



# Dudley Metropolitan Borough Council Additional Restrictions Grants (ARG) Scheme Phase 2 - 3<sup>rd</sup> December 2020 onwards.

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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 (or higher) 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 14<sup>th</sup> October 2020;

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

**‘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 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 and amended on 9<sup>th</sup> October 2020 and which is applicable to businesses forced to close under either LCAL2 or LCAL3 or where national restrictions are in place;

**‘Local Restrictions Support Grant Scheme (Closed) Addendum’;** means the changes made to the Local Restrictions Support Grant Scheme (Closed) due to widespread nationwide restrictions;

**‘Ratepayer’;** means 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 or widespread national 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 Background and rationale for the Additional Restrictions Grant (ARG) phase 2.**

- 1.1 The purpose of this document is to determine eligibility for a payment under the Council's 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 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 Dudley came out of national restrictions on the 2nd of December 2020 following a period of national lockdown. It moved into Tier 3 restrictions from that date; remaining in Tier 3 following the government's 16<sup>th</sup> December review. The Borough moved into Tier 4 on 31st December 2020. National restrictions were then reintroduced on the 5<sup>th</sup> of January 2021.
- 1.4 Phase 2 of ARG adopts the definitions of 'closed' for the Tier 4 element of this period in order to maximise the number of businesses supported. The grant period covers 75 days, therefore grant values for 2A, 2B, 2C, 2D and 2E will be 'pro-rated' from the ARG Round 1 28-day values. The scheme payments also include a proportional one-off payment based upon the Closed Business Lockdown Payment Scheme. These calculations allow for a single application and single payment to be made for the entirety of this eligibility period thus increasing the speed and efficiency with which businesses receive financial support.
- 1.5 The 'community organisation's bar' grant is a single one-off payment and is for organisations with bars selling alcohol (such as community -based social clubs, snooker halls, sports social clubs, for example) that were ineligible for the government's 'Christmas support payment for wet-lead pubs' grant in December 2020.
- 1.6 Voluntary and/or community business-based organisations may apply to this phase of the grant scheme if they meet the full scheme criteria and, in addition, have a business bank account together with a legal structure that matches the following eligible structures:
- Unincorporated association;
  - Trust;
  - Partnership;
  - Company Ltd by Shares (CLS);
  - Company Ltd by Guarantee (CLG);
  - Charitable Incorporated Organisation (CIO);
  - Community Interest Company, limited by shares (CIC – CLS);
  - Community Interest Company, limited by guarantee (CIC – CLG);
  - Limited Liability Partnership;
  - Co-operative Society (previously IPS); and
  - Community Benefit Society (CBS).

## **2.0 Funding.**

- 2.1 Under the Additional Restrictions Grant Scheme (ARG) provisions, Local Authorities receive funding from Central Government.
- 2.3 The funding available to the Council must be used by 31<sup>st</sup> March 2022.
- 2.4 The Councils Additional Restrictions Grant may also be used to cover the costs of grants paid to businesses properly eligible under the former SBGF, RHLGF or Discretionary Grant Funds, but where these cannot be met from the allocation originally received from Government e.g. because payment has been delayed pending information from the Valuation Office Agency or the 5% discretionary fund has been exceeded.

## **3.0 Eligibility criteria and awards.**

- 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 Government has stated that the Council *may* also consider making grant payments to those businesses which, while not legally forced to close are nonetheless severely impacted by the restrictions put in place to control the spread of Covid-19. Government has also stated that the Council may also wish to assist business which are outside of the rating system and which are effectively forced to close.

### **Eligibility Criteria – Phase 2 details 3<sup>rd</sup> December 2020 onwards.**

- 3.3 For all of the grant schemes in this phase, the following criteria apply:
- Applications must be submitted prior to the application deadline of the 31<sup>st</sup> of March 2021;
  - Applicants will be required to submit their latest bank statement showing name and address for verification purposes;
  - Applicants will be required to submit evidence that they were trading on the 4<sup>th</sup> of November 2020 - before the first full day of the national lockdown restrictions (commonly known as ‘the second lockdown’). However, if eligible businesses commenced trading after this period, they will need to prove that they were trading on the day before the national restrictions for their type of business came into force; and
  - Businesses that are in administration, insolvent or where a striking-off notice has been made are not eligible for funding under this scheme.
- 3.4 Payments will be subject to State Aid / subsidy regulations as defined later within the scheme

## **2A Businesses that are legally required to close and have commercial premises, but that do not have business rates liability.**

- To include businesses in shared premises, serviced workspace and premises that do not have their own RV or business rates liability;
- Applicants will be required to self-declare that they have legally been required to close by the Health Protection (Coronavirus, Restrictions) (All Tiers) (England) Regulations 2020 (legislation.gov.uk) (available at [The Health Protection \(Coronavirus, Restrictions\) \(All Tiers\) \(England\) Regulations 2020 \(legislation.gov.uk\)](#));
- Applicants will be required to provide evidence that they have fixed commercial property-related costs.

## **2B - Businesses that are legally required to close and do not have commercial premises.**

- To include market traders, peripatetic businesses that hire multiple facilities, home-based businesses, Bed & Breakfasts that pay council tax rather than business rates;
- Applicants will be required to self-declare that they have legally been required to close by the Health Protection (Coronavirus, Restrictions) (All Tiers) (England) Regulations 2020 (legislation.gov.uk) (available at [The Health Protection \(Coronavirus, Restrictions\) \(All Tiers\) \(England\) Regulations 2020 \(legislation.gov.uk\)](#));
- Applicants will be required to evidence that they have business-related fixed costs.

