The report (Consideration Report FIN/555 of the Head of Corporate Finance) on which this decision was taken is attached.



Switchboard: 01293 438000  
Main fax: 01293 511803  
Minicom: 01293 405202 DX:  
57139 Crawley 1  
[www.crawley.gov.uk](http://www.crawley.gov.uk)

Town Hall  
The Boulevard  
Crawley  
West Sussex  
RH10 1UZ

4	<p><b>Action Taken Under Delegated Authority: Additional Restrictions Discretionary Business Grant (ARG) - Omicron Top-Up</b></p> <p>On 10 January 2022 Councillor Lamb, as Leader of the Council took the decision to approve the revised Additional Restrictions Grant guidance to take into account the priority areas as a result of the Omicron variant and give delegated authority to the Head of Economy and Planning and the Head of Corporate Finance to make grants within these guidelines.</p> <p>So the Council can start supporting its businesses as soon as possible this decision has been taken using the Special Urgency Procedures set out in the Constitution and has also been Protected from Call-In by the Chief Executive.</p> <p>The report (Consideration Report FIN/556 of the Head of Corporate Finance) on which this decision was taken is attached.</p>	23 - 40
5	<p><b>Action Taken Under Delegated Authority (Significant Operational Decision): Procurement of Audio Visual Contract (Cat C)</b></p> <p>Further to report <a href="#">DCE/02</a> (considered by Cabinet on 8 February 2017) for the approval of the Crawley Town Hall site Redevelopment Scheme the workstreams have been progressing including the provision of furniture, fixtures and equipment. As a part of the Cat C fit out to the new Town Hall building, an exercise to procure the specialist suppliers of Audio Visual equipment has been undertaken using the RM6225 framework.</p> <p>As a result of this procurement, on 17 December 2021 the Head of Digital and Transformation awarded the contract to Bidder 2. A breakdown of the tender evaluations is attached for Councillors only.</p>	41 - 42
6	<p><b>All Member Seminar - Budget Update: Presentation Slides</b></p> <p>The presentation slides from the recent all-Member seminar - Budget Update are attached for Councillors only.</p>	43 - 72
7	<p><b>Staff Changes: December 2021</b></p> <p>Staff changes for December 2021 are attached for Councillors only.</p>	73 - 74
8	<p><b>Press Releases</b></p> <p>Press releases are available at <a href="http://www.crawley.gov.uk/news">www.crawley.gov.uk/news</a></p>	

# CRAWLEY BOROUGH COUNCIL

## DELEGATED PLANNING DECISIONS

The following decisions were issued, subject to conditions, under delegated powers for the period 03/01/2022 and 07/01/2022

Application Number	Location	Proposal	Date of Decision	Decision
CR/2015/0609/CC4	15 - 29 THE BROADWAY, NORTHGATE, CRAWLEY	Discharge of condition 10 (ventilation and extraction details) pursuant to CR/2015/0609/FUL for demolition of existing building and erection of residential-led scheme incorporating retail at ground level with six storey residential flats (10 x studios, 55 x one bed and 13 x two bed) above	5 January 2022	APPROVE
CR/2021/0428/TPO	26 PARKFIELD CLOSE, GOSSOPS GREEN, CRAWLEY	T2 Field Maple - reduce height and crown radius by a maximum of 1m to nearest suitable growth points and monitor for structural stability (amended description)	7 January 2022	CONSENT
CR/2021/0749/FUL	158 WEALD DRIVE, FURNACE GREEN, CRAWLEY	Demolition of existing garage and conservatory, erection of single storey front extension and part single storey/part two storey wrap around rear and side extensions with associated alterations including new timber cladding of front and rear elevation, creation of raised decking at the rear	5 January 2022	REFUSE
CR/2021/0777/FUL	52 KINGSCOTE HILL, GOSSOPS GREEN, CRAWLEY	Erection of tiled/pitched roof to replace existing porch flat roof	5 January 2022	REFUSE
CR/2021/0884/TCA	1 LANGLEY LANE, IFIELD, CRAWLEY	T1 Apple tree (back garden) - prune lateral and water shoots by approx 75cm  T2 Crab Apple tree (front garden) - prune lateral and water shoots by approx 75cm to 1 metre	7 January 2022	NO OBJECTION

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# Agenda Item 2

The following documents are attached in relation to Temporary Traffic Regulation Orders:

- List of Temporary Traffic Regulation Orders.
- Jordans Crescent, Langley Green (Appendix A).
- Brighton Road (Appendix B).
- Kilnmead to The Boulevard, Northgate (Appendix C).

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# PUBLIC NOTICE

## Temporary closure of Jordans Crescent, Unknown, 31st January 2022

**NOTICE IS HEREBY GIVEN** that from the date specified below, West Sussex County Council has temporarily closed to all traffic Jordans Crescent, Unknown, in the Crawley District (B) under Section 14(2) of the Road Traffic Regulation Act 1984, as amended, on Jordans Crescent for a distance approx 30 metres

The temporary closure is scheduled to commence on 31st January 2022 for up to 5 days (It is estimated to be completed on 2nd February 2022) and is required for the safety of the public and workforce while BT undertakes Road Closure between the junctions of Denchers Plat and Langley Drive with works taking place outside no.11 to replace a decayed pole.

The restriction will be in place **day-time only** from 08:00 until 18:00

An alternative route will be signed on site but please visit <https://one.network/?tm=124019007> for more details.

Access for emergency service vehicles and pedestrians will be maintained at all times during the closure.

For information regarding this closure please contact BT on 02476 642 814 who will be able to assist with scope of these works.

Dated: 25th October 2021

Matt Davey

Director of Highways, Transport and Planning

### West Sussex County Council

[Report a problem with a road or pavement](#) or raise a [highways related enquiry](#)

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Email: [ttro@westsussex.gov.uk](mailto:ttro@westsussex.gov.uk)







Please be advised that West Sussex County Council has received a request for Temporary Traffic Regulation as follows:

Road Name	Brighton Road	
Village/Town/Parish	Crawley, Unknown	
Specific Location	Unknown, Brighton Road, Crawley	
Reason for TTRO	Road Closure between the junctions Pegler Way and Crawley Avenue with works taking place on the level crossing for line painting and level crossing maintenance	
Proposed Start Date / Time	Date: 4th May 2022	Time: 23:59
Proposed End Date / Time	Date: 6th May 2022	Time: 05:00
The restriction will be effective		
	Night-time only from (time) 23:59 (time) 05:00	
Access arrangements	Access will not be maintained over the level crossing	
Applicant name	Network Rail Infrastructure Ltd	
Applicant contact tel number	03457 11 41 41	
Any other details	For more information about this proposed TTRO please visit: <a href="https://one.network/?tm=127107555">https://one.network/?tm=127107555</a>	

The application is currently being processed and you will be advised further when details are confirmed.

