

Cabinet – Supplementary Agenda No.2

A meeting of the Cabinet will be held on:

Date: Tuesday, 8 March 2022

Time: 3.00pm

Venue: Meeting Room 8 - Level 3, Gun Wharf, Dock Road, Chatham ME4 4TR

Agenda

13. Covid-19 Additional Relief Fund, Omicron Hospitality and Leisure Grant and the Energy Bills Rebate (Pages 3 - 34)

For further information please contact Jon Pitt, Democratic Services Officer/Teri Reynolds, Democratic Services Officer on Telephone: 01634 332715/332104 or Email: democratic.services@medway.gov.uk

Date: 4 March 2022

This page is intentionally left blank



CABINET

8 MARCH 2022

COVID-19 ADDITIONAL RELIEF FUND, OMICRON HOSPITALITY AND LEISURE GRANT AND THE ENERGY BILLS REBATE

Portfolio Holder: Councillor Gary Hackwell, Portfolio Holder for Business Management

Report from: Phil Watts, Chief Operating Officer

Author: Patrick Knight, Head of Revenues & Benefits

Summary

This report provides details of the latest Government measures to assist business ratepayers in Medway in response to the Covid-19 pandemic, through the Covid-19 Additional Relief Funding (CARF), Omicron Hospitality and Leisure Grant (OHLG) and the Energy Bills Rebate.

1. Budget and policy framework

- 1.1. Business Rate Relief policy and grants to businesses and individuals where fully funded within existing budget or external grant are a matter for Cabinet.
- 1.2. The Chairman of the Business Support Overview and Scrutiny Committee has agreed that the taking of these decisions are urgent and cannot be reasonably deferred until the next Cabinet meeting on 5 April 2022, in accordance with Section 11 (Cases of special urgency) of the Local Authorities (Executive Arrangements)(Meetings and Access to Information)(England) Regulations 2012 and Rule 17 (Special Urgency) of the Access to Information Rules (Part 2 of Chapter 4 in the Constitution). This is because it is imperative that the Council takes urgent action to support businesses by implementing the government scheme promptly in response to the Covid-19 pandemic and to award the funding before the 31 March 2022.
- 1.3. Additionally, and in line with rule 15.11 of Chapter 4, Part 5 of the Constitution, call-in can be waived where any delay likely to be caused by the call-in process would seriously prejudice the Council's or the Public's interests. The Chairman of the Business Support Overview and Scrutiny Committee has

agreed that the decisions proposed are reasonable in all the circumstances and to them being treated as a matter of urgency and to waive call-in.

- 1.4. The Cabinet is therefore asked to accept this report as urgent for the reasons set out above.

2. Background

- 2.1. On 25 March 2021, the Government announced plans to provide an additional business rates support package, worth £1.5billion nationally, to support businesses in England affected by Covid-19 but not eligible for existing support linked to business rates. The guidance for this scheme was not published until 15 December 2021, when the scheme was named as the Covid-19 Additional Relief Fund (CARF). The scheme is discretionary, however the guidance sets out the scope of CARF and the criteria which local authorities should have regard to when determining the awarding of business rates relief from the fund. Medway's allocation for the CARF is £5,274,267.
- 2.2. On 21 December 2021 the Government announced the introduction of the Omicron Hospitality and Leisure Grant (OHLG) to provide support in the form of grants for hospitality leisure and accommodation businesses in England. The primary principle of the Omicron Hospitality and Leisure Grant scheme is to support businesses that offer in-person services, where the main service and activity takes place in a fixed rate-paying premises, in the hospitality, leisure and accommodation sectors. Medway's allocation for the OHLG is £1,650,087.
- 2.3. On 3 February 2022 the Government announced a package of support known as the Energy Bills Rebate to help households with rising energy bills, worth £9.1billion in 2022/23. This includes:
 - £200 discount on their energy bill this Autumn for domestic electricity customers in Great Britain. This will be paid back automatically over the next 5 years.
 - A £150 non-repayable rebate for households in England in council tax bands A – D, known as the Council Tax Rebate.
 - £144million of discretionary funding for billing authorities to support households who are in need but are not eligible for the Council Tax Rebate, known as the Discretionary Fund.
- 2.4. On 23 February 2022, the Government released guidance on the Council Tax Rebate 2022/23 intended to support billing authorities, such as Medway, in administering the core scheme of Council Tax Rebate for households in bands A-D scheme. The guidance also sets out the scope of the Discretionary Fund with suggested criteria which local authorities should have regard to when determining the awarding of support to other energy bill payers who are not under the terms of the core scheme. Medway's allocation for the Energy Bills Rebate is £15,511,950.

3. Covid-19 Additional Relief Fund (CARF)

3.1. The CARF is a relief available to reduce chargeable amounts for 2021/22. It is for each local authority to design, adopt and implement the scheme within their authority boundary and determine award of financial support under their scheme. It is also for each authority to decide the level of relief for individual hereditaments. The guidance from Government does, however, set out some expectations in how the funding is expected to be used to grant reliefs to eligible businesses:

- not award relief to ratepayers who for the same period of the relief either are or would have been eligible for the Extended Retail Discount (covering Retail, Hospitality and Leisure), the Nursery Discount or the Airport and Ground Operations Support Scheme (AGOSS),
- not award relief to a hereditament for a period when it is unoccupied (other than hereditaments which have become closed temporarily due to the government's advice on COVID-19, which should be treated as occupied for the purposes of this relief), and
- direct support towards ratepayers who have been adversely affected by the pandemic and have been unable to adequately adapt to that impact.

