

## WEST SUSSEX DISTRICT COUNCIL'S

### ADDITIONAL RESTRICTIONS DISCRETIONARY GRANT AND TIER 2/3 LOCAL RESTRICTIONS SUPPORT DISCRETIONARY GRANT GUIDELINES

1. The West Sussex local authority Boroughs and Districts utilising these guidelines are:
  - Adur District Council
  - Arun District Council
  - Chichester District Council
  - Crawley Borough Council
  - Horsham District Council
  - Mid Sussex District Council
  - Worthing Borough Council
2. This guidance sets out the guidelines under which businesses in West Sussex will qualify to make an application to the Local Authority Additional Restrictions Discretionary Grants and the Tier 2/3 Local Restrictions Grants (Open) Fund (as appropriate), and the evidence required to support an application, and is aligned with the government guidance for the Additional Restrictions Grant and the Local Restrictions Support Grant (Open) both issued on 3<sup>rd</sup> November 2020 and any revisions at later dates, which can be found via this link:-  
<https://www.gov.uk/government/publications/local-restrictions-support-grants-lrsg-and-additional-restrictions-grant-arg-guidance-for-local-authorities>.
3. Therefore, for the avoidance of doubt any guidance in the Government Guidance also applies to the scheme(s) operating in West Sussex (unless stated otherwise) and should be referred to as well as these local guidelines.
4. The Government suggests that Local Authorities may wish to consider collaborating as they design their discretionary schemes to ensure there is consistency where they are working across a functional economic area. All seven Council's in West Sussex, listed above, have agreed and approved these guidelines, although it is up to each individual Local Authority which grants they approve based upon available resources.
5. Individual Local Authorities in West Sussex reserve the right to review the scheme criteria (and whether or not to have one joint scheme open or two separate grant schemes with an individual or joint claim form) to ensure that financial support is going to those most in need (which may involve additional individual local authority guidance), as well as to help businesses who provide employment to others whilst available resources allow.

## 6. Additional Restrictions Discretionary Grant (ARG) categories

Additional Restriction Grant and Local Restrictions support Grant (Open) funding is a funding payment by the Government to local authorities to be used during 2020/21 and 2021/22 (for Additional Restrictions Grant) to provide support to businesses affected by the COVID19 pandemic. Local authorities are encouraged to provide support to businesses through wider support initiatives, although primarily the support is envisaged to take place in the form of discretionary grant payments

In order to provide an immediate response and emergency support to businesses impacted by the current lockdown the following are confirmed guidelines for distribution of Additional Restrictions and Local Restrictions Support (Open) Grant.

### **Eligible businesses:**

#### 6.1 Businesses who

- Are not entitled to Local Restriction Support Grant (Closed) or Local Restriction Support Grant (Closed Addendum) scheme as they are not responsible for payment of business rates, and
- were open and trading the day before national or local restrictions were imposed for their current claim period, and
- are now required to close under national restrictions (e.g. non-essential market traders, Bed and Breakfast, shared workspace).

#### 6.2 Businesses who

- Are not entitled to Local Restrictions Support Grant (Closed) or Local Restriction Support Grant (Closed Addendum) Scheme as they are not responsible for payment of business rates, and
- were open and trading the day before national or local restrictions were imposed for their current claim period, and
- while not legally forced to close are nonetheless severely impacted by the restrictions put in place to control the spread of COVID19 (e.g. businesses which supply the retail, hospitality, and leisure sectors, or businesses in the events sector).

#### 6.3. Businesses who

- Are not eligible or did not apply under any other grant scheme, for example, may have qualified for Local Restrictions Support Grant (Closed) or Local Restriction Support Grant (Closed Addendum) scheme but are waiting for a business rate valuation decision from the independent Valuation Office Agency or who began trading before or on the 5<sup>th</sup> November 2020, the 2<sup>nd</sup> December 2020 or 5<sup>th</sup> January 2021 (or a later date as applicable to each scheme), and
- Were open and trading the day before national or local restrictions were imposed for their current claim period, and

- Are either required to close or while not legally forced to close are nonetheless severely impacted by the restrictions put in place to control the spread of COVID19 (e.g. businesses which supply the retail, hospitality, and leisure sectors, or businesses in the events sector, markets, Bed and Breakfast, shared workspaces), and
  - Are having to pay unavoidable fixed property costs during the period of restrictions
- 6.4 Businesses receiving a mandatory Local Restrictions Support Grant (Closed) or Local Restriction Support Grant (Closed Addendum) can also apply for Additional Restrictions Grant. It is up to the discretion of each Local Authority to issue further grant funding to previous recipients eg taxi drivers in further funding rounds.
- 6.5 If a business ratepayer, then Local Restrictions Support Grant (Support) scheme maximum grant levels for that grant will be applicable. If not a ratepayer Local Authority Additional Restrictions Discretionary Grant criteria applied to determine what would have been applicable under Local Authority Additional Restrictions Discretionary Grant and/or the Tier 2/3 Local Restrictions Grant Support (Open) and grants as detailed in 6.2 and 6.3 above applied. The West Sussex Local Authorities reserve the right to reopen the previous scheme if genuinely missed out due to late start or valuation query.

