



# Tonbridge & Malling Borough Council Additional Restrictions Grants (ARG) Scheme January 2021 onwards (Lockdown Support)

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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

**‘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 Purpose of the Scheme and background.**

- 1.1 The purpose of this document is to determine eligibility for a payment under the Council's Additional Restrictions Grant Scheme (ARG) from 5<sup>th</sup> January 2021 onwards (the lockdown support scheme). 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 Whilst the awarding of grants will largely be at the Council's discretion, the Department for Business, Energy & Industrial Strategy (BEIS) has set down criteria which **must** be met by each business making an application.
- 1.4 The scheme applies during the current widespread national lockdown.
- 1.5 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.
- 1.6 Grants under the Additional Restrictions Grants scheme (ARG) will be available for the 2020/21 and 2021/22 financial years only.
- 1.7 No grant shall be paid under this particular scheme for any period where the localised or widespread national restrictions were in place prior to 5<sup>th</sup> January 2021.

## **2.0 Funding**

- 2.1 Under the Additional Restrictions Grant Scheme (ARG) provisions, the Council has been granted £3.8m in total. This is to cover all local and national restriction periods until 31<sup>st</sup> March 2022.
- 2.2 This scheme forms part of a series of schemes designed to assist businesses through both local and national restriction periods.

### 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 If Local Authorities use the Additional Restriction Grant for direct business support grants, Government has stated that the same conditions of grant **must** apply as for the Local Restrictions Support Grant (Closed) scheme. However, the Council will have the discretion to alter the amount of funding offered to individual businesses and the frequency of payment.
- 3.3 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

- 3.4 For the purposes of this particular scheme the Council has decided that funding will be available as follows:
- (a) Businesses that have been forced to close, where companies are not covered under the Local Restrictions Support Grant (Closed) Scheme OR businesses significantly affected by business closures caused by national restrictions.
  - (b) Businesses with a registered address in the Tonbridge & Malling Borough Council area will be eligible for this scheme. The business will need to be trading within the Tonbridge & Malling Borough. Where a business is registered in another council area (although has a presence in the Borough) the council will take a discretionary view on a case-by-case basis.
  - (c) Businesses that have been actively trading at the 5<sup>th</sup> January 2021.
- 3.5 Discretionary Grants will be paid subject to State Aid / Subsidy regulations, meaning the business needs to check that they comply with State Aid rules and inform the Council accordingly prior to payment being made. If these rules are breached the responsibility lies with the applicant and, in line with the legislations, the Council can take action to recover the funding.
- 3.6 Top Up grants for the Local Restriction Support Grant scheme will not be paid out to businesses except in very exceptional circumstances to those businesses with a demonstrable economic impact in the Borough who can demonstrate significant and fundamental loss of income and high costs due to National lockdown.
- 3.7 Where businesses feel they fit this criterion, contact with the Council via [economic.regeneration@tmbc.gov.uk](mailto:economic.regeneration@tmbc.gov.uk) will need to be made prior to an application being accepted.

- 3.8 This specific (Lockdown) scheme is ONLY aimed at supporting businesses which have not been able to access other lockdown grants for the Winter 2021 (Jan-Feb 2021) period – either because they are not subject to non-domestic rating (a business rates account) or were not legally required to close, and yet have nonetheless been severely impacted by the current lockdown aimed at controlling the spread of Covid-19.
- 3.9 If the business has been required to close during this period, and has a business rates account, then you will need to contact the Council's Business Rates Team via [inspectors@tmbc.gov.uk](mailto:inspectors@tmbc.gov.uk).
- 3.10 In addition to the Additional Restrictions Grant (ARG) scheme, the Council may award a Hospitality and Leisure Supplement. This can be paid in addition to other discretionary awards or in addition to any other mandatory grant schemes.
- 3.11 The Hospitality and Leisure Supplement (HLS) is ONLY aimed at supporting the following businesses that have been severely adversely affected by the January onwards Lockdown:
- Restaurants;
  - Cafes and Canteens;
  - Pubs and Bars;
  - Social Clubs;
  - Sports and Leisure Facilities;
  - Hotels and Bed & Breakfast businesses; and
  - Entertainment Venues.