Yours faithfully,

West Sussex County Council

Streetworks Team

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Please be advised that West Sussex County Council has received a request for Temporary Traffic Regulation as follows:

Road Name	Kilnmead to the Boulevard	
Village/Town/Parish	Crawley	
Specific Location	Kilnmead to the Boulevard, Crawley	
Reason for TTRO	24hr Footpath Closure with works during 08:00 - 18:00 between the junctions with Kilnmead and The Boulevard to allow Kier Construction to build a new district heating network and energy centre off the Boulevard No Access to footpath throughout works Any enquires regarding works please contact Kier Construction on 07517596060	
Proposed Start Date / Time	Date: 8th February 2022	Time:
Proposed End Date / Time	Date: 1st August 2023	Time:
The restriction will be effective	24 hours	
Access arrangements	Access will not be maintained during works and the diversion route will need to be followed	
Applicant name	Kier Construction	
Applicant contact tel number	07517596060	
Any other details	For more information about this proposed TTRO please visit: <a href="https://one.network/?tm=127145799">https://one.network/?tm=127145799</a>	

The application is currently being processed and you will be advised further when details are confirmed.

Yours faithfully,

West Sussex County Council

Streetworks Team

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# Agenda Item 3

## Crawley Borough Council

### Consideration Report for Delegated Decision by the Leader

Not before 6 January 2022

#### Covid-19 Additional Relief Fund (CARF)

Report of the Head of Corporate Finance (FIN/555)

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#### 1. Purpose

- 1.1. To seek approval for the Council's COVID19 Additional Relief Fund (CARF) Discretionary Relief to local business ratepayer guidelines.
- 1.2. The Council has been given £5,303,160 to grant COVID19 additional relief fund (CARF) discretionary relief to business ratepayers within Crawley. The guidelines seek to provide guidance to staff and stakeholders on how this CARF Discretionary Relief is to be made and what factors are considered when making an award.
- 1.3. At its meeting on 24 November 2021 the Cabinet considered the Budget Strategy 2022/23 - 2026/27 (report FIN/537) and in doing so delegated authority to the Leader of the Council in consultation with the Chief Executive and the Head of Corporate Finance to approve a discretionary business rates scheme to distribute the share to Crawley Borough Council.

#### 2. Recommendations

- 2.1. That the Leader:
  - a) Approve the Council's Covid-19 Additional Relief Fund Discretionary Relief Guidelines.
  - b) Give delegated authority to designated senior officers to make relief awards within these guidelines.

#### 3. Reasons for the Recommendation

- 3.1. The Council has been given £5,303,160 to grant COVID19 additional relief fund (CARF) discretionary relief to business ratepayers within Crawley. These guidelines seek to provide guidance to staff and stakeholders on how this CARF Discretionary Relief is to be made and what factors are considered when making an award.

#### 4. Background and Issue to be Resolved

- 4.1. On 15 December 2021 the Government announced that it would provide Local Authorities with additional funding to help businesses pay their business rates to offset the impact of the ongoing COVID-19 pandemic.

# Agenda Item 3

- 4.2. [Government guidance](#) for the scheme was issued on the 15 December 2021. The Government Guidance introduced a rates relief scheme to replace the legal right to appeal to the Valuation Office Agency on Material Change of Circumstances grounds due to COVID19.
- 4.3. Billing authorities will be responsible for designing the discretionary relief schemes that are to operate in their areas. However, in developing and implementing their schemes local authorities based on the Government guidelines
- 4.4. Crawley Borough Council has agreed these guidelines (attached as an appendix to this report) with Arun District Council, Chichester District Council and Mid Sussex District Council. The guidelines are in line with the guidelines issued by the Government.

## 5. Other Options Considered

- 5.1. The options considered in this report are the only ones available to the Council as the Council seeks to become more transparent in the use of its discretionary financial assistance to local business during the current COVID19 outbreak. These guidelines have been agreed by Arun District Council, Chichester District Council, Crawley Borough Council and Mid Sussex District Council.

## 6. Urgency of Decision

- 6.1. Due to the urgent nature of this decision the Special Urgency Procedure Rule has been used for this decision as it has been impracticable to publish a Forthcoming Decision Notice for the 28 clear days period and provide 5 clear days notice of the decision. The Chair of the Chair of the Overview and Scrutiny Commission as agreed the use of this provision. In addition, due to the urgent nature of this decision the Chief Executive has Protected from Call-In, so that the Council can start supporting our businesses as soon as possible

## 7. Financial Implications

- 7.1. The government grant allocated by the Department for Levelling Up, Housing and Communities (DLUHC) in respect of the COVID19 Additional Relief Fund is £5,303,160. This is a cash limited fund and any relief incurred over and above this must be funded by the Council. There is currently no additional funding identified within the Council to support Discretionary Relief, which means that expenditure will need to be contained within the cash limited.

## 8. Background Papers

- [COVID-19 Additional Relief Fund \(CARF\)](#): Local Authority Guidance (Department for Levelling Up, Housing and Communities (DLUHC))
- [Budget Strategy 2022/23 – 20236/27 – FIN/537](#) (Overview and Scrutiny Commission on 22.11.21 & Cabinet on 24.11.21)

Report author and contact officer:

Karen Hayes (Head of Corporate Finance)  
[karen.hayes@crawley.gov.uk](mailto:karen.hayes@crawley.gov.uk)

## **WEST SUSSEX COUNCILS' GUIDELINES COVID19 ADDITIONAL RELIEF FUND (CARF) GUIDELINES**

### **Introduction**

1. This guidance is intended to businesses liable for business rates in 2021/22 only applying to certain West Sussex local authority Boroughs and Districts for a grant from the COVID19 Additional Relief Fund (CARF), announced by the government on the 15<sup>th</sup> December 2021. Only businesses occupied and liable for business rates on the 1<sup>st</sup> April 2021 in 2021/22 are eligible to apply for the Fund and any relief must be applied for by the 30<sup>th</sup> September 2022.
2. West Sussex Boroughs and Districts have access to relatively limited funds from the government for this fund (please see [this link](#)), which has replaced the legal right to appeal to the Valuation Office Agency on Material Change of Circumstances grounds due to COVID. It is expected therefore that most relief allocations to successful applicants will be limited to a certain percentage, which means that businesses who do qualify will still have some business rates to pay. In the event applications exceed the available funding local authorities have to award to businesses, individual local authorities will make decisions as to how to support businesses as reasonably as possible within the funding at their disposal.
3. The West Sussex local authority Boroughs and Districts utilising these guidelines are:
  - Arun District Council
  - Chichester District Council
  - Crawley Borough Council
  - Mid Sussex District Council
4. This guidance sets out the criteria under which businesses will qualify to make an application to the COVID19 Additional Relief Fund (CARF), and the evidence required to support an application, and is aligned with the government guidance issued on 15<sup>th</sup> December 2021 and any revisions, which can be found via [this link](#).
5. The Government wants Local Authorities to exercise their local knowledge and discretion and recognise that economic need will vary across the country, so the Government are setting some national criteria for the relief but allowing Local Authorities to determine which relief application cases to support within this stated criteria.

6. The Government suggests that Local Authorities may wish to consider collaborating as they design their relief schemes to ensure there is consistency where they are working across a functional economic area. Five of the seven Council's in West Sussex, listed above, have agreed and approved these guidelines, although it is up to each individual Local Authority which amounts of relief are given and whom to they award relief to.

## **Which types of business should the COVID19 Additional Relief Fund prioritise?**

7. The government guidance issued on 15<sup>th</sup> December 2021 gives the above Councils discretion over the COVID Additional Relief Fund, and their decisions on the awarding of relief as part of the Fund will be final.