#### **Exclusions to Additional Restrictions or Local Restrictions Support (Open) Grant funding**

7. Businesses that have already received grant payments that equal the maximum levels of State aid permitted under the de minimis and the COVID19 Temporary State Aid Framework.
8. For the avoidance of doubt, businesses that are in administration, insolvent or where a striking-off notice has been made, are not eligible for funding under this scheme.
9. Certain businesses will not be able to apply for an additional restrictions discretionary grant or local restrictions support (open) grant. This includes Air BnB, due to the limited funding amount available and the shortage of housing available within West Sussex.
10. Businesses that were not trading on the first full day of the respective funding rounds for this discretionary grant scheme. For the purpose of Funding Round 1 of these grants the first full day is the 5<sup>th</sup> November 2020 or for Funding Round 2 the date is the 2<sup>nd</sup> December 2020 or for Funding Round 3 the date is the 5<sup>th</sup> January 2021 (further dates for further funding rounds will be displayed on West Sussex District Council websites).

#### **Local Eligibility Criteria and Payments**

11. Where a business has not been required to close and is affected such as the loss of income by COVID19, then the Councils in West Sussex will consider the fixed costs of

that business, including rent and business rates. Where the business does not pay rent or business rates, then the Council's will consider other unavoidable business related fixed costs, and will be able to estimate the rateable value of the premises that the business is operating from. Fixed costs must normally be in the name of the business applying for a grant.

12. Priority will be given to those businesses that, whilst not being required to close, have been affected by the closure of other businesses, and in particular those businesses in the supply chain to those closed businesses. This would include businesses that supply the retail, hospitality and leisure sectors, or businesses in the events sector.
13. Any business applying must be operating within the boundaries of the relevant West Sussex Council.
14. Local Councils in West Sussex will prioritise businesses and organisations that provide support to local communities within the Local Authority area, and where the restrictions have impacted on their income, that are highly likely to flourish after COVID19.
15. Councils in West Sussex may also take into account the number of employees and the scale and risk of potential job losses, whether businesses have had to close operations and are unable to trade online, and the consequent scale of impact of COVID19 losses.
16. Businesses will be required to demonstrate that they have been severely impacted by the national or local tier restrictions. As well as meeting the criteria it is the intention for the discretionary additional restrictions grants to support local businesses whose intention it is to continue to trade and do business in the local area after COVID19.
17. Awards will be made to cover the relevant national or local restriction period, initially four weeks from 5<sup>th</sup> November 2020 to 1<sup>st</sup> December 2020 and then six weeks from the 5<sup>th</sup> January 2021 to the 15<sup>th</sup> February 2021, in line with grants paid under the Local Restrictions Support Grant Scheme (Closed Addendum). Further awards will be made to cover the Tier 2 Local Restrictions Grant Scheme as appropriate from the 2<sup>nd</sup> December 2020 to the 25<sup>th</sup> December 2020 and any subsequent Tier 2, 3 or 4 periods.
18. Whilst the payment of grants previously will not exclude a business from applying this may be a factor included when deciding to award a grant and/or the level of any grant. One grant claim can be made per property in any funding round although it is at the discretion of each individual Council to award any grant for each funding window.
19. The grant levels and eligibility criteria are presented below (these updated amounts are valid from the Additional Restrictions Grant (ARG) Funding Window 2 from the 14<sup>th</sup> December 2020:-).

