



# Borough of Pendle Council Local Restrictions Support Grant (OPEN) Scheme

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## Definitions

The following definitions are used within this document:

**‘Additional Restrictions Grant (ARG)’** means the additional funding provided by Government. Funding will be made available to eligible Local Authorities at the point that national restrictions are imposed or at the point the Local Authority first entered LCAL 3 local restrictions;

**‘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 or the date of widespread national restrictions. For the purpose of this scheme the date cannot be before 1<sup>st</sup> August 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 Covid Alert Level’** (LCAL) means the level of alert determined by Government and Local Authorities for the area. LCALs have three Tiers. Tier 1 (Medium): Tier 2 (High) and Tier 3 (Very High). For the purposes of these schemes the definitions used are LCAL1, LCAL2 and LCAL3.

**‘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 (Closed);** means the grant scheme developed by the Council in response to an announcement made by the Secretary of State for Business, Energy & Industrial Strategy made on 9<sup>th</sup> September 2020, amended on 9<sup>th</sup> October 2020 and which is applicable to businesses forced to close under either LCAL3 or where national restrictions are in place;

**Local Restrictions Support Grant Scheme (Open);** means the grant scheme developed by the Council in response to an announcement made by the Secretary of State for Business, Energy & Industrial Strategy made on 22<sup>nd</sup> October 2020 and which is applicable to businesses that are still open but severely impacted by the restrictions imposed by LCAL2 and LCAL3;

**Local Restrictions Support Grant Scheme (Sector);** means the grant scheme developed by the Council in response to an announcement made by the Secretary of State for Business, Energy & Industrial Strategy made on 9<sup>th</sup> October 2020 (effective from 1<sup>st</sup> November) and which is

applicable to businesses that have been required to close on a national basis since 23<sup>rd</sup> March 2020 due to restrictions being put in place to manage coronavirus;

**‘Rateable value’**; means the rateable value for the hereditament shown in the Council’s local rating list at the date of the local restrictions;

**‘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 (Open).
- 1.2 The grant scheme has been developed by the Council in response to an announcement made by the Secretary of State for Business, Energy & Industrial Strategy made on 22<sup>nd</sup> October 2020 which sets out circumstances whereby a grant payment may be made by the Council to businesses that are not legally required to close but which are severely impacted by the localised restrictions on socialising 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 certain 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 applies where local restrictions either under LCAL2 (High) or LCAL3 (Very High) are put in place on or after 1<sup>st</sup> August 2020.
- 1.5 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.
- 1.7 Where there is a widespread national restriction, this scheme will be replaced by the Council's Local Restrictions Support Grant Scheme (Closed) and potentially the Additional Restrictions Grant (ARG) scheme.

## **2.0 Funding**

- 2.1 Local Authorities, subject to local eligibility, will receive 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.
- 2.2 The Council has been allocated £724,776 for the Open scheme. As this is a fixed sum, once funds are exhausted, no further applications will be considered.

## **3.0 Eligibility criteria.**

- 3.1 The Local Restrictions Support Grant (Open) is primarily aimed at hospitality, hotel, bed & breakfast and leisure businesses. The Council does have the discretion as to how to award grant funding to individual businesses and may award to businesses outside of these sectors.

- 3.2 Government, whilst wanting Councils to exercise their local knowledge and discretion, has strongly suggested that the Council follow their criteria for the awards. The Council has decided to adopt these principles, and, in all cases, the Council will only consider businesses for grants where **all** of the criteria are met.

### **Eligibility criteria determined by the Council.**

- 3.3 The Council has determined the following criteria:
- (a) Businesses that were established and trading on the day prior to the introduction of LCAL 2-type (High) or LCAL 3-type (Very High) restrictions within the area are eligible;
  - (b) Only businesses that provide hospitality, hotel, bed & breakfast, leisure, self-catering accommodation, and supply chain to retail, hospitality, leisure sectors businesses will be considered for this scheme; and
  - (c) All businesses that are not legally required to close but which are severely impacted by the localised restrictions on socialising are eligible. Each business will be required to certify to the Council that they have been severely impacted by the restrictions.

## **4.0 The grant award, award periods and excluded businesses**

- 4.1 The Council has decided that the following awards shall be granted:
- (a) Grants of up to £934 per 28-day period for businesses occupying hereditaments with a rateable value of exactly £15,000 or under on the date of the commencement of the local restrictions (LCAL2 or LCAL3);
  - (b) Grants of up to £1,400 per 28-day period for businesses occupying hereditaments with a rateable value over £15,000 and less than £51,000 on the date of the commencement of the local restrictions (LCAL2 or LCAL3);
  - (c) Grants of up to £2,100 per 28-day period for businesses occupying hereditaments with a rateable value of exactly £51,000 or above on the date of the commencement of the local restrictions (LCAL2 or LCAL3).
- 4.2 One grant can be awarded per qualifying hereditament. Where the business is applying for a grant in respect of multiple hereditaments, a separate application must be made for each.