3.2. The Policy for the scheme has been produced by the Council's technical revenues advisors and a draft is set out at Appendix 1. The following changes will be reflected in the final policy which will then be published on the Council's website:

- Section 4.3 of the CARF Policy omits the percentage of award; this will be 60% and the following explanation will be included: This relief is limited to eligible hereditaments with a rateable value in the rating list on 15 December 2021 not exceeding £100,000 i.e., if the rateable value was £100,001 or above it will receive no award.
- A new Section 4.4 will be inserted as follows: "The Chief Operating Officer (Section 151 Officer), in consultation with the Leader of the Council and Portfolio Holder for Business Management, will have discretion to make any additional awards." This is to ensure the Council can distribute the full funding available.
- Section 5.1 will be amended to state: "The council has decided that the hereditaments shown in Appendix A will be excluded from relief under the Council's COVID-19 Additional Relief Fund (CARF) scheme." Appendix A to the policy is provided as Appendix 2 to this report.
- A new Section 7.3 will be inserted as follows: "No further awards will be considered or made once all government funding made available to Medway Council for this scheme has been awarded."
- Section 9.3 will be deleted as awards will instead be made based on entries in the rating list with no application process required.

3.3. It is proposed to restrict award to those businesses with a rateable value less than £100,001 as at 15 December 2021 (the eligible date). This is due to the finite funding, enables increased distribution to smaller affected businesses

and also that larger businesses will be more susceptible to exceeding subsidy allowances requiring them to repay the grant. The

- 3.4. In accordance with the draft policy set out at Appendix 1, 870 businesses have been identified as eligible for CARF payments. Subject to approval of the scheme, this relief will be credited against the relevant business rates accounts. The amount of award will be based upon a fixed percentage rate, it is proposed that an award of 60% will be made, costing £5,132,628 of the fund leaving a contingency of £141,639.

4. Omicron Hospitality and Leisure Grant (OHLG)

- 4.1. The OHLG is a mandatory grant scheme for businesses on the Valuation Office Agency (VOA) ratings list only and is a one-off grant. Eligibility is defined in the guidance as the ratepaying business in respect of the hereditament on 30 December 2021 according to the billing authority's records. The business must have been trading on 30 December 2021 i.e. carrying on a trade or profession, or buying and selling goods or services in order to generate turnover. Fully constituted businesses in liquidation, dissolved, struck off or subject to a striking-off notice are not eligible under these conditions. The guidance requires that where a Local Authority has reason to believe that the information that they hold about the ratepayer is inaccurate they may withhold or recover the grant and take reasonable steps to identify the correct ratepayer.

- 4.2. The guidance includes the following definitions:
- Hospitality is defined as a business whose main function is to provide a venue for the consumption and sale of food and drink.
 - Leisure is defined as a business that provides opportunities, experiences and facilities, in particular for culture, recreation, entertainment, celebratory events, days and nights out, betting and gaming.
 - Accommodation is defined as a business whose main lodging provision is used for holiday, travel and other purposes.

The table overleaf sets out types of businesses that Government guidance states are eligible under the sector thresholds for this scheme. This list is not exhaustive, but indicative of the types of businesses that can be supported under this scheme.

Support type	Types of businesses	
Hospitality	Food courts Public houses/pub restaurants Restaurants	Roadside restaurants Wine bars Cafés
Leisure	Casinos and gambling clubs Cinemas Museums and art galleries Stately homes & historic houses Theatres Zoos & safari parks Amusement parks	Arenas Concert halls Tourist attractions Theme parks Amusement arcades Soft play centres or areas Clubs & institutions

Support type	Types of businesses	
	Wedding venues	Village halls & scout huts, cadet huts, etc
	Events venues	
	Night clubs & discotheques	
Accommodation	Caravan parks	Holiday apartments
	Caravan sites and pitches	Cottages or bungalows
	Chalet parks	Campsites
	Coaching inns	Boarding houses
	Country house hotels	Canal boats or other vessels
	Guest houses	B&Bs
	Hostels	Catered holiday homes
	Hotels	Holiday home
	Lodge	

4.3. The Omicron Hospitality and Leisure Grant will support hospitality, leisure and accommodation business premises with one-off grants of up to £6,000. The following thresholds apply for these businesses:

- Businesses occupying hereditaments appearing on the local rating list with a rateable value of exactly £15,000 or under on 30 December 2021 will receive a payment of £2,667.
- Businesses occupying hereditaments appearing on the local rating list with a rateable value over £15,000 and less than £51,000 on 30 December 2021 will receive a payment of £4,000.
- Businesses occupying hereditaments appearing on the local rating list with a rateable value of exactly £51,000 or over on 30 December 2021 will receive a payment of £6,000.

