



Borough of Pendle Council Additional Restrictions Grants (ARG) Scheme Effective 5th January 2021

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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 9th 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 Covid Alert Level’ (LCAL) means the level of alert determined by Government and Local Authorities for the area. LCALs have four Tiers. Tier 1 (Medium): Tier 2 (High), Tier 3 (Very High) and Tier 4 (Stay at home). For the purposes of these schemes the definitions used are LCAL1, LCAL2, LCAL3 and LCAL 4.

‘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 which is applicable to businesses forced to close under either LCAL2 or LCAL3;

Local Restrictions Support Grant Scheme (Closed Addendum) Tier 4; means the grant scheme which is applicable to businesses forced to close under LCAL4;

Local Restrictions Support Grant Scheme (Closed) Addendum 5th January 2021 onwards; means the grant scheme which is applicable to businesses forced to close under widespread national restrictions from 5th January 2021;

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 22nd October 2020 and which is applicable to businesses that are still

open but severely impacted by the restrictions imposed by LCAL2 and LCAL3. It does not apply in LCAL 4;

Local Restrictions Support Grant Scheme (Sector); means the grant scheme which is applicable to businesses that have been required to close on a national basis since 23rd March 2020 due to restrictions being put in place to manage coronavirus. This scheme does not apply in LCAL4

'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 second round of its Additional Restrictions Grant Scheme (ARG). The Council, as the Business Rates Billing Authority is responsible for payment of these grants.
- 1.2 This discretionary 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 whereby an additional restriction grant payment may be made by the Council to a business which has to close or are severely affected due to localised or widespread national restrictions being put in place to manage coronavirus and save lives.
- 1.3 Whilst the awarding of grants will largely be at the Council's discretion, the Department for Business, Energy & Industrial Strategy (BEIS) has set down certain criteria which **must** be met by each business making an application.
- 1.4 The scheme applies where local restrictions (LCAL3 or higher) are put in place **or** where a widespread national lockdown is announced.
- 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 National restrictions are nationally binding widespread restrictions imposed by Parliament under legislation. The current national restrictions are made under the Health Protection (Coronavirus, Restrictions) (England) (No. 4) Regulations 2020.
- 1.7 Grant funding under this scheme will be available for the 2020/21 and 2021/22 financial years only.
- 1.8 Where any area enters either a localised restriction (LCAL3 or higher) or where a national restriction applies, additional assistance may be given to businesses under the Council's Local Restrictions Support Grants (Closed) Scheme (as amended).

2.0 Funding

- 2.1 Under the Additional Restrictions Grant Scheme (ARG) provisions, Local Authorities receive limited payments when local restrictions (LCAL3 or above) or widespread national restrictions are imposed.
- 2.2 Given the funding is fixed and covers the period to March 2022 it is difficult to design a grant scheme against the backdrop of uncertainty caused by the ongoing pandemic. Therefore, the Council will maintain this policy under review and reserves the right to either replace, suspend or vary its policy based on the initial and ongoing experience of the grant scheme and in the light of changing local circumstances.

3.0 Eligibility criteria and awards from 5th January 2021

- 3.1 The Council is able to use this funding for business support activities and Government envisage that this will primarily take the form of discretionary grants although it can be used for wider business support activities.
- 3.2 Under this scheme funding is available to support businesses who:
- (a) occupy **business premises** for which they are not the business ratepayer and the business has been required by law to close for the current period of national lockdown due to COVID-19 restrictions; or
 - (b) occupy **business premises** for which they are not the business ratepayer and the business supplies goods or services to the retail, hospitality and leisure sectors or is operating in the events sector and is closed for the period of lockdown due to the severe impact on trading as a result of the restrictions; or
 - (c) occupy **business premises** and have remained open during the period of restrictions, but where trading has been severely impacted by the restrictions.
- 3.3 For the purpose of this scheme business premises are those recorded on the Council's Non-Domestic rating list as at the 5th January 2021. Any retrospective changes to the rating list made after this date will be ignored for the purposes of grant eligibility
A limited exception may be made at the sole discretion of the Council for businesses severely impacted which:
- (i) do not occupy business premises and*
 - (ii) employ less than 10 people and*
 - (ii) supply the retail, leisure, hospitality or events sectors.*

