



Tonbridge & Malling Borough Council Christmas Support Payment for wet-led pubs

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Definitions

The following definitions are used within this document:

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

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

'Effective date'; means, for eligibility of the grant;

'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 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 and which is applicable to businesses forced to close under either LCAL2, 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 and which is applicable to businesses that are still open but severely impacted by the restrictions imposed by LCAL2 and LCAL3;

'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 Christmas Support Payment (CSP) scheme for wet-led pubs.
- 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 1 December 2020, to introduce additional support over the festive period for wet-led pubs in areas under LCAL2 or LCAL3 restrictions.
- 1.3 The scheme applies only from 2 December 2020 to 29 December 2020. It is **not** retrospective.

2.0 Funding

- 2.1 Under the Christmas Support Payment (CSP) scheme, the Council will receive a one-off payment amounting to £1,000 per wet-led pub in its area where LCAL2 or LCAL3 restrictions are imposed following the scheduled Tier review dates of 2nd December and 16th December 2020.

3.0 Eligibility criteria and awards

- 3.1 Government, whilst wanting Councils to exercise their local knowledge and discretion, has set national criteria for the funds within this scheme. In all cases, the Council will only consider businesses for grants where **all** of the criteria are met.
- 3.2 For the purposes of this grant, a **wet-led pub** is defined as a pub that derives **less than 50% of its income from sales of food**.
- 3.3 There is no definitive description of a traditional pub or public house in law that could be readily used by the Council to determine eligibility. However, for the purposes of this grant, pubs should under normal circumstances (without local or national restrictions) be described as:
 - open to the general public;
 - allow free entry (other than when occasional entertainment is provided); and
 - allow drinking without requiring food to be consumed and permit drinks to be purchased at a bar.
- 3.4 The definition of a pub will **exclude** (but is not limited to):
 - restaurants;
 - cafes;
 - nightclubs;
 - hotels;
 - snack bars;
 - guesthouses;

- boarding houses;
- sporting venues;
- music venues;
- festival sites;
- theatres;
- museums;
- exhibition halls;
- cinemas;
- concert halls; and
- casinos

The Effective Date

3.5 Businesses must have been trading on 30th November (the day before this scheme was announced), to be eligible to receive funding under this scheme. Where local restrictions are preceded by national ‘lockdown’ measures, requiring the closure of businesses that are otherwise eligible, it is accepted that those businesses are still trading.

Awards

3.6 This is a **one-off** payment.

3.7 The Council, where its area is under LCAL 2 or LCAL 3 for all or part of the period between 2nd and 29th December 2020, will pay a £1,000 flat-rate grant to wet-led pubs.

3.8 Where a grant is issued, the business that according to the Council’s Non-Domestic rating records was the ratepayer in respect of the hereditament on 1st December is eligible to receive the grant. Where the Council has reason to believe that the information that they hold about the ratepayer is inaccurate it may withhold or recover the grant and take reasonable steps to identify the correct ratepayer. For the sake of clarity, the grant is for the ratepayer **only** and may be liable for recovery if the recipient was not the ratepayer on the eligible day.

3.9 Businesses that are also in receipt of other Local Restrictions Support Grants (CLOSED) or (OPEN) can also receive this grant.

Excluded businesses

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

- (a) Pubs that derive over 50% of their income from food sales will not be eligible to receive funding through this grant scheme;
- (b) Businesses in areas moving from LCAL1 to LCAL 2 or LCAL3 after 29th December will **not** be eligible to receive funding;
- (c) Businesses that have already received grant payments that equal the maximum levels of State aid permitted under the de minimis, the COVID-19 Temporary State Aid

- Framework and all other UK schemes under the terms of the European Commission's Temporary Framework will not be eligible to receive funding: and
- (d) Businesses that are in administration, insolvent or where a striking-off notice has been made, are not eligible for funding under this scheme.

The Rating List

- 3.11 In **all** cases, the following must have existed at the effective date:
- The hereditament **MUST** be shown in the local rating list as at the effective date;
 - Any changes to the local rating List (to the hereditament) after that date, including changes which have been backdated to this date, will be ignored for the purposes of eligibility;
 - The Council is not required to adjust, pay or recover grants where the local rating list is subsequently amended retrospectively to the effective date; and
 - In cases where it was factually clear to the Council that, at the effective date, the local rating List was inaccurate on that date, the Council *may* withhold the grant and/or award the grant based on their view of who would have been entitled to the grant had the list been accurate.

The Ratepayer

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

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 Christmas Support Payment scheme 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's website:
www.tmbc.gov.uk/localrestrictions
- 4.3 This scheme will close on 29th December 2020. Final applications must be received by the Council by 31st January 2021.
- 4.4 As part of the application process for the scheme, all pubs will be required to self-certify that they meet all eligibility criteria.
- 4.5 The Council may request that pubs provide accounting evidence that they derive under 50% of their income from food sales to determine that the pub is wet-led. These accounts should be dated no later than 11 March 2020 (covering a period when trade was not affected by COVID-19).
- 4.6 Businesses established after 11 March 2020 and before 1 December will still be eligible for this grant and may be asked to supply accounting evidence to the Council that they derive under 50% of their income from food sales covering the period that they have been open.
- 4.7 The Council reserves the right request any supplementary information from businesses, and they should look to provide this, where requested, as soon as possible.
- 4.8 An application for a Christmas Support Payment 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 Local Restrictions Support Grant is given as aid under the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak published on 19 March 2020. This means that businesses receiving support under these provisions can receive up to €800,000 in aid over three years (being the current and the previous two years).
- 5.2 Any grant awarded is required to comply with the EU law on State Aid. This will involve the applicant declaring to the Council if they have received any other de minimis State aid or aid provided under the EU Commission COVID-19 Temporary Framework.
- 5.3 If the applicant has not received any other de minimis State aid, they 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 Director of Finance & Transformation 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.