4.4. Businesses are eligible for this support with effect from 30 December 2021. Local Authorities are required to run an application process for all applicants for the grant and must be satisfied that businesses that have previously received related grants meet the eligibility criteria for the Omicron Hospitality and Leisure Grant. Applications are live on the Council's website and the closing date for applications must be 18 March 2022 as all grant is required to be distributed by 31 March 2022.

5. Energy Bills Rebate

5.1. Medway's total allocation of £15,511,950 consists of the following:

- £14,907,600 for the core scheme of Council Tax Rebate 2022/23; equivalent to a payment of £150 to 99,384 households. Though the government announcement stated that this would be received by households in April 2022, the guidance says this is required to be distributed to eligible households by 30 September 2022.

- £604,350 for the discretionary fund; equivalent to a payment of £150 to 4,029 households. The guidance says this is required to be distributed by 30 November 2022.

5.2. **Core Scheme** – through the core scheme, billing authorities are required to provide a £150 one-off payment to a liable council tax payer (or a person who would otherwise be liable where the property is exempt) for every household that occupies a property which meets all of the following criteria on 1 April 2022:

- It is valued in the valuation list on 1 April 2022 in council tax bands A – D. This includes property that is valued in band E but has an alternative valuation band of band D, as a result of the disabled band reduction scheme. For Medway there are currently 103,147 properties in Bands A-D.
- It is someone's sole or main residence including:
 - It is a chargeable dwelling, or in exemption categories 'Class N' Dwellings occupied students or college leavers or by spouses or dependants of students
 - 'Class S' Dwellings occupied only by persons aged under 18,
 - 'Class U' Dwellings occupied by the severely mentally impaired, and
 - 'Class W'; Occupied annexes.
- The person who is liable to pay the council tax (or would be where the property is exempt) is not a local authority, a corporate body or other body such as a housing association, the government or governmental body. This means that:
 - A property that meets all the criteria but has a nil council tax liability as a result of council tax reduction scheme, **will** be eligible.
 - A property that has no permanent resident and is someone's second home **will not** be eligible.
 - An unoccupied property (for the purposes of calculating council tax) **will not** be eligible.

5.3. **Discretionary Fund** – Councils can determine locally how best to make use of this funding to provide payments to other households who are energy bill payers but not covered by the Council Tax Rebate. This could include households living in property valued in bands E – H (currently 15,514 properties) that are on income related benefits such as Council Tax Reduction (currently 329 claimants in bands E-H) or those where the energy bills payers are not liable for council tax. Given the speed with which the council is required to act, Cabinet is asked to delegate authority to the Chief Operating Officer, in consultation with the Portfolio Holder for Business Management and the Leader, to develop a Discretionary Fund Scheme and associated policy, and to make the necessary arrangements to assess eligibility and determine award of funding to eligible businesses.

5.4. The Council Tax (Demand Notices and Reduction Schemes) (England) (Amendment) Regulations 2022 came into force on 12 February 2022. The regulations require the following explanatory sentence to be included in council tax demand notices (bills) issued to households in respect of 1 April 2022: "The Government is providing a £150 one-off Energy Bills Rebate for most households in council tax bands A-D". The government has also

provided an information leaflet, which will accompany all annual bills. Medway Revenues and Benefits Service will work closely with Communications and Marketing to ensure that households are provided with clear and timely information about the Council Tax Rebate scheme and Discretionary Fund.

- 5.5. Where the council holds live direct debit instructions for a liable council taxpayer of an eligible household, the guidance states that an automatic payment should be made as early as possible in the 2022/23 financial year, provided that there is assurance that the household is eligible and the bank details have been verified. Where multiple residents of an eligible household are jointly and severally liable for council tax, and a council holds live direct debit instructions for that household, the full £150 payment will be made to the direct debit account. Bank details are currently held for 78,332 council tax payers across all bands.
- 5.6. Where the council does not hold live direct debit instructions for an eligible household, all reasonable efforts to contact the household will be made to make them aware of the scheme and invite them to make a claim. The service is currently determining an appropriate claims method, considering the software solutions available to them, but will include an option for residents who are digitally excluded, for example assisted applications by phone. As part of the claims process, councils can choose whether to offer £150 credit to an eligible household's council tax account as a payment option. The service is currently exploring other various methods of making payment. The council is required to undertake pre-payment checks via Spotlight, the governments due diligence risking tool, prior to any payment, which is not awarded to a live direct debit holder.

6. Additions to the Revenue Budget

- 6.1. Subject to Cabinet approval of this report, in accordance with paragraph 6.24 of the Employee Delegation Scheme, the Chief Operating Officer, in consultation with the Leader and the Portfolio Holder for Business Management, will make the following additions to the revenue budget funded from grant provided by Central Government:
- £5,275,267 be added to the Council's revenue budget for 2021/22 in respect of the CARF, as set out in paragraph 2.1 of the report,
 - £1,650,087 be added to the Council's revenue budget for 2021/22 in respect of the OHLG, as set out in paragraph 2.2 of the report and;
 - £15,511,950 be added to the Council's revenue budget for 2022/23 in respect of the Energy Rebate Scheme, as set out in paragraph 2.3 of the report.