### **Award periods**

- 4.3 It should be noted that, in all cases, grants will be paid for every 28-day period that the criteria are met. Any business failing to meet the criteria will not be awarded a grant.
- 4.4 Currently the Council is able to award grants since 5<sup>th</sup> August 2020. Payments for this period will be made for each 28-day period and for any number of days pro-rata until the widespread national restrictions became effective on 5<sup>th</sup> November 2020.

## **5.0 Excluded businesses**

- 5.1 The following businesses will **not** be eligible for an award:
- (a) Businesses that are able to continue to trade and are not severely impacted as they can continue to provide their services normally;
  - (b) Businesses in areas outside the scope of the localised restrictions, as defined by Government;
  - (c) 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;
  - (d) Businesses that were in administration, are insolvent or where a striking-off notice has been made at the date of the local restriction or national restriction;
  - (e) Specific businesses subject to national closures since 23<sup>rd</sup> March 2020 will not be eligible for this funding. They will be provided support through the strand of the Local Restrictions Support Grant (Sector) for nationally mandated business closures;
  - (f) Non business ratepayers;
  - (g) Businesses outside the specified sectors (i.e. not in leisure, hospitality, hotels or Bed and Breakfast).

## **6.0 The Effective Date**

- 6.1 The effective date for eligibility of grants under this scheme is the date of the local restrictions. The first date of this scheme within the Council's area is 5<sup>th</sup> August 2020.
- 6.2 Where a business is shown in the local non-domestic rating list the Rateable Value used in determining the level of grant will be that shown for the hereditament in the local rating list as at the effective date. 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.
- 6.3 The Council is not required to adjust, pay or recover grants where the local rating list is subsequently amended retrospectively to the effective date.

## **7.0 Who can receive the grant?**

- 7.1 Government has stated that the person who will receive the grant will be, where the business has a hereditament in the local non-domestic rating list, the person who, according to the Council's records, was the ratepayer in respect of the hereditament at the effective date.
- 7.2 If, at its sole discretion, the Council makes this grant scheme available to non-business ratepayers, details will be published on its website. In this event where the applicant is a non-business ratepayer the Council will decide who should receive the grant.

- 7.3 Where the Council has reason to believe that the information it holds about the ratepayer or business at the effective date is inaccurate, it may withhold or recover the grant and take reasonable steps to identify the correct ratepayer.
- 7.4 Where, it is subsequently determined that the records held are incorrect, the Council reserves the right to recover any grant incorrectly paid.
- 7.5 Where any business or individual 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 business or individual is found to have falsified records in order to obtain a grant.

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

- 8.1 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 (Open) scheme will offer a lifeline to businesses who are struggling to survive during the COVID-19 crisis.
- 8.2 Details of how to obtain grants are available on the Council's website:  
[https://www.pendle.gov.uk/info/20002/business/539/covid-19\\_support\\_for\\_businesses](https://www.pendle.gov.uk/info/20002/business/539/covid-19_support_for_businesses)
- 8.3 In all cases businesses will be required to confirm that they are eligible to receive the grants. This includes where the Council already has bank details for the business and are in a position to send out funding immediately. Businesses are under an obligation to notify the Council should they no longer meet the eligibility criteria for any additional grants.
- 8.4 The Council reserves the right request any supplementary information from businesses, and they should look to provide this, where requested, as soon as possible.
- 8.5 An application for a Local Restrictions Support Grant (Open) is deemed to have been made when a duly completed application form is received via the Council's online procedure.
- 8.6 All monies paid under this scheme will be funded by Government and paid to the Council under S31 of the Local Government Act 2003.

## **9.0 EU State Aid requirements**

- 9.1 This grant counts towards the total 'de minimis' state aid you're allowed to get over a 3-year period (being the current and previous two financial years) of €200,000. If the business has reached the 'de minimis' threshold, it may still be eligible for funding under the COVID-19 Temporary Framework. The limit for this framework is €800,000
- 9.2 The business will be required to declare that it was not an 'undertaking in difficulty' on 31st December 2019, that it is eligible for this aid and, if awarded, that the business will not exceed its State Aid threshold.



## **10.0 Scheme of Delegation**

10.1 The Council has approved this scheme.

10.2 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.

## **11.0 Notification of Decisions**

11.1 Applications will be considered on behalf of the Council by the Revenues and Benefits Service.

11.2 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.

## **12.0 Reviews of Decisions**

12.1 The Council's decision will be final.

## **13.0 Complaints**

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

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

14.1 The Council has been informed by Government that all payments under the scheme are taxable.

14.2 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.

14.3 All applicants should note that the Council is required to inform Her Majesty's Revenue and Customs (HMRC) of all payments made to businesses.

## **15.0 Managing the risk of fraud**

15.1 Neither the Council, nor Government will accept deliberate manipulation of the schemes 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.

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

## **16.0 Recovery of amounts incorrectly paid**

16.1 If it is established that **any** award has been made incorrectly due to 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.

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

17.1 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.