| Category   | Grant Amount   |
|--|--|
| <ul style="list-style-type: none"> <li>• Eligible mobile sole trader (eg taxi driver) unable to trade (or severe loss of income due to COVID19) or local business with West Sussex registered trading address, trading on or before 5<sup>th</sup> November 2020 (or subsequent date). The taxi driver is paid based on which Local Authority the license fee is paid to.</li> <li>• At least £250 in rent or flexible licence fee per calendar month. / Eligible taxi driver, unable to trade (or must prove severe loss of income) with ongoing costs. This will only be paid to taxi drivers that live in the District/Borough that they are claiming.</li> </ul> | <p>Up to £1,000 (£400 for Taxi Drivers) per Additional Restrictions Grant (ARG) funding round.</p> |
| <ul style="list-style-type: none"> <li>• Eligible market trader unable to trade or local business with West Sussex* registered trading address, trading on or before 5<sup>th</sup> November 2020 (or subsequent date)</li> <li>• At least £250 in rent or flexible licence fee per calendar month. / Eligible market trader, unable to trade (or must prove severe loss of income) with ongoing costs.</li> </ul>   | <p>Up to £1,000 per Additional Restrictions Grant (ARG) funding round.</p>                         |
| <ul style="list-style-type: none"> <li>• Businesses occupying a commercial property on the local authority ratings list, with a Rateable Value of £15,000 or less</li> <li>• Where there is no Rateable Value, then businesses paying rent of £15,000 per annum (£1,250 per month) or less</li> <li>• If no Rateable Value or rent, then the local authority may estimate the rateable value or rent of the property where the business is based, or take into account other business related fixed costs in the name of the business, with a value of £15,000 or less per annum</li> <li>• Unable to trade or must prove severe loss of income.</li> </ul>          | <p>Up to £4,000 per Additional Restrictions Grant (ARG) funding round.</p>                         |

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|---|---|
| <ul style="list-style-type: none"> <li>• Businesses occupying a commercial property on the local authority ratings list, with a Rateable Value of over £15,000 and less than £51,000</li> <li>• Where there is no Rateable Value, then businesses paying rent of over £15,000 and less than £51,000 per annum</li> <li>• If no Rateable Value or rent, then the local authority may estimate the rateable value or rent of the property where the business is based, or take into account other business related fixed costs in the name of the business with a value of over £15,000 and less than £51,000 per annum.</li> <li>• Unable to trade or must prove severe loss of income.</li> </ul> | <p>Up to £6,000 per Additional Restrictions Grant (ARG) funding round.</p>  |
| <ul style="list-style-type: none"> <li>• Businesses occupying a commercial property on the local authority ratings list, with a Rateable Value of over £51,000 or above</li> <li>• Where there is no Rateable Value, then businesses paying rent of £51,000 or above per annum</li> <li>• If no Rateable Value or rent, then the local authority may estimate the rateable value or rent of the property where the business is based, or take into account other business related fixed costs in the name of the business with a value of over £51,000 per annum</li> <li>• Unable to trade or must prove severe loss of income.</li> </ul>   | <p>Up to £9,000 per Additional Restrictions Grant (ARG) funding round.</p>  |
| <ul style="list-style-type: none"> <li>• In exceptional circumstances any local authority in West Sussex may pay above the maximum amounts outlined in the above boxes.</li> <li>• This is at the discretion of the individual Local Authority.</li> <li>• Exceptional circumstances is not defined but need to meet as a minimum 2 conditions – severe loss of income and closure.</li> <li>• Award of exceptional amount grants may be taken into account in the awards of future grants.</li> <li>• Unable to trade or must prove severe loss of income.</li> </ul>  | <p>Up to £25,000 per Additional Restrictions Grant (ARG) funding round.</p> |

### **Additional Restrictions Grant Funding Rounds**

20. The Additional Restrictions Grant Funding Windows are as follows:-  
Round 1 – 16<sup>th</sup> November 2020 to the 13<sup>th</sup> December 2020  
Round 2 – 14<sup>th</sup> December 2020 to the 10<sup>th</sup> January 2021  
Round 3 – 11<sup>th</sup> January 2021 to the 15<sup>th</sup> February 2021
21. Further Additional Restrictions Grant Funding Windows will be posted on all West Sussex District Council websites.

### **The Application Process**

22. The application form will be available online. This electronic form including the declaration must be fully completed with all the required evidence to be considered for a grant.
23. Applications can be made in funding windows that will be advertised by the individual Local Authority. Payments in this funding window will be made by BACS before Christmas where possible. A remittance notice will be emailed to accompany any grant payment.
24. Further funding windows will be offered for further national or local lockdowns and/or if resources are still available.