7. Risk management

Risk	Description	Action to avoid or mitigate risk	Risk rating
Fraudulent claims	We could receive claims from people attempting to fraudulently claim payments	Ensuring that all eligibility checks are completed pre payment and that systems are checked to verify information. Refer any suspicious claims to the Fraud and Audit Team.	CII
Payments made to incorrect bank accounts	We could transpose digits meaning we pay incorrectly	The Digital Team and ICT have developed a solution with prevents rekeying of data.	DII
Discretionary scheme is incorrectly set	The scheme could be too generous or not generous enough to allow eligibility.	An appropriate delegation is proposed to enable the scheme to adapt to changes within the economic environment.	CII

8. Financial implications

8.1. The CARF and OHLG schemes are fully funded by the government, with Medway's allocations detailed in the report.

9. Legal implications

9.1. The Covid-19 pandemic is an unprecedented national and global event requiring urgent intervention by State and Local Authorities. The report is therefore recommended to be accepted as urgent to enable a fast and effective response by the Council and is in entirely line with the Constitutional provisions for urgent decision making.

10. Recommendations

10.1. The Cabinet are asked to:

10.1.1. Agree the draft Covid-19 Additional Relief Fund (CARF) scheme and eligibility as set out at Appendix 1 and Appendix 2 to the report, subject to the final amendments being made, as set out in section 3 of the report;

10.1.2. Agree the proposed Omicron Hospitality and Leisure Grant (OHLG) scheme and eligibility as set out in section 4 and the policy set out at Appendix 3 to the report;

- 10.2. Delegate authority to the Chief Operating Officer, in consultation with the Leader and the Portfolio Holder for Business Management, to finalise and implement these proposals and to consider and determine applications made under these schemes;
- 10.3. Delegate authority to the Chief Operating Officer, in consultation with the Leader and the Portfolio Holder for Business Management, to make minor amendments to the CARF and OHLG schemes to enable them to be adapted to the economic environment;
- 10.4. Delegate authority to the Chief Operating Officer to make any further technical amendments to the CARF, OHLG and Energy Bills Rebate schemes in consultation with the Portfolio Holder for Business Management where further government advice is issued;
- 10.5. Delegate authority to the Chief Operating Officer, in consultation with the Leader and the Portfolio Holder for Business Management, to develop a discretionary Council Tax Rebate scheme and associated policy, and to make the necessary arrangements to assess eligibility and determine award of funding to eligible households.
- 10.6. Note that the Chief Operating Officer, in consultation with the Leader and the Portfolio Holder for Business Management, will exercise his existing delegation to add the additional funds to the revenue budget, as set out in paragraph 6.1 in the report.
- 10.7. The Cabinet is asked to agree that recommendation 10.1 – 10.5 is considered urgent and therefore should not be subject to call-in.

11. Suggested reasons for decisions

- 11.1. The CARF, OHLG and Energy Bills Rebate have been promoted by and are fully funded by the government to support business ratepayers with the ongoing impacts of Covid-19. Given the severity of the Covid-19 pandemic and the lack of cost to the local taxpayer it is appropriate for the Council to introduce these measures.

Lead officer contact

Patrick Knight, Head of Revenues & Benefits, Gun Wharf, Email:
patrick.knight@medway.gov.uk

Appendices

- Appendix 1: CARF Policy
- Appendix 2: CARF Policy Appendix A
- Appendix 3: OHLG Policy

Background papers

Government guidance – CARF: <https://www.gov.uk/government/publications/covid-19-additional-relief-fund-carf-local-authority-guidance>

Government guidance – OHLG:
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1048968/omicron-hospitality-and-leisure-grant-guidance.pdf

Government guidance – Energy Rebate Scheme:
<https://www.gov.uk/government/publications/the-council-tax-rebate-2022-23-billing-authority-guidance/support-for-energy-bills-the-council-tax-rebate-2022-23-billing-authority-guidance>



**Policy for the granting of
COVID-19 Additional Relief Fund
Discretionary Non-Domestic Rate Relief**

DRAFT

Contents

1.0	Purpose of the Policy.....	3
2.0	Discretionary Relief – Legislative Background.....	4
	Introduction.....	4
3.0	Eligibility for discretionary relief under the COVID-19 Additional Relief Fund (CARF) scheme.....	4
4.0	Discretionary Relief to be awarded under the COVID-19 Additional Relief Fund.	5
5.0	Excluded hereditaments.....	6
6.0	Subsidy Control.....	6
7.0	Effect on the Council’s Finances	7
8.0	Administration of Discretionary Relief	7
	Applications and Evidence.....	7
	Granting of relief	8
	Variation of a decision.....	8
9.0	Scheme of Delegation	9
	Granting, Varying, Reviewing and Revocation of Relief	9
	Reviews.....	9
	Disputes.....	9
10.0	Reporting changes in circumstances	10
11.0	Fraud	10