## **2C - Businesses that are not legally required to close but are significantly impacted by the national and/or tier restrictions – businesses with business rates liability.**

- Businesses will be required to self-declare that they supply the majority of their goods/services directly into *hospitality, events and leisure sector*;
- Applicants will be required to provide their business rates account number.

## **2D -Businesses that are not legally required to close but are significantly impacted by the national and/or tier restrictions – businesses with commercial premises but that do not have business rates liability.**

- Businesses will be required to self-declare that they *supply the majority of their goods/services directly into hospitality, events and leisure sector*;
- Businesses will be required to provide evidence that they have fixed commercial property-related costs.

## **2E - Businesses that are not legally required to close but are significantly impacted by the national and/or tier restrictions – businesses that do not have commercial premises.**

- Businesses will be required to self-declare that they supply the majority of their goods/services directly into the *hospitality, events and leisure sector*.
- Grant value for £2,000 for the restrictions period (ending 16 February 2021).

- Businesses will be required to evidence that they have business-related fixed costs.

**2F - Christmas grant for organisations that operate for a community and that have a bar selling alcoholic beverages, which were severely impacted by government restrictions in this period (02/12/2020 – 29/12/2020).**

- This one- off grant supports community organisations, sports and social clubs, snooker halls or similar community-based social clubs which have a bar selling alcoholic beverages and have been severely impacted over this Christmas period due to temporary local tiered restrictions, but that were not eligible for the national Christmas Support Payment (CSP).
- Organisations must show that they are structured for trade (i.e. have a trading entity and structure, for example as a limited company, company limited by guarantee, co-operative, or have charitable status with a trading arm).
- Organisations applying for this grant must provide accounting evidence that their bar trade was severely impacted as a result of restrictions during this period. These accounts should be dated no later than 11 March 2020 (covering a period when trade was not affected by Covid-19).

**Award Levels.**

3.5 The Council has decided the following grant award levels will apply for each of the categories:

Category	Period		Award
2A	For the restrictions period (ending 16 <sup>th</sup> February 2021)		£7,500
2B	For the restrictions period (ending 16 <sup>th</sup> February 2021)		£2,800
2C	For the restrictions period (ending 16 <sup>th</sup> February 2021)	Rateable Value of £15k or less	£5,300
		Rateable Value of over £15k but less than £51k	£8,000
		Rateable Value of £51k or over	£12,000
2D	For the restrictions period (ending 16 <sup>th</sup> February 2021)		£5,300
2E	For the restrictions period (ending 16 <sup>th</sup> February 2021)		£2,000
2F	For the restrictions period 2 <sup>nd</sup> December 2020 until 29 <sup>th</sup> December 2020		£1,000

**Excluded businesses – both local and national restrictions.**

- 3.6 The following businesses will **not** be eligible for an award:
- (a) Businesses in areas outside the scope of the localised restrictions, as defined by Government and not subject to a widespread national restriction;
  - (b) For businesses in 1A or 1B above, that have chosen to close but not been required to, will not be eligible;

- (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; and
- (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 widespread national restriction.

### **The Effective Date.**

- 3.7 The effective date for eligibility is the date of the widespread national restrictions (the 4<sup>th</sup> November 2020)

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

- 3.8 In **all** cases, Government has stated that 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. Where there is no entry in the rating list for the business, the Council will have discretion to determine who should receive the grant.
- 3.9 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 recipient.
- 3.10 Where, it is subsequently determined that the records held are incorrect, the Council reserves the right to recover any grant incorrectly paid.
- 3.11 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 the Local Restrictions Support Grant (Closed) will offer a lifeline to businesses who are struggling to survive during to the COVID-19 crisis.
- 4.2 Details of how to obtain grants are available on the Council and Dudley Business First websites:  
<https://www.dudley.gov.uk/council-community/emergencies/coronavirus/coronavirus-business-advice/>  
<https://www.dudleybusinessfirst.org.uk/coronavirus-business-guidance/financial-help-for-businesses/>

- 4.3 In all cases, businesses will be required to confirm that they are eligible to receive the grants. This includes circumstances 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.
- 4.4 The Council reserves the right request any supplementary information from businesses, and they should look to provide this, where requested, as soon as possible.
- 4.5 An application for an Additional Restriction Grant is deemed to have been made when a duly completed application form is received via the Council's online procedure.

## **5.0 EU State Aid requirements.**

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

## **6.0 Scheme of Delegation.**

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

## **7.0 Notification of Decisions.**

- 7.1 Applications will be considered on behalf of the Council by the Revenues and Benefits 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 The Council will operate an internal review process and will accept an applicant's request for a review of its decision.

8.2 All such requests must be made in writing to the Council within 14 days of the Council's decision and should state the reasons why the applicant is aggrieved with the decision of the Council. New information may be submitted at this stage to support the applicant's appeal.

8.3 The application will be reconsidered by a senior officer, as soon as practicable and the applicant informed in writing or by email of the decision.

## **9.0 Complaints.**

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

## **10.0 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 may be passed to Government.

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

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