## **Scope and Eligibility**

8. Billing authorities will be responsible for designing the discretionary relief schemes that are to operate in their areas. However, in developing and implementing their schemes local authorities:-
  - a. must not award relief to ratepayers who for the same period of the relief (eg for the period from the 1<sup>st</sup> April 2021 to the 31<sup>st</sup> March 2022) either are or would have been eligible for the Extended Retail Discount (covering Retail, Hospitality and Leisure), the Nursery Discount or the Airport and Ground Operations Support Scheme (AGOSS),
  - b. must not award relief to a hereditament for a period when it is unoccupied (other than hereditaments which have become unoccupied temporarily due to the government's advice on COVID-19), and
  - c. should direct their support towards ratepayers who have been adversely affected by the pandemic (in a way that prevents success or development; harmfully or unfavourably) and have been unable to adequately adapt to that impact.
9. In line with the legal restrictions in section 47(8A) of the Local Government Finance Act 1988, billing authorities may not grant the discount to themselves or to a precepting authority (eg Town Council, Parish).
10. Telephone masts, Car Park Spaces (apart from Airport Parking) and advertising rights within West Sussex will be ineligible for this relief.
11. To be eligible for relief you must be a ratepayer liable and occupying the property for business rates in West Sussex during the financial year 2021/22 (for a period of a day or more) as at the 1<sup>st</sup> April 2021.



12. If there is no business rates liability or other business rates relief (other than transitional relief or small business rates relief with a rateable value greater than £12k) already granted to the business during the relief period, the business will not be eligible for this relief.
13. Please note individual Local Authorities within West Sussex may apply additional mechanisms to determine local need within their own Local Authority.

## **Evidence Required for Discretionary Grant Fund application**

14. In order for an application to be considered, we require businesses to demonstrate that they meet the eligibility criteria stated above. The more meaningful the evidence, the more compelling the relief application will be. We anticipate that to do this, applicants will need to provide:
  - Evidence to demonstrate a substantial loss in income as a result of the COVID-19 crisis. This is likely to be in the form of accounts/bank statements/management accounts for previous years and management accounts / bank statements for the current period.
  - Confirmation that the business has not received any relief or discount under the relief schemes mentioned in sections 8 to 12 above.
  - Confirmation of Subsidy Allowance compliance.
15. If a business is in a sector that has not been allowed to open / trade during the COVID19 crisis or if a business provides services that are not permitted due to social distancing rules, and have not been able to move to online services, the level of income lost will be more significant to that of business still able to operate but at a reduced level. This will be taken into account by the Local Authority in deciding whether any relief is awarded and actual amount of any such relief to be granted.

## **Subsidy Allowance**

16. There is a requirement for all grants made under this Discretionary Grants fund to be subsidy allowance compliant. Please see further government guidance on this via [this link](#) (Section 19-29).

## **How relief will be provided**

17. Local Authorities will be responsible for evaluating COVID19 Additional Relief Fund (CARF) applications, selecting the successful business applicants and then administering and delivering relief to those successful applicants.
18. Local Authorities responsible for making relief awards of COVID19 Additional Relief Fund (CARF) to successful business applicants will be those authorities who are business rate billing authorities in England.

19. Local Authorities will endeavour, subject to due diligence checks, to make awards as quickly as possible to support successful business applicants, who are struggling financially.

## **How much funding will be provided to successful businesses**

20. The West Sussex Councils have access to limited funds from the government for this scheme and it is expected therefore that most relief awards will be up to 30 per cent.
21. In order for the COVID19 Additional Relief Fund (CARF) to benefit the maximum number of businesses, it is proposed to have 4 levels of relief payments, directly to be proportionate to the relative impact on income due to the COVID19 crisis. In exceptional circumstances at the discretion of the individual Local Authority a payment of up to £20,000 may be made.
22. The grant levels and eligibility criteria are presented in the table below:-

Category	Maximum Relief Award (Percentage) based on their net rate liability based on local demand	Criteria
Income receipt losses of up to 10 per cent due to COVID19	10%	Based on reduction of net profit/bank statements for current year (2021/22) as opposed to 2019/20.
Income receipt losses of up to 30 per cent due to COVID19	20%	Based on reduction of net profit/bank statements for current year (2021/22) as opposed to 2019/20.
Income receipt losses of up to 50 per cent due to COVID19	25%	Based on reduction of net profit/bank statements for current year (2021/22) as opposed to 2019/20.
Income receipt losses of over 50 per cent due to COVID19	30%, up to a maximum of £10,000	Based on reduction of net profit/bank statements for current year (2021/22) as opposed to 2019/20.  For exceptional circumstances it will be at the discretion of the individual Local Authority in addition (see paragraph 27 of this guidance).
Exceptional Circumstances (at the discretion of the individual Local Authority)	Up to a maximum of £20,000	

23. The reduction in net profit/reduction in bank balance losses will be based as highlighted in the table above for this current year (2021/22) as opposed to the equivalent period in 2019/20.
24. If no accounts are available for any of the periods required, please provide consecutive bank statements and other documents such as invoices. The Local Authority may come back to you for additional information.
25. The table highlights the maximum relief awards payable as a percentage of their net rate liability based on local demand. If the relief fund is oversubscribed with the applications received, the individual Local Authority reserves the right to amend the relief levels on a pro-rata basis, based on the applications received and approved, as a way of dealing with this situation, should it arise.

26. Local Authorities have discretion to make relief awards of any amount. It will be for Local Authorities to adapt this approach to local circumstances, such as providing support for businesses that are crucial for their local economies.
27. In taking decisions on the appropriate level of grant particularly in exceptional circumstances, Local Authorities may also want to take into account the number of employees and the scale and risk of potential job losses, whether businesses have had to close completely, whether you had staff placed in furlough and are unable to trade online, the consequent scale of impact of COVID19 losses including the broader impact of the business on local economic activity.
28. The level of funding for these discretionary reliefs will be decided by the individual Local Authority within the above guidelines. There is no formal right of appeal, but an independent officer will review the decision if additional information is provided. The only further review will be by legal challenge.

## **The Application Process**

29. All Local Authorities in West Sussex will manage their own application process. For more details please consult the web site of the relevant local authority.
30. Local Authority application forms for the relief will be available online. No paper copies will be available. This electronic form including the declaration must be fully completed with all the required evidence to be considered for a grant.
31. This application process will allow Local Authorities to evaluate the applications, undertake pre-award checks to confirm eligibility and to allow each Local Authority to determine how to use its discretion in selecting successful applicants and determining the appropriate level of grant.
32. The applicants will need to state when applying online that by accepting the relief payment, the business confirms that they are eligible for the relief scheme, including that any relief accepted will be fully in compliance with Subsidy Allowance requirements.
33. The individual Local Authority reserves the right to cancel any award of this relief fund if subsequent information comes to light.

## **The Application Process - deadlines**

34. There will be a closing date of midnight on Sunday 30<sup>th</sup> January 2022 across the West Sussex Local Authorities adopting these guidelines for businesses to apply for this additional relief funding.
35. If further funding is provided by the Government or funding is unspent there will be further application rounds. Businesses that received relief funding previously in a previous round will be ineligible from any further relief application, unless it is for a different financial year.