DRAFT

1.0 Purpose of the Policy

- 1.1 The purpose of this policy is to determine the level of discretionary relief payable under the Council's COVID-19 Additional Relief Fund (CARF) scheme.
- 1.2 Central Government has provided the authority with funding to assist those ratepayers whose businesses have been (and continue to be) affected by the pandemic but that are ineligible for existing support linked to business rates.
- 1.3 The Government has not changed the legislation relating to the business rates reliefs available to properties. Instead, the Government will, in line with the eligibility criteria set out in this policy, reimburse local authorities where relief is granted using discretionary relief powers under section 47 of the Local Government Finance Act 1988.
- 1.4 Whilst funding is provided by Central Government, it is for the Council to decide its own local scheme and determine in each individual case whether to grant this particular relief.
- 1.5 Relief under the CARF scheme will only be available to reduce chargeable amounts in respect of the 2021/22 financial year.
- 1.6 This document outlines the following areas:
 - Details of the criteria for receiving Discretionary Reliefs under the COVID-19 Additional Relief Fund (CARF) scheme;
 - The Council's policy for the granting the relief;
 - General guidance on granting and administering the reliefs and awards;
 - Subsidy Controls applicable; and
 - The Council's Scheme of Delegation.
- 1.7 Where ratepayers apply for relief they will be granted (or not granted) relief under the COVID-19 Additional Relief Fund (CARF) scheme in line with the following policy.

2.0 Discretionary Relief – Legislative Background

Introduction

- 2.1 The original purpose of discretionary relief was to provide assistance where the property does not qualify for mandatory relief, or to ‘top’ up cases where ratepayers already receive mandatory relief.
- 2.2 Over recent years and particularly since 2011, the discretionary relief provisions have been amended to allow authorities the flexibility to provide more assistance to businesses and organisations.
- 2.3 The range of bodies, which are eligible for discretionary rate relief, is wide and not all of the criteria laid down by the legislation will be applicable in each case.
- 2.4 The Council will expect all businesses provide such information and evidence as required in order to determine whether relief should be awarded.
- 2.5 There is no statutory appeal process or Tribunal against any decision made by the Council although, as with any decision of a public authority, decisions can be reviewed by Judicial Review. The authority will however, upon request, review decisions made. Details of the internal review process are given within this policy.
- 2.6 The decision to grant or not to grant discretionary relief is a matter purely for the Council.

3.0 Eligibility for discretionary relief under the COVID-19 Additional Relief Fund (CARF) scheme

- 3.1 Whilst the Council has determined its own scheme, the Department for Levelling Up, Housing and Communities has stated that, in order for the Council to receive the allocated funding, it must:
 - (a) **not** award relief to ratepayers who for the same period of the relief either are or would have been eligible for the Expanded Retail Discount (covering Retail, Hospitality and Leisure), the Nursery Discount or the Airport and Ground Operations Support Scheme (AGOSS);
 - (b) **not** award relief to a hereditament for a period when it is unoccupied (other than hereditaments which have become closed temporarily due to the government’s advice on COVID-19, which should be treated as occupied for the purposes of this relief), and
 - (c) direct their support towards ratepayers who have been adversely affected by the pandemic and have been unable to adequately adapt to that impact.

- 3.2 In line with section 47(8) of the Local Government Finance Act 1988, the Council must not grant any relief to itself or to either local or major precepting authorities.
- 3.3 The relief will be applied after mandatory reliefs and other discretionary reliefs funded by section 31 grants have been applied, excluding those where the Council has provided relief using its wider discretionary relief powers introduced by the Localism Act 2011 which are not funded by section 31 grants.
- 3.4 Where any reduction or remission is granted to a ratepayer under S49 Local Government Finance Act 1988 (where hardship is proven to the Council), then there will be no requirement to grant CARF Discretionary Rate Relief for that amount.
- 3.5 In certain cases, the order in which relief is granted is specified. Mandatory relief shall be granted in all cases where the relevant criteria are met irrespective of whether discretionary relief can be granted or not.

4.0 Discretionary Relief to be awarded under the COVID-19 Additional Relief Fund.

- 4.1 Over the past few years, a number of schemes (such as the COVID-19 Additional Relief Fund) have been led by Central Government but without specific legislative changes.
- 4.2 The Council is keen to support such initiatives especially where they are designed to help local businesses and will look to maximise both the reliefs given as well as maximise any grants receivable.
- 4.3 In view of this, the Council has decided that where a ratepayer meets **all** of the relevant criteria, relief will be **xx%** of the 2021/22 liability **after** any other reliefs and reductions have been applied.
- 4.4 The criteria for the COVID-19 Additional Relief Fund are as follows:
- (a) the ratepayer is **not** eligible (or would be eligible) for the Expanded Retail Discount (covering Retail, Hospitality and Leisure), the Nursery Discount or the Airport and Ground Operations Support Scheme (AGOSS);
 - (b) the ratepayer is not entitled to either Small Business Rate Relief or Rural Rate Relief granted at 100%;
 - (c) the ratepayer is **not** entitled to mandatory relief (80%) and discretionary (top up) of 20% which is funded through business rates retention;
 - (d) the hereditament is treated as occupied by the Council;
 - (e) the ratepayer confirms that they have been adversely affected by the pandemic and have been unable to adequately adapt to that impact;

- (f) the ratepayer is **not** subject to Subsidy Control as defined within section 6; and
(g) the hereditament is not excluded under the section 5 below

5.0 Excluded hereditaments

- 5.1 The Council has decided that the following hereditaments / ratepayers will be excluded from relief under the Council's COVID-19 Additional Relief Fund (CARF) scheme:

To be determined by LA

6.0 Subsidy Control

- 6.1 The Council's COVID-19 Additional Relief Fund (CARF) scheme is subject to the subsidies chapter within the UK-EU Trade and Cooperation Agreement (TCA). However, for CARF there is an exemption for subsidies under the value of approximately £2,243,000 per economic actor (broadly speaking, for example, a holding company and its subsidiaries).
- 6.2 This allowance comprises 325,000 Special Drawing Rights (at current exchange rates about £343,000) for Small Amounts of Financial Assistance and a further £1,900,000 for COVID-19 related subsidy.
- 6.3 Therefore, to be awarded CARF the ratepayer must not have claimed over the period 2019/20 to 2021/22 more than £2,243,000 from schemes which fell within the Small Amounts of Financial Assistance or COVID-19 related allowances.
- 6.4 Any COVID-19 business grants a ratepayer has received from local government generally and the 2019/20 Retail Relief should count towards this limit, but the ratepayer should not count any Extended Retail Discount they have received since 1 April 2020.
- 6.5 Further details of subsidy control can be found at:
<https://www.gov.uk/government/publications/covid-19-additional-relief-fund-carf-local-authority-guidance>
- 6.6 The ratepayer will need to indicate to the Council:
- if they have not to date received any subsidy which fell within the Small Amounts of Financial Assistance or COVID-19 related allowances; or
 - if the ratepayer has received other such subsidies, they will be required to provide the name and total value of those subsidies.
- 6.7 A ratepayer must not apply for CARF if they have already exceeded the £2,243,000 allowance. However, the Council will still consider applications for support under the CARF scheme if they have reached this limit provided you can evidence that they:

- (a) Intend to use the support to fund uncovered fixed costs (costs not covered by profits for insurance etc) during the period of COVID-19. Economic actors may claim for up to 70% of their uncovered costs (although this 70% limit does not apply to small businesses with less than 50 employees and less than £9 million turnover where the limit is instead 90%); and
- (b) Have shown a decline in turnover of at least 30% within the April 2020 to March 2021 period, compared to the same 2019 to 2020 period.

6.8 The ratepayer may claim up to a further £10 million of additional allowance (on top of the £2,243,000) if they meet the above tests and they have not claimed any other support from the additional allowance up to an aggregate £10 million limit (such as from the COVID-19 business grants).

6.9 Government and the Council will not tolerate any business falsifying their records or providing false evidence to gain this relief including claiming support above these thresholds.

6.10 A ratepayer who falsely applies for any relief or provides false information or makes false representation in order to gain relief may be guilty of fraud under the Fraud Act 2006.

7.0 Effect on the Council's Finances

7.1 As Central Government leads this initiative, funding will be provided through section 31 of the Local Government Act 2003. This is not automatic and Central Government will look to the Council to adopt the recommended approach when granting in these areas.

7.2 In order to guarantee funding, the Council will ensure that the criteria in this policy are met in full

8.0 Administration of Discretionary Relief

8.1 The following section outlines the procedures followed by officers in granting, amending, or cancelling discretionary relief and reduction. This is essentially laid down by legislation¹

Applications and Evidence

8.2 The Council will specify how (and if) applications are to be made and received. This may vary from time to time.

8.3 Where appropriate, ratepayers are required to provide such evidence necessary to allow the Council to make a decision. Where insufficient information is

¹ The Non-Domestic Rating (Discretionary Relief) Regulations 1989

provided, then no relief will be granted. In some cases, it may be necessary for officers to visit premises and we would expect ratepayers claiming relief to facilitate this where necessary.

- 8.4 **The Council will provide this service and provide guidance free of charge. Ratepayers are encouraged to approach the Council direct and NOT pay for such services through third parties. Applications will be accepted from ratepayers only.**

Granting of relief

- 8.5 In all cases, the Council will notify the ratepayer of decisions made.
- 8.6 Where an application (if required) is successful, then the following will be notified to them in writing:
- The amount of relief granted and the date from which it has been granted;
 - If relief has been granted for a specified period, the date on which it will end.
 - The new chargeable amount;
 - The details of any planned review dates and the notice that will be given in advance of a change to the level of relief granted; and
 - A requirement that the applicant should notify the Council of any change in circumstances that may affect entitlement to relief.
- 8.7 Where relief is not granted, then the following information is provided, again in writing:
- An explanation of the decision within the context of the Council's statutory duty; and
 - An explanation of the appeal rights (see below).
- 8.8 Discretionary relief is to be granted from the beginning of the financial year in which the decision is made or when liability begins whichever is the later. Since 1997 decisions can be made up to 6 months after the end of the financial year for which the application was made. In such cases, the Council *may* backdate its decision. Given the timing of this relief, awards will only be made for the 2021/22 financial year.