## **Award Levels**

### **The ARG Scheme:**

- 3.12 The ARG Scheme is prioritised for the following types of business:
- Businesses in the Retail, Hospitality and Leisure sector;
  - Businesses that supply the Retail, Hospitality and Leisure sector;
  - Business in the Arts, Entertainment and Events sector;
  - Businesses in shared offices or other flexible workplaces; and
  - Home-based businesses.
- 3.13 This list is not exhaustive and businesses outside the above list are also invited to apply
- 3.14 Grants awarded through the ARG scheme by Tonbridge & Malling Borough Council will be capped at £13,500. For businesses with a business rates account that are eligible for this scheme, the grant levels will aim to mirror the amounts on offer via the Closed Businesses Lockdown Payment Scheme and the LRSG (Closed) Addendum Grant Scheme:
- £13,500 (£9,000 one-off bonus plus £4,500 lump sum) for businesses with a rateable value of £51,000 and over;

- £9,000 (£6,000 one-off bonus plus £3,000 lump sum) for businesses with a rateable value of £15,001 to £50,999; and
- £6,001 (£4,000 one-off bonus plus £2,001 lump sum) for businesses with a rateable value of £1 to £15,000.

3.15 For businesses without a business rates account that are eligible for this scheme, the following is an **indicative** breakdown of likely awards:

- £13,500 for larger local businesses with high fixed costs (over 20 employees);
- £9,000 for small businesses with high fixed costs (5-20 employees);
- £6,001 for micro businesses with high fixed costs (0-4 employees); and
- £2,000 for homebased businesses.

### **Hospitality and Leisure Supplement (HLS)**

3.16 Only businesses operating in the sectors listed in 3.11 are eligible for this fund. Grants awarded through the HLS scheme will be capped at £4,500.

3.17 For businesses with a business rates account that are eligible for this scheme, the grant levels will be as follows:

- £4,500 for businesses with a rateable value of £51,000 and over;
- £3,000 for businesses with a rateable value of £15,001 to £50,999; and
- £2,000 for businesses with a rateable value of £1 to £15,000.

3.18 For businesses without a business rates account, the following is an indicative breakdown:

- £4,500 for larger local businesses with high fixed costs (over 20 employees);
- £3,000 for small businesses with high fixed costs (5-20 employees); and
- £2,000 for micro businesses with high fixed costs (0-4 employees).

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

3.19 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) Businesses 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;
- (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; and
- (e) Businesses not located within or able to demonstrate trade within the Tonbridge & Malling Borough Council area.



## **The Effective Date**

3.20 The effective date for this particular scheme is 5<sup>th</sup> January 2021.

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

3.21 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.

3.22 Where the Council has reason to believe that the information it holds at the effective date is inaccurate, it may withhold or recover the grant and take reasonable steps to identify the correct recipient.

3.23 Where, it is subsequently determined that the records held are incorrect, the Council reserves the right to recover any grant incorrectly paid.

3.24 Where any business 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's website:  
[www.tmbc.gov.uk/localrestrictions](http://www.tmbc.gov.uk/localrestrictions)

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 and all applications must be made within 30 days after the end of either the widespread national have ended.

## **5.0 Subsidies and EU State Aid**

- 5.1 The EU State aid rules no longer apply to subsidies granted in the UK following the end of the transition period.
- 5.2 The United Kingdom remains bound by its international commitments, including subsidy obligations set out in the Trade and Cooperation Agreement (TCA) with the EU.
- 5.3 The Council can still pay out subsidies under previously approved schemes and this includes subsidies related to COVID-19 that have previously been given under the EU State aid Temporary Framework.

## **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 staff from the Economic Development Team, in consultation with the Revenues and Benefits Team and the Director of Finance & Transformation.
- 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 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 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.