### **Evidence Required for Discretionary Grant Fund application**

25. In order for an application to be considered, we require businesses to demonstrate that they meet the eligibility criteria stated above. The more meaningful the evidence, the more compelling the grant application will be. We anticipate that to do this, applicants will need to provide as a minimum:
  - Evidence that the property is closed, or partially closed (e.g. a retail premise trading as click and collect only).
  - Proof of identity of sole trader or limited company
  - Evidence of unavoidable fixed property costs incurred by the business such as rent, rates or mortgage payments, this does not include personal or household costs. This should take the form of leases/agreements showing an obligation to pay and bank statements showing that payments have actually been made.
  - Evidence that the business falls within the criteria of those businesses required to close (or partially close) or evidence to demonstrate a substantial loss in income as

a result of the national restrictions. This is likely to be in the form of filed accounts for previous years and management accounts/bank statements for the current period. For example, a minimum of three months bank statements may be required.

- Details of any registration number eg Taxi Drivers.
  - Confirmation of State Aid compliance. There is a requirement for all grants made under this scheme to be state aid compliant
26. Annual property cost will include rent, mortgage payments, insurance, rates, flexible licence fees.
  27. If a business is in a sector that has not been allowed to open / trade during the COVID19 crisis or if a business provides services that are not permitted due to social distancing rules, and have not been able to move to online services, the level of income lost will be more significant to that of business still able to operate but at a reduced level. This will be considered in confirming whether a grant is awarded and the grant amount to be offered.
  28. This application process will allow the Councils to undertake pre-payment checks to confirm eligibility and to allow the individual Council to determine how to use its discretion in relation to the appropriate level of grant.
  29. The Councils will use their discretion in identifying the right business to receive this funding, based on the application process.
  30. The Councils will email or write to the business, stating that by accepting the grant payment, they have confirmed they are eligible under the grant scheme, and that any payments accepted will be in compliance with State Aid requirements.
  31. As a condition of funding we will expect the business applying to sign a declaration stating that they are not committing any fraud and that they are fully complying with any state aid limits, as well as giving the Council permission to share data to check such compliance and that these guidelines are complied with.

### **Decision Making Process**

32. Applications will be determined by authorised Council officers, in consultation with Executive Members where appropriate.
33. All decisions will be communicated by email or in writing to businesses. Decisions will be made as soon as possible after applications are received, after the receipt of further information if required, and after pre-payment assurance checks have been carried out.
34. There is no statutory right of appeal against a decision regarding discretionary business grants. Where a decision is disputed, this will be reconsidered by a different senior officer in consultation where appropriate with an elected member.
35. A business can only challenge the grant decision on a point of law through the court.



### **Payments of Grant and Tax**

36. All payments of grant will be made by a BACS transfer to the company or business' nominated bank account. Bank accounts will be verified by the Councils counter fraud team.
37. These payments are Grants and not Loans, and therefore will not require repayment, unless paid in error or where fraudulent activity is detected.
38. Grant income received by a business is taxable therefore funding paid under the Additional Restrictions Grant or the Local Restrictions Support (Open) Grant scheme will be subject to tax.
39. Only businesses which make an overall profit once grant income is included will be subject to tax.
40. Grant income may also affect the amount of benefit you can or may receive.
41. Each Council reserves the right to not award a grant to landlords when evidence suggests the payment is not being passed onto the tenanted business

### **Liability for Business Rates**

42. Also all Councils in West Sussex will investigate if any business applying shall be liable for business rates, if not already liable, if applicable. Payment of grant funding to a successful applicant will be conditional on the business paying any business rates liabilities arising from this.
43. If the business is liable for business rates and has arrears owed to any West Sussex Council this may stop an additional restrictions discretionary grant being paid. The business may be given the opportunity to clear these arrears.

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

44. The Councils will not accept deliberate manipulation and fraud. Any business that dishonestly provides false or misleading information in communication with any Council, including verbal communication, will be committing a criminal offence contrary to the Fraud Act 2006 and will be subject to a criminal investigation and criminal proceedings may be taken against them.
45. Conditionality of funding will be dependent on the business agreeing to these conditions by confirmation when they complete their electronic application form.
46. Businesses will need to notify their Local Authority if they no longer meet the eligibility criteria for additional grants (for example, if they become insolvent).
47. All information is subject to internal and external audit checks.

### **Sharing Information**

48. By applying for a discretionary grant all applicants give authority to the West Sussex Councils to share data for efficient system administration (including within their own

Authority) and to protect the Public Purse, subject to the Data Protection legislation. This will include sharing data with Sussex and other Local Authorities.

49. The Councils will be required to share data with Government Departments for monitoring and other reasons. By applying for a discretionary grant all applicants give authority for this.
50. The Councils are also required to provide open data, and be transparent about the use of public funding. In accordance with Data Protection Guidelines, this grant recipient data may be subject to being published on Council's websites.