Variation of a decision

- 8.9 Variations in any decision will be notified to ratepayers as soon as practicable and will take effect as follows:
- Where the amount is to be increased due to a change in rate charge (excluding rateable value increases) or a change in the Council's decision which increases the award – this will apply from a date determined by the Council as appropriate;
 - Where the amount is to increase for any other reason, it will take effect at the expiry of a financial year unless it is granted for a fixed period;

- Where the amount is to be reduced due to a reduction in the rate charge or liability including any reduction in rateable value, awarding of another relief or exemption this will apply from the date of the decrease in rate charge; and
- Where the amount is to be reduced for any other reason, it will take effect from a date determined by the Council as appropriate;

8.10 A decision may be revoked at any time and a one-year period of notice will be given and the change will take effect at the expiry of a financial year. However, the Council will terminate the relief at any time the ratepayer fails to meet **any** of the relevant eligibility criteria.

9.0 Scheme of Delegation

Granting, Varying, Reviewing and Revocation of Relief

9.1 All powers in relation to reliefs are given under the Local Government Finance Act 1988, the Local Government and Rating Act 1997, the Local Government Act 2003 and the Localism Act 2011. However section 223 of the Local Government Act 1992 allows for delegation of decisions by the Council to Cabinet, Committees, Sub-Committees or Officers.

9.2 The Council's scheme of delegation allows for the Head of Revenues and Benefits to award, revise or revoke any discretionary relief applications. However, any application which is considered to be of a significant nature, will be subject to consultation with the Council's Section 151 Officer, prior to final determination.

9.3 Applications that are refused will, on request, be reconsidered if additional supporting information is provided or the refusal is subsequently considered to be based on a misinterpretation of the application.

Reviews

9.4 The policy for granting relief will be reviewed annually or where there is a substantial change to the legislation or funding rules. At such time, a revised policy will be brought before the relevant committee of the Council.

Disputes

9.5 Where the Council receives a dispute from the ratepayer regarding the granting, non-granting or the amount of any discretionary relief, the case will be reviewed by the Head of Revenues and Benefits. Where a decision is revised then the ratepayer shall be informed, likewise if the original decision is upheld.

- 9.6 Where the ratepayer wishes to appeal the decision of the Head of Revenues and Benefits, the case will be considered by the Council's Section 151 Officer whose decision on behalf of the Council will be final.
- 9.7 Ultimately the formal appeal process for the ratepayer is Judicial Review although the Council will endeavour to explain any decision fully and openly with the ratepayer.

10.0 Reporting changes in circumstances

- 10.1 Where any award is granted to a ratepayer, the Council will require any changes in circumstances which may affect the relief, to be reported as soon as possible or in any event within 21 days of the change. This will be important where the change would result in the amount of the award being reduced or cancelled e.g. where the premises comes unoccupied or is used for a purpose other than that determined by the Council as eligible for relief.
- 10.2 Where a change of circumstances is reported which would cease or revise eligibility, the relief will, if appropriate, be revised or cancelled as appropriate. Where any award is to be reduced, the Council will look to recover the amount from the date the change of circumstances occurred.

11.0 Fraud

- 11.1 Where a ratepayer falsely applies for any relief, or where the ratepayer provides false information, makes false representation, or deliberately withholds information in order to gain relief, prosecutions will be considered under the Fraud Act 2006.

Advertising And Premises
Advertising Right
Advertising Right And Premises
Air Quality Monitoring Station
Ambulance Station & Premises
Animal Treatment Centre And Premises
Art Gallery And Premises
Auxiliary Defence Establishment And Premises
Bank And Premises
Barracks
Betting Shop And Premises
Bingo Hall And Premises
Boarding House & Premises
Boatyard And Premises
Bulk Liquid Storage Depot, Pipeline And Premises
Bus Garage And Premises
Car Park
Car Park And Premises
Car Parking Space(s) And Premises
Car Parks And Parking Spaces
Car Rental Site
Car Showroom And Premises
Cement Works And Premises
Changing Rooms And Premises
Chemical Works And Premises
Clinic And Premises
Cold Store And Premises
College And Premises
Combined Heat And Power Station And Premises
Communication Mast And Premises
Communication Station
Communication Station & Premises
Community Centre And Premises
Community Rooms And Premises
Concrete Batching Plant And Premises
Concrete Product Works And Premises
Current Storage Depot And Premises
Dental Surgery And Premises
Driving Test Centre And Premises
Electricity Cable, Easement And Premises
Electricity Generating Plant And Premises
Fire Station And Premises
Fish Farm & Premises
Fitness Suite And Premises
Gas Fired Power Station Pipeline And Premises
Hall And Premises
Health Centre And Premises
Hospital And Premises

Independent Distribution Network Operator
Land Used For Car Sales
Land Used For Car Sales And Premises
Land Used For Car Sales Workshop And Premises
Land Used For Hand Car Wash & Premises
Land Used For Parking
Land Used For Storage And Premises
Land Used For Storage And Premise
Land Used For Storage Workshop And Premises
Land Used For Storage, Office And Premises
Land Used For Storage, Stores And Premises
Lane Used For Storage And Premises
Law Court And Premises
Leisure Centre And Premises
Lng Storage Site And Premises
Local Authority Schools And Colleges
Marina And Premises
Marketing Suite And Premises
Meeting Hall And Premises
Mineral Depot And Premises
Motorway Service Area And Premises
Multistorey Car Park
Petrol Filling Station & Premises
Photovoltaic Installation And Premises
Pipelines And Appurtenances
Police Station And Premises
Post Office And Premises
Quarry And Premises
Retail Warehouse And Premises
Road Haulage Depot And Premises
School And Premises
Scrap Yard And Premises
Sea Dredged Aggregate Processing Plant(s) And Premises
Secure Training Centre
Security Kiosk And Premises
Sewage Treatment Works And Premises
Store
Store And Premises
Store And Warehouse
Store Generating Plant And Premises
Store Land And Premises
Store Office And Premises
Stores And Premises
Supermarket And Premises
Superstore And Premises
Surgery & Premises
Training Camp
Training Centre And Premises