36. We are expecting this round of relief funding to be oversubscribed so it is important all businesses applying give as much information as possible and ensure they meet the criteria.
37. There is a set limited budget provided by the Government for this relief scheme. Once the fund has been fully utilised the CARF relief scheme will end unless further funding is provided by the Government.
38. As a condition of relief being awarded, we will expect the business applying to sign a declaration stating that they are not committing any fraud and that they are fully complying with any subsidy allowance limits, as well as giving the Local Authority permission to share data to check such compliance and that these guidelines are complied with.
39. As well as meeting the criteria it is the intention for the discretionary relief to support local businesses whose intention it is to continue to trade and do business in the local area after COVID19.

## **The COVID19 Additional Relief Panel**

40. These guidelines have been approved by the named West Sussex Borough and District Chief Executives and where applicable elected Members.
41. Individual relief decisions will be made on a delegated basis by designated senior officers based on the approved guidelines. The relief will be awarded as a credit against a business rates bill.
42. The decision of the senior officers will be final. There is no right to appeal.
43. All decisions will be communicated by email or an amended business rates bill to businesses, with relief awards if approved made quickly, subject to due diligence checks. A remittance notice will accompany any grant payment.
44. Any business not awarded a COVID19 additional funds relief who meets the eligibility criteria can apply in any future round, should there be any.

## **Award of Relief**

45. All awards of this relief will be by a credit against the business rates bill. No cash payments will be made.
46. If a business has already paid its business rates in full for 2021/22 a refund will be offered to that business. Should the business request this this refund could be used as a part payment against the 2022/23 business rates.
47. If any court or enforcement costs have been incurred during 2021/22 by a business that will qualify for this relief it will be entirely at the discretion of the Local Authority whether these are cancelled or not.

## **Managing the risk of fraud**

48. All Local Authorities administering the relief in West Sussex will not accept deliberate manipulation and fraud - and any business caught falsifying their records to gain relief awarded will face prosecution and any relief awarded will be subject to claw back, as may any relief awarded in error.
49. All information is subject to internal and external audit check, as well as Government body check.

## **Sharing Information**

50. By applying for a COVID19 additional relief all applicants give authority to administering Local Authorities to share data for efficient system administration and to protect the Public Purse, subject to the GDPR. This will include sharing data with West Sussex and other Local Authorities.
51. The Councils will be required to share data with Government Departments for monitoring and other reasons. By applying for a COVID19 additional relief all applicants give authority for this.

## **Other Information**

52. The Councils do not accept any liability for any issues that may arise for businesses because of applying for, receiving, or not receiving relief awards under this scheme.

# Agenda Item 4

## Crawley Borough Council

### Consideration Report for Delegated Decision by the Leader

Not before 6 January 2022

### Additional Restrictions Discretionary Business Grant (ARG) – Omicron Top-Up

Report of the Head of Corporate Finance (FIN/556)

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#### 1. Purpose

- 1.1. To seek approval to extend the Additional Restrictions Grant scheme to allocate a top up of £150,287.10 as a result of the Omicron variant.
- 1.2. Revised guidance was issued by The Department of Business, Energy & Industrial Strategy (BEIS) on 30<sup>th</sup> December 2021, copy attached. For distribution of further discretionary grants. The allocation of £150,287.10 was announced on 7<sup>th</sup> January 2022.
- 1.3. The West Sussex wide scheme has been updated to take into account the new guidance.
- 1.4. In allocating the third top-up payment: businesses severely impacted by the rise of the Omicron variant, see paragraph 28 of the [guidance](#). These lists are not directive nor exhaustive, and Local Authorities should continue to issue grants at their discretion, based on local economic needs.

#### 2. Recommendations

- 2.1. That the Leader:
  - A) Approve the revised ARG guidance (attached as Appendix A) to take into account the priority areas as a result on the Omicron variant.
  - B) Give delegated authority to the Head of Economy and Planning and the Head of Corporate Finance to make grants within these guidelines.

#### 3. Reasons for the Recommendations

- 3.1. BEIS have allocated £150,287.10 to be allocated to worthy businesses as discretionary grants. These guidelines seek to provide guidance to staff and stakeholders on how this ARG top-up is allocated and factors that are considered when making the award.

# Agenda Item 4

## 4. Background

- 4.1. On 15 December 2021 the Government announced that it would provide Local Authorities with additional funding to help businesses pay their business rates to offset the impact of the ongoing COVID-19 pandemic.
- 4.2. Billing authorities are responsible for designing the discretionary grants scheme. There is one in place, this has been amended to take into account the value of the top-up and the recommended businesses to support.
- 4.3. Crawley Borough Council has agreed these guidelines with all other West Sussex Local Authorities. The guidelines are in line with guidelines issued by the Government.

## 5. Other Options Considered

- 5.1. The options considered in this report are the only ones available to the Council as the Council seeks to become more transparent in the use of its discretionary financial assistance to local businesses during the pandemic.

## 6. Urgency of Decision

- 6.1. Due to the urgent nature of this decision the Special Urgency Rule has been used for this decision as it has been impracticable to publish a Forthcoming Decision Notice for the 28 clear days period and publish the consideration report 5 clear days before the decision is taken. The Chair of the Overview and Scrutiny Commission has agreed the use of this provision. In addition, due to the urgent nature of this decision the Chief Executive has Protected the decision from Call-In, so that the Council can start supporting our businesses as soon as possible.

## 7. Financial Implications

- 7.1. The government grant allocated by the BEIS in respect of the COVID19 Additional Relief Grant top up is £150,287.10. This is a cash limited fund and any relief incurred over and above this must be funded by the Council.

## 8. Background Papers

- [“Omicron Hospitality and Leisure Grant: Guidance for Local Authorities”](#) (issued by the Department for Business, Energy and Industrial Strategy)
- [“Additional Restrictions Grant: Guidance for Local Authorities”](#) (issued by the Department for Business, Energy and Industrial Strategy)

Report author and contact officer:

Karen Hayes (Head of Corporate Finance)  
[karen.hayes@crawley.gov.uk](mailto:karen.hayes@crawley.gov.uk)



## WEST SUSSEX DISTRICT COUNCIL'S

### ADDITIONAL RESTRICTIONS DISCRETIONARY GRANT GUIDELINES

1. The West Sussex local authority Boroughs and Districts utilising these guidelines are:
  - Adur District Council
  - Arun District Council
  - Chichester District Council
  - Crawley Borough Council
  - Horsham District Council
  - Mid Sussex District Council
  - Worthing Borough Council
2. This guidance sets out the guidelines under which businesses in West Sussex will qualify to make an application to the Local Authority Additional Restrictions Discretionary Grants (ARG), and the evidence required to support an application, and is aligned with the government guidance for the Additional Restrictions Grant issued on 3<sup>rd</sup> November 2020 and any revisions at later dates, which can be found via this link:- <https://www.gov.uk/government/publications/local-restrictions-support-grants-lrsg-and-additional-restrictions-grant-arg-guidance-for-local-authorities>. This version covers the new updated ARG guidance issued by the Government on the 30th December 2021.
3. Therefore, for the avoidance of doubt any guidance in the Government Guidance also applies to the scheme(s) operating in West Sussex (unless stated otherwise) and should be referred to as well as these local guidelines.
4. The Government suggests that 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. All seven Council's in West Sussex, listed above, have agreed and approved these guidelines, although it is up to each individual Local Authority which individual grants they approve based upon available resources and local priorities.
5. Individual Local Authorities in West Sussex reserve the right to review the scheme criteria to ensure that financial support is going to those most in need (which may involve additional individual local authority guidance), as well as to help businesses who provide employment to others whilst available resources allow. Please note that funding for Round 6 is very limited with individual Local Authority funding shown at

[additional-restrictions-grant.ods \(live.com\)](https://additional-restrictions-grant.ods.live.com). Individual Local Authorities reserve the right to open up the claim dates at different periods to the dates quoted in these guidelines.