Eligibility Criteria

- 3.4 The Council has decided that businesses may be eligible if it:
- is located and trades in Pendle;
 - was trading on the day restrictions came into force (5 January 2021). If the business was closed as a result only of the Tier 4 restrictions in Pendle this will not prevent it from meeting this criteria). Trading means actively buying and selling goods or services, but excludes activities undertaken for the purposes of acquiring or setting up a proposed new business;
 - does not fall within the list of excluded businesses shown below;
 - has less than 250 employees on its payroll;
 - is not entitled to a grant under the Local Restrictions Support Grant (Closed Addendum) scheme (this is a scheme that pays a grant to business ratepayers who are required by law to close during periods of Tier 4 or national lockdown restrictions);
 - has ongoing fixed business-related costs (excluding employee costs); and
 - has experienced a significant fall in income due to the local and national restrictions
- 3.5 The Council will give higher priority to businesses in the following sectors:
- Manufacturing businesses that supply the retail, hospitality and leisure sectors;
 - Non-essential retail;
 - Leisure providers;

- Hospitality and Accommodation;
- Businesses which provide goods and services to the retail, hospitality and leisure sectors;
- Personal care and close contact services;
- Businesses in the events sector;
- Hackney Carriage Vehicle Licence Holders (i.e. the red Taxis operating in Pendle); and
- Private Hire businesses;

Award Levels and Frequency

3.6 The Council has decided the following grant award levels:

Business Category <i>(Grants are payable per business and not per business property)</i>	Number of Employees		
	Up to 9	10-49	50-249
Standard Payments	£	£	£
Qualifying businesses that closed	2,000	3,000	4,500
Qualifying businesses that remained open but been severely impacted by the restrictions	1,400	2,100	3,150
Discretionary 'Top Up' Payments			
Qualifying businesses that are required by law to close	3,000	5,000	7,000
Non Standard Payments			
Qualifying businesses not occupying commercial premises	750		
Hackney Carriage Vehicle Licence Holders	750		
Personal Care Services (chair rental)	750		

Standard Payments

- 3.7 A single grant payment will be made covering a 6-week period from 5th January 2021 to 14th February linked to the third national lockdown. If the period of lockdown is extended beyond 14th February, the Council may issue further one-off grant payments depending on the period of additional lockdown.
- 3.8 On expiry of the lockdown period and in the event that qualifying businesses in Pendle remain closed by law under Tier 3 or Tier 4 restrictions the Council may make ongoing payments without the need for a further application (subject to no changes in circumstances that would make the business ineligible for the grant).
- 3.9 The level and frequency of ongoing payments will be published here in due course. Payment cycles may revert to a 4 weekly frequency post lockdown.

Discretionary ‘Top-Up’ Payments

- 3.10 This is a one-off grant payable **in addition** to the standard payments shown above. Businesses that are eligible are those non-business ratepayers that occupy commercial premises (i.e. excludes businesses operating from domestic premises) and which have been mandated to close by Government and include non-essential retail, leisure, personal care, sports facilities and hospitality businesses.

Non-standard Payments

- 3.11 These are payments falling outside the standard payments made under this scheme and recipients of these payments are not eligible for the one-off ‘top-up’ grants.

Amendment of awards

- 3.12 This is a discretionary scheme designed and operated by the Council with funding provided by Government. As a result, the Council has the discretion to:
- vary the amounts and frequency of grant payments taking account of local economic circumstances;
 - vary the priority classes of business falling within the scope of this grant scheme;
 - implement further application rounds adopting different levels of payment and eligibility criteria;
 - stop making payments once the funding allocated by Government has been spent; and
 - use the funding provided by Government for wider more general business support purposes than for the payment of grants only.