University And Premises
University Building And Premises
Veterinary Clinic
Veterinary Surgery And Premises
Young Offenders Institution

This page is intentionally left blank

Omicron Hospitality and Leisure Grant Policy

1. Introduction

- 1.1 On 21 December 2021, Government announced the introduction of grant support for hospitality and leisure businesses in England. See announcement here: <https://www.gov.uk/government/news/1-billion-in-support-for-businesses-most-impacted-by-omicron-across-the-uk>
- 1.2 The latest guidance was issued by the Department for Business, Energy & Industrial Strategy (BEIS) on 21 January 2022: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1048968/omicron-hospitality-and-leisure-grant-guidance.pdf
- 1.3 The scheme provides support to hospitality, leisure and accommodation businesses, in recognition that the rise of the Omicron variant means that some businesses are likely to struggle over the coming weeks.
- 1.4 This support will take the form of a one-off grant funding scheme. Funding to be made available in Financial Year 2021-2022 and can be used in Financial Year 2021/22 only. The scheme is called the Omicron Hospitality and Leisure Grant and is administered by business rate billing authorities in England.
- 1.5 Local (Billing) Authorities have received funding to be allocated in one-off grants to businesses. The scheme will close for all applications on 18 March 2022 and all final payments must be made and dispersed to recipients by 31 March 2022.
- 1.6 Medway Council has been informed under a grant determination letter that it will receive £1,650,087 for this purpose. Central Government will fully reimburse Local Authorities in line with the guidance provided and the grant determination letter for the cost of the grant under section 31 of the Local Government Act 2003.
- 1.7 As a consequence of these announcements this policy identifies the circumstances in which Medway Council will grant an Omicron Hospitality and Leisure Grant.

2. Eligibility criteria and application process

- 2.1 Where a grant is issued, the business that according to the billing authority's records was the ratepayer in respect of the hereditament on 30 December 2021 is eligible to receive the grant. Where a Local Authority has reason to believe that the information that they hold about the ratepayer is inaccurate they may withhold or recover the grant and take reasonable steps to identify the correct ratepayer. Local Authorities should make clear to recipients that the grant is for the ratepayer and may be liable for recovery if the recipient was not the ratepayer on the eligible day.
- 2.2 The primary principle of the Omicron Hospitality and Leisure Grant scheme is to support businesses that offer in-person services, where the main service and activity takes place in a fixed rate-paying premises, in the hospitality, leisure and accommodation sectors.
- 2.3 Hospitality is defined as a business whose main function is to provide a venue for the consumption and sale of food and drink.
- 2.4 Leisure is defined as a business that provides opportunities, experiences and facilities, for culture, recreation, entertainment, celebratory events, days and nights out, betting and gaming.

- 2.5 Accommodation is defined as a business whose main lodging provision is used for holiday, travel and other purposes.
- 2.6 This table sets out types of businesses that are Government guidance states is eligible under the sector thresholds for this scheme. This list is not exhaustive, but indicative of the types of businesses that can be supported under this scheme.

Support type	Types of businesses	
Hospitality	Food courts Public houses/pub restaurants Restaurants	Roadside restaurants Wine bars Cafés
Leisure	Casinos and gambling clubs Cinemas Museums and art galleries Stately homes & historic houses Theatres Zoos & safari parks Amusement parks Wedding venues Events venues Night clubs & discotheques	Arenas Concert halls Tourist attractions Theme parks Amusement arcades Soft play centres or areas Clubs & institutions Village halls & scout huts, cadet huts, etc
Accommodation	Caravan parks Caravan sites and pitches Chalet parks Coaching inns Country house hotels Guest houses Hostels Hotels Lodge	Holiday apartments Cottages or bungalows Campsites Boarding houses Canal boats or other vessels B&Bs Catered holiday homes Holiday home

- 2.7 Businesses will only be eligible where their main service falls within hospitality, leisure or accommodation. If a business operates services that could be considered hospitality or leisure, and also fall into another category, the main service can be determined by assessing which category constitutes 50% or more of their overall income. The main service principle will determine whether a business receives funding. Businesses will need to declare which is their main service. Local Authorities will need to exercise their reasonable judgement to determine whether or not a business is eligible for grants and be satisfied that they have taken reasonable and practicable steps to pay eligible businesses.
- 2.8 It is understood that in some cases it may not be materially clear whether a business falls into one of the eligible categories, so decisions on the eligibility of these businesses will be at the Local Authorities' discretion.
- 2.9 Businesses must have been trading on 30 December 2021 to be eligible to receive funding under this scheme.
- 2.10 For