## **Additional Restrictions Discretionary Grant (ARG) categories**

6. Additional Restriction Grant funding is a funding payment by the Government to local authorities to be used during 2020/21 and 2021/22 to provide support to businesses affected by the COVID19 pandemic. Local authorities are also encouraged in Additional Restrictions Grant funding received before January 2022 to provide support to businesses through wider support initiatives, although primarily the support is envisaged to take place in the form of discretionary grant payments.
7. In order to provide an immediate response and emergency support to businesses impacted by the current restrictions due to Omicron the following are confirmed guidelines for distribution of Additional Restrictions Grant.

### **Eligible businesses:**

#### **8.1 Businesses who**

- Are not entitled to any or all of the Local Restriction Support Grant (Closed Addendum) or Restart schemes or the Omicron Hospitality and Leisure Grant as they are not responsible for payment of business rates, and
- were open and trading the day before national or local restrictions were imposed or Omicron grants announced for their current claim period (eg at the start of each funding round), and
- are now required to close under national restrictions (eg non-essential market traders, Bed and Breakfast, shared workspace).

#### **8.2 Businesses who**

- Are not entitled to any or all of the Local Restriction Support Grant (Closed Addendum) or Restart schemes or the Omicron Hospitality and Leisure Grant as they are not responsible for payment of business rates, and
- were open and trading the day before national or local restrictions were imposed or Omicron grants announced for their current claim period (eg at the start of each funding round), and
- while not legally forced to close are nonetheless severely impacted by the restrictions put in place to control the spread of COVID19 eg can show a reduced footfall due to omicron (eg businesses which supply the hospitality, and leisure sectors, or businesses in the events sector).

#### **8.3. Businesses who**

- Are not eligible or did not apply under any other grant scheme, for example, may have qualified for but are waiting for a business rate valuation decision from the independent Valuation Office Agency or who began trading before or on the 5<sup>th</sup> November 2020, the 2<sup>nd</sup> December 2020, the 5<sup>th</sup> January 2021, the 16<sup>th</sup> February 2021, the 1<sup>st</sup> April 2021 or the 17<sup>th</sup> January 2022 (or a later date as applicable to

- each scheme which will be displayed on individual local authority websites)(individual local authorities reserve the right to amend these dates), and
- Were open and trading the day before national or local restrictions were imposed or Omicron grants announced for their current claim period for their current claim period (eg at the start of each funding round), and
  - Are either required to close or while not legally forced to close are nonetheless severely impacted by the restrictions put in place to control the spread of COVID19 or can show a reduced footfall due to omicron (eg businesses which supply the retail, hospitality, and leisure sectors, or businesses in the events sector, markets, Bed and Breakfast, shared workspaces), and
  - Are having to pay unavoidable fixed property costs during the period of restrictions
- 8.4 Businesses receiving a mandatory Local Restriction Support Grant (Closed Addendum) or Business Support or Restart schemes can also at the discretion of that Local Authority apply for Additional Restrictions Grant. Any business receiving an Omicron Hospitality and Leisure Grant is able to apply for Additional Restrictions Grant but other applicants will be given priority. Any award where other grant funding has been received is at the discretion of the individual Local Authority. It is up to the discretion of each Local Authority to issue further grant funding to previous recipients.
- 8.5 If a business ratepayer, then Local Restrictions Support Grant (Closed Addendum or Restart Grant) or the Omicron Hospitality and Leisure Grant scheme maximum grant levels for that grant will be applicable. If not a ratepayer Local Authority Additional Restrictions Discretionary Grant criteria applied to determine what would have been applicable under Local Authority Additional Restrictions Discretionary Grant and grants as detailed in 8.2 and 8.3 above will be applied. The West Sussex Local Authorities reserve the right to reopen the previous scheme (if Government guidelines allow) if a business or organisation genuinely missed out due to late start or valuation query.

## **Exclusions to Additional Restrictions or Local Restrictions Support (Open) Grant funding**

9. Businesses that have already received grant payments that equal the maximum levels of State aid/Subsidy Allowance Limits permitted under the de minimis, the COVID19 Temporary State Aid Framework or COVID19 Business Grant Special Allowance. For the avoidance of doubt the Subsidy Allowance Limits from the 4<sup>th</sup> March 2021 are outlined in Appendix A. Any decisions from funding round 6 for the Additional Restrictions Grant (from the 17<sup>th</sup> January 2022) will be based on the new subsidy allowance rules.
10. For the avoidance of doubt, businesses that are in administration, insolvent or where a striking-off notice has been made, are not eligible for funding under this scheme.
11. Any business not receiving or eligible for an Omicron Hospitality and Leisure Grant – see the guidance at [Omicron Hospitality and Leisure Grant: guidance for Local Authorities \(publishing.service.gov.uk\)](https://publishing.service.gov.uk) will be given priority for the 6<sup>th</sup> round of Additional

Restrictions Grant for the period from the 17<sup>th</sup> January 2022 to the 28<sup>th</sup> February 2022 and any subsequent rounds if required.

12. Certain businesses will not be able to apply for an additional restrictions discretionary grant. This includes Air BnB, due to the limited funding amount available and the shortage of housing available within West Sussex.
13. All businesses that are trading and meet other eligibility criteria may apply to receive funding under this scheme. There is no set starting date from which businesses must have been trading in order to qualify for grant funding. However, for the purposes of this Additional Restrictions Grant Scheme businesses that were not trading on the first full day of the respective funding rounds for this discretionary grant scheme will not meet the eligibility for that funding round (they can apply for subsequent funding rounds). For the purpose of Funding Round 1 of these grants the first full day is the 5<sup>th</sup> November 2020 or for Funding Round 2 the date is the 14<sup>th</sup> December 2021, Funding Round 3 the date is the 11<sup>th</sup> January 2021, Funding Round 4 the date is the 16<sup>th</sup> February 2021, Funding Round 5 the date is the 1<sup>st</sup> April 2021 to the 30<sup>th</sup> June 2021 and Round 6 will be from the 17<sup>th</sup> January 2022 to the 28<sup>th</sup> February 2022 (further dates for further funding rounds will be displayed on West Sussex District Council websites).

## **Local Eligibility Criteria and Payments**

14. Where a business has not been required to close and is affected such as the loss of income by COVID19 including Omicron, then the Councils in West Sussex will consider the fixed costs of that business, including rent and business rates. Where the business does not pay rent or business rates, then the Council's will consider other unavoidable business related fixed costs, and will be able to estimate the rateable value of the premises that the business is operating from. Fixed costs must normally be in the name of the business applying for a grant.
15. Local Authorities should allocate funding through business support grants or through wider business support measures if that funding provided by the Government allows. The third top-up payment provided by the Government in January 2022 should only be allocated to business support grants and should not fund wider business support measures. All funding provided under this scheme should provide direct support to businesses.
16. Local Authorities in Round 6 are encouraged to support businesses from all sectors that may have been severely impacted by restrictions, or by the Omicron variant, including those outside of the business rates system. These may include, but are not limited to:
  - hospitality,
  - accommodation,
  - leisure,
  - personal care,

- the travel and tourism sector, including group travel, travel agents and tour operators,
- coach operators,
- wedding industries,
- nightclubs,
- theatres,
- events industries,
- wholesalers,
- English language schools,
- breweries,
- freelance and mobile businesses (including caterers, events, hair, beauty and wedding related businesses),
- gyms,
- and other businesses that may have not received other grant funding.