Excluded businesses

- 3.13 The following businesses will **not** be eligible for an award and will not qualify if the business:
- (a) is not based in Pendle;
 - (b) can continue to operate effectively remotely despite the restrictions;
 - (c) is entitled to support under the Local Restrictions Support Grant scheme (i.e. business ratepayers legally required to close due to lockdown restrictions);
 - (d) is part of a national chain;
 - (e) has not been severely impacted by the restrictions (i.e. a reduction in turnover of less than 30%);
 - (f) has reached the State Aid Limit under the EU State Aid regulations including the thresholds applicable to De-Minimis State Aid and the Covid-19 Temporary State Aid Framework;
 - (g) is in administration; is insolvent or a striking-off notice has been made
 - (h) is one of the following:
 - Market Trader (without a business rates assessment);
 - Take-away business;
 - Petrol Stations, Garages, Vehicle Repair Workshops and MOT Centres, Vehicle rental services;

- Essential retail businesses (unless trading from within premises that are required to close by law);
- Financial service providers (e.g. banks, building societies, money lenders, credit unions);
- Medical Services (e.g. vets, dentists, doctors, osteopaths, chiropractors, pharmacies);
- Betting Shops;
- Professional Services (e.g. solicitors, accountants, insurance, financial advisers);
- Public Authorities, Utility Providers, Post Offices;
- Estate & Lettings Agents;
- Property related businesses that include:
 - property developers and construction;
 - buy to let businesses;
 - property refurbishment projects; or
 - residential/commercial landlord businesses;
- Funeral Directors; or
- Garden Centres

The Effective Date

3.14 The effective date for eligibility is the 5th January 2021.

Who can receive the grant?

- 3.15 Where the business is subject to non-domestic rating, 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 effective date.
- 3.16 Where there is no entry in the rating list for the business, the Council will decide who should receive the grant.
- 3.17 Where the Council has reason to believe that the information it holds about the business at the effective date is inaccurate, it may withhold or recover the grant and take reasonable steps to identify the correct business.
- 3.18 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 ratepayer is found to have falsified records in order to obtain a grant.

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 Council's Additional Restrictions Grant (ARG) scheme together with other grants will offer a lifeline to businesses who are struggling to survive during the COVID-19 crisis.

- 4.2 Applicants must apply using the application form on the Council's website:
https://www.pendle.gov.uk/info/20002/business/539/covid-19_support_for_businesses
- 4.3 The amount of grant can be substantial in some cases and as the Council is spending public money it may request supporting evidence from applicants to help validate and determine their grant application. Failure to provide the information requested will lead to the grant application being refused.
- 4.4 The application form must be completed by the business owner. If a third-party agent or advisor applies on the business's behalf, the application will be rejected. The only exception to this is if there are accessibility requirements.
- 4.5 There is no closing deadline for the submission of applications. This may change dependent on take up and if so details will be published here and via other Council communications. The Council reserves the right to close this scheme on a date of its choosing and scheme will close in any event once all of the funding allocated to the Council has been allocated.

5.0 EU State Aid requirements

- 5.1 This grant counts towards the total 'de minimis' state aid the business is 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.
- 5.2 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.

6.0 Scheme of Delegation

- 6.1 This scheme has been approved under the Council's Urgency Powers by the Chief Executive in consultation with Group Leaders
- 6.2 Officers of the Council will administer the scheme and the Chief Executive is authorised to make technical scheme amendments to ensure it meets the criteria set by the Council and, in line with Central Government guidance.

7.0 Notification of Decisions

- 7.1 Applications will be considered on behalf of the Council by the Council's Finance Team supported by the Revenues and Benefits Service.
- 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 There is no appeal procedure and the Council's decision is final.

9.0 Complaints

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

10.0 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 the 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.

11.0 Managing the risk of fraud

- 11.1 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.
- 11.2 Applicants should note that, where a grant is paid by the Council, details of each individual grant will 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 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.