There is no restriction on the number of grants a business may receive, subject to subsidy allowance limits.

17. Local Authorities are encouraged to focus their support on:
  - In allocating first top-up payment: businesses from all sectors that may have been severely impacted by omicron restrictions but were not eligible for the LRSG and CBLP Grant schemes.
  - In allocating the second two top-up payments: businesses from all sectors that may have been severely impacted by restrictions but were not eligible for the Restart Grant scheme, and those sectors that remained closed or were severely impacted by extended restrictions, even if those businesses had already been in receipt of Restart Grants.
  - In allocating the third top-up payment: businesses severely impacted by the rise of the Omicron variant, see paragraph 28 of the guidance at [Omicron Hospitality and Leisure Grant: guidance for Local Authorities \(publishing.service.gov.uk\)](https://publishing.service.gov.uk/government/guidance/omicron-hospitality-and-leisure-grant-guidance-for-local-authorities). These lists are not directive nor exhaustive, and Local Authorities should continue to issue grants at their discretion, based on local economic needs.
18. In taking decisions on the appropriate level of grant, Local Authorities may want to take into account the level of fixed costs of the business, the number of employees the business has, whether it is unable to trade online, the consequent scale of coronavirus losses and any financial help previously received.
19. Any business applying must be operating within the boundaries of the relevant West Sussex Council. This include where the business is temporarily working from home during the pandemic.
20. Local Councils in West Sussex will prioritise businesses and organisations that provide support to local communities within the Local Authority area, and where the restrictions have impacted on their income, that are highly like to flourish after COVID19 including Omicron.
21. Councils in West Sussex may also take into account the number of employees and the scale and risk of potential job losses, whether businesses have had to close operations and are unable to trade online, and the consequent scale of impact of COVID19 losses.
22. Businesses will be required to demonstrate that they have been severely impacted by the national or local tier restrictions or the reduced footfall caused by omicron. As well as meeting the criteria it is the intention for the discretionary additional restrictions grants to support local businesses whose intention it is to continue to trade and do business in the local area after COVID19 including from the impact of Omicron.
23. Awards will be made to cover the relevant national, local restriction period or omicron impact period, initially from the 17<sup>th</sup> January 2022 until the 28<sup>th</sup> February 2022 for the Leisure and Hospitality Grants, in line with grants paid under the Local Restriction Support Grant (Closed Addendum) or Restart schemes.

24. Whilst the payment of grants previously will not exclude a business from applying this may be a factor included when deciding to award a grant and/or the level of any grant. One grant claim can be made per property in any funding round although it is at the discretion of each individual Council to award any grant for each funding window.
25. The grant levels and eligibility criteria are presented below (these updated amounts are valid from the Additional Restrictions Grant (ARG) Funding Window 6 from the 17<sup>th</sup> January 2022:-

Category	Grant Amount
<ul style="list-style-type: none"> <li>Eligible mobile sole trader unable to trade (or severe loss of income due to COVID19) or local business with West Sussex registered trading address, trading on or before 17<sup>th</sup> January 2022 (or subsequent date). Only one claim will be paid.</li> <li>At least £250 in rent or flexible licence fee per calendar month. Must prove unable to trade or must prove severe loss of income with ongoing costs.</li> <li>Individual LA's reserve the right to amend any claim to a different category.</li> </ul>	At the discretion of the Local Authority up to maximum of £500 per Additional Restrictions Grant (ARG) funding round.
<ul style="list-style-type: none"> <li>Eligible market trader unable to trade or local business with West Sussex* registered trading address, trading on or before 17<sup>th</sup> January 2022 (or subsequent date)</li> <li>At least £250 in rent or flexible licence fee per calendar month. / Eligible market trader, unable to trade (or must prove severe loss of income) with ongoing costs.</li> <li>Individual LA's reserve the right to amend any claim to a different category</li> </ul>	At the discretion of the Local Authority up to maximum of £500 per Additional Restrictions Grant (ARG) funding round.
<ul style="list-style-type: none"> <li>Eligible businesses occupying a commercial property on the local authority ratings list, with a Rateable Value of £15,000 or less, as at the 17<sup>th</sup> January 2022 (or subsequent date)</li> <li>Where there is no Rateable Value, then businesses paying rent of £15,000 per annum (£1,250 per month) or less</li> <li>If no Rateable Value or rent, then the local authority may estimate the rateable value or rent of the property where the business is based, or take into account other business related fixed costs in the name of the business, with a value of £15,000 or less per annum</li> <li>Unable to trade or must prove severe loss of income.</li> </ul>	At the discretion of the Local Authority up to maximum of £1,334 per Additional Restrictions Grant (ARG) funding round

<ul style="list-style-type: none"> <li>Individual LA's reserve the right to amend any claim to a different category.</li> </ul>	
<ul style="list-style-type: none"> <li>Eligible businesses occupying a commercial property on the local authority ratings list, with a Rateable Value of over £15,000 and less than £51,000, as at the 17<sup>th</sup> January 2022 (or subsequent date).</li> <li>Where there is no Rateable Value, then businesses paying rent of over £15,000 and less than £51,000 per annum</li> <li>If no Rateable Value or rent, then the local authority may estimate the rateable value or rent of the property where the business is based, or take into account other business related fixed costs in the name of the business with a value of over £15,000 and less than £51,000 per annum.</li> <li>Unable to trade or must prove severe loss of income.</li> <li>Individual LA's reserve the right to amend any claim to a different category .</li> </ul>	<p>At the discretion of the Local Authority up to maximum pf £2,000 per Additional Restrictions Grant (ARG) funding round (ARG) funding round).</p>
<ul style="list-style-type: none"> <li>Eligible businesses occupying a commercial property on the local authority ratings list, with a Rateable Value of over £51,000 or above as at the 17<sup>th</sup> January 2022 (or subsequent date).</li> <li>Where there is no Rateable Value, then businesses paying rent of £51,000 or above per annum</li> <li>If no Rateable Value or rent, then the local authority may estimate the rateable value or rent of the property where the business is based, or take into account other business related fixed costs in the name of the business with a value of over £51,000 per annum</li> <li>Unable to trade or must prove severe loss of income.</li> <li>Individual LA's reserve the right to amend any claim to a different category .</li> </ul>	<p>At the discretion of the Local Authority up to maximum of £3,000 per Additional Restrictions Grant (ARG) funding round</p>
<ul style="list-style-type: none"> <li>In exceptional circumstances any local authority in West Sussex may pay above the maximum amounts outlined in the above boxes to eligible businesses.</li> <li>This is at the discretion of the individual Local Authority and also dependent on available resources.</li> <li>Exceptional circumstances is not defined but need to meet as a minimum 2 conditions – severe loss of income and to stop job losses.</li> <li>Award of exceptional amount grants may be taken into account in the awards of future grants.</li> </ul>	<p>At the discretion of the Local Authority up to a maximum of £5,000 per Additional Restrictions Grant (ARG) funding round.</p>



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| <ul style="list-style-type: none"><li>• Unable to trade or must prove severe loss of income.</li><li>• Individual LA's reserve the right to amend any claim to a different category</li></ul> |  |  |
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## **Additional Restrictions Grant Funding Rounds**

26. The Additional Restrictions Grant Funding Windows in West Sussex Local Authorities are as follows (although the individual Local Authority can vary these dates and this will be published on their websites):-

Round 1 – 16<sup>th</sup> November 2020 to the 13<sup>th</sup> December 2020

Round 2 – 14<sup>th</sup> December 2020 to the 10<sup>th</sup> January 2021

Round 3 – 11<sup>th</sup> January 2021 to the 15<sup>th</sup> February 2021

Round 4 – 16<sup>th</sup> February 2021 to the 31<sup>st</sup> March 2021

Round 5 – 1<sup>st</sup> April 2021 to the 30<sup>th</sup> June 2021

Round 6 – 17<sup>th</sup> January 2022 to the 28<sup>th</sup> February 2022

27. Normally businesses can make one additional restrictions grant application per funding window although individual Local Authorities can restrict this.
28. Further Additional Restrictions Grant Funding Windows (if required) will be posted on all West Sussex District Council websites, whilst resources allow.

## **The Application Process**

29. The application form will be available online. This electronic form including the declaration must be fully completed with all the required evidence to be considered for a grant.
30. Applications can be made in funding windows that will be advertised by the individual Local Authority. Payments will be made by BACS. A remittance notice will be emailed to accompany any grant payment. All payments will be made by the 31<sup>st</sup> March 2022.
31. Further funding windows will be offered for further national or local lockdowns and/or other COVID grant schemes if resources are still available and still within the permitted grant claim period allowed or stated by BEIS.

## **Evidence Required for Discretionary Grant Fund application**

32. In order for an application to be considered, we require businesses to demonstrate that they meet the eligibility criteria stated above. The more meaningful the evidence, the more compelling the grant application will be. We anticipate that to do this, applicants will need to provide as a minimum:

- Evidence that the property is closed, or partially closed (eg a retail premise trading as click and collect only), or severely impacted by a big/notable reduction in footfall such as by the Omicron variant.
  - Proof of identity of sole trader or limited company
  - Evidence of unavoidable fixed property costs incurred by the business such as rent, rates or mortgage payments, this does not include personal or household costs. This should take the form of leases/agreements showing an obligation to pay and bank statements showing that payments have actually been made.
  - Evidence that the business falls within the criteria of those businesses required to close (or partially close) or evidence to demonstrate a substantial/notable loss in income as a result of the national restrictions. This is likely to be in the form of filed accounts for previous years and management accounts/bank statements for the current/previous periods. For example, a minimum of three months bank statements may be required.
  - Details of any registration number.
  - Confirmation of Subsidy Allowance compliance. There is a requirement for all grants made under this scheme to be subsidy allowance compliant
33. Annual property cost will include rent, mortgage payments, insurance, rates, flexible licence fees.
34. If a business is in a sector that has not been allowed to open / trade during the COVID19 crisis or if a business provides services that are not permitted due to social distancing rules or have been severely impacted by a large/notable reduction in footfall (eg due to omicron), and have not been able to move to online services, the level of income lost will be more significant to that of business still able to operate but at a reduced level. This will be considered in confirming whether a grant is awarded and the grant amount to be offered.
35. This application process will allow the Councils to undertake pre-payment checks to confirm eligibility and to allow the individual Council to determine how to use its discretion in relation to the appropriate level of grant.
36. The Councils will use their discretion in identifying the right business to receive this funding, based on the application process.
37. The Councils will ask the business to complete a declaration, or email or write to the business, stating that by accepting the grant payment, they have confirmed they are eligible under the grant scheme, and that any payments accepted will be in compliance with State Aid or Subsidy Allowance requirements.
38. Also, as a condition of funding we will expect the business applying to sign a declaration online stating that they are not committing any fraud and that they are fully complying with any state aid or subsidy allowance limits, as well as giving the Council permission to share data to check such compliance and that these guidelines are complied with.

39. The Council will also have to share this data with the Government bodies such as BEIS to check such compliance and for monitoring purposes and by signing the declaration the applicant gives the Council permission to do this and allow Government bodies any access to the data for such checks.

## **Decision Making Process**

40. Applications will be determined by authorised designated senior Council officers, in consultation with Executive Members where appropriate.
41. All decisions will be communicated by email or in writing to businesses. Decisions will be made as soon as possible after applications are received or the closing date for each funding round, after the receipt of further information if required, and after pre-payment assurance checks have been carried out.
42. There is no statutory right of appeal against a decision regarding discretionary business grants. Where a decision is disputed, this will be reconsidered by a different senior officer in consultation where appropriate with an elected member.
43. A business can only challenge the grant decision on a point of law through the court.

## **Payments of Grant and Tax**

44. All payments of grant will be made by a BACS transfer to the company or business' nominated bank account. It will not be paid into other bank accounts such as rating agents. Bank accounts will be verified by the Councils counter fraud team.
45. These payments are Grants and not Loans, and therefore will not require repayment, unless paid in error or where fraudulent activity is detected.
46. Grant income received by a business is taxable therefore funding paid under the Additional Restrictions Grant scheme will be subject to tax.
47. Only businesses which make an overall profit once grant income is included will be subject to tax.
48. Grant income may also affect the amount of benefit you can or may receive.
49. Each Council reserves the right to not award a grant to landlords when evidence suggests the payment is not being passed onto the tenanted business

## **Liability for Business Rates**

50. Also, all Councils in West Sussex will investigate if any business applying shall be liable for business rates, if not already liable, if applicable. Payment of grant funding to a successful applicant will be conditional on the business paying any business rates liabilities arising from this.
51. If the business is liable for business rates and has arrears owed to any West Sussex Council this may stop an additional restrictions discretionary grant being paid. The

business may be given the opportunity to clear or make an arrangement to clear these arrears.

## **Managing the risk of fraud**

52. The Councils will not accept deliberate manipulation and fraud and have a duty to protect the public purse. Any business that dishonestly provides false or misleading information in communication with any Council, including verbal communication, will be committing a criminal offence contrary to the Fraud Act 2006 and will be subject to a criminal investigation and criminal proceedings may be taken against them.
53. Conditionality of funding will be dependent on the business agreeing to these conditions by confirmation when they complete their electronic application form.
54. Businesses will need to notify their Local Authority if they no longer meet the eligibility criteria for additional grants (for example, if they become insolvent) and immediately return any grants incorrectly paid.
55. All information is subject to internal and external audit checks, as well as Government bodies pre and post payment checks and will also be scanned for potential fraud with approved bodies.

## **Sharing Information**

56. By applying for a discretionary grant all applicants give authority to the West Sussex Councils to share data for efficient system administration (including within their own Authority) and to protect the Public Purse, subject to the Data Protection legislation. This will include sharing data with Sussex and other Local Authorities.
57. The Councils will be required to share data with Government Departments such as BEIS for monitoring, to protect the public purse and other reasons. By applying for a discretionary grant all applicants give authority for this.
58. The Councils are also required to provide open data, and be transparent about the use of public funding. In accordance with Data Protection Guidelines, this grant recipient data may be subject to being published on Council's websites and also subject to Freedom of Information requests.

## **Appendix A**

### **COVID-19 business grant subsidy allowance**

1. The EU State aid rules no longer apply to subsidies granted in the UK following the end of the transition period, which ended on 31 December 2020. This does not impact the limited circumstances in which State aid rules still apply under the Withdrawal Agreement, specifically Article 10 of the Northern Ireland Protocol. However, in the vast majority of cases this will not apply. The United Kingdom remains bound by its international commitments, including subsidy obligations set out in the Trade and

Cooperation Agreement (TCA) with the EU. BEIS Guidance for public authorities explaining the subsidies chapter of the TCA, World Trade Organisation rules on subsidies, and other international commitments can be found here:

<https://www.gov.uk/government/publications/complying-with-the-uks-international-obligations-on-subsidy-control-guidance-for-public-authorities>.

COVID-19 business grants subsidy allowances provided on the basis of the TCA

2. The below scheme rules should be applied to applicants at the level of economic actor, which is defined as an entity or a group of entities constituting a single economic entity regardless of its legal status, that is engaged in an economic activity by offering goods or services on a market.
3. There are three subsidy allowances for the COVID-19 Business Grant Schemes set out below: Small Amounts of Financial Assistance Allowance, the COVID-19 Business Grant Allowance and the COVID-19 Business Grant Special Allowance.
4. We have concluded that the COVID-19 Business Grant Allowance and the COVID-19 Business Grant Special Allowance are compatible with the principles set out in Article 366 of the TCA and are targeted, proportionate, and effective in order to remedy difficulties caused by the COVID-19 pandemic for the purposes of Article 364(3). These two allowances constitute subsidy schemes for the purposes of Article 373(4) of the TCA and the transparency requirements at Article 369 of the TCA. Local Authorities will still need to consider their own transparency obligations in relation to individual award (see paragraph 92 below).

## **Small Amounts of Financial Assistance Allowance**

5. Grants may be paid in accordance with Article 364(4) of the TCA, which enables an applicant to receive up to a maximum level of subsidy without engaging Chapter 3 of the TCA. This allowance is up to 325,000 Special Drawing Rights, to a single economic actor over a rolling period of three fiscal years (the “Relevant Period”), which is the equivalent of £335,000 as at 2 March 2021. When calculating the amount of subsidy an applicant has received under Article 364(4) of the TCA in a Relevant Period, a local authority should have regard to any subsidy given under Article 364(4) and any subsidy given under Commission Regulation (EU) No 1407/2013 (the De Minimis Regulation). An applicant may elect not to receive grants under the Small Amounts of Financial Assistance Allowance and instead receive grants only using the below allowances available under this scheme.
6. The Special Drawing Right calculator here can be used to calculate the exchange rate on the day the subsidy is awarded: [https://coinmill.com/SDR\\_calculator.html](https://coinmill.com/SDR_calculator.html)

## **COVID-19 Business Grant Allowance**

7. Where the Small Amounts of Financial Assistance Allowance has been reached or an applicant has elected not to receive a grant under this allowance, grants may be paid in compliance with the Principles set out in Article 366 of the TCA and in compliance with

Article 364(3) of the TCA under the COVID-19 Business Grant Allowance (subsidies granted on a temporary basis to respond to a national or global economic emergency). For the purposes of the COVID-19 Business Grant Schemes, this allowance is £1,900,000 per single economic actor. This allowance includes any grants previously received under other COVID-19 Business Grant Schemes using the COVID-19 Business Grant Allowance and any State aid previously received under Section 3.1 of the European Commission's Temporary Framework across any other UK scheme. This may be combined with the Small Amounts of Financial Assistance Allowance to equal £2,235,000 (subject to the exact amount applicable under the Small Amounts of Financial Assistance Allowance using the Special Drawing Right calculator, and any other support an applicant has received under the Small Amounts of Financial Assistance Allowance in the Relevant Period).

## **COVID-19 Business Grant Special Allowance**

8. Where an applicant has reached its limit under the Small Amounts of Financial Assistance Allowance and COVID-19 Business Grant Allowance, it may be able to access a further allowance of funding under the COVID-19 Business Grant Schemes of up to £10,000,000 per single economic actor, provided the following conditions are met:
  - a. The Special Allowance covers only the applicant's uncovered fixed costs incurred during the period between 1 March 2020 and the date of application, including such costs incurred in any part of that period ('eligible period');
  - b. Applicants must demonstrate a decline in turnover during the eligible period of at least 30% compared to the same period in 2019. The calculation of losses will be based on audited accounts or official statutory accounts filed at Companies House, or approved accounts submitted to HMRC which includes information on the applicant's profit and loss;
  - c. 'Uncovered fixed costs' means fixed costs not otherwise covered by profit, insurance or other subsidies;
  - d. The grant payment must not exceed 70% of the applicant's uncovered fixed costs, except for micro and small enterprises (for the purposes of this scheme defined as less than 50 employees and less than £9,000,000 of annual turnover and/or annual balance sheet), where the grant payment must not exceed 90% of the uncovered fixed costs;
  - e. Grant payments under this allowance must not exceed £10,000,000 per single economic actor. This allowance includes any subsidies previously received in accordance with Section 3.12 of the European Commission's Temporary Framework or previously received under the COVID-19 Business Grant Schemes using this COVID-19 Business Grant Special Allowance; all figures used must be gross, that is, before any deduction of tax or other charge;

- f. Grants provided under this allowance shall not be cumulated with other subsidies for the same costs.
9. An applicant must be able to provide the necessary documentation to demonstrate it is eligible for funding under this COVID-19 Business Grant Special Allowance. Local Authorities must first verify that an applicant can meet all the criteria set out under this allowance before providing further funding under this allowance.
  10. Grants provided in excess of the Small Amounts of Financial Assistance Allowance may not be granted to applicants that were defined as an 'undertaking in difficulty' (as defined in Annex C below) on 31 December 2019. In derogation to the above, grants can be granted to micro or small enterprises (as defined above) that were already in difficulty on 31 December 2019 provided that they are not subject to collective insolvency proceedings.
  11. Local Authorities must ensure the remaining applicable provisions of the subsidies chapter of the TCA are complied with. In particular, the transparency obligations under Article 369. The transparency database can be found at <https://manageuksubsidies.beis.gov.uk/>. All schemes and individual awards over £500,000 must be uploaded within six months of being granted. Any ad hoc awards of at least 325,000 Special Drawing Rights over three years to an individual beneficiary must also be uploaded within six months of being granted. For access to and any further questions on the database, please contact the BEIS subsidy control team at [subsidycontrol@beis.gov.uk](mailto:subsidycontrol@beis.gov.uk).
  12. For the avoidance of doubt, grants under the Small Amounts of Financial Assistance Allowance, the COVID-19 Business Grant Allowance and the COVID-19 Business Grant Special Allowance may be combined for a potential total allowance of £12,235,000 (taking into account all grants previously received under the COVID-19 business grants schemes and subject to the exact amount applicable under the Small Amounts of Financial Assistance Allowance using the Special Drawing Right calculator and the three fiscal year period applicable to the Small Amounts of Financial Assistance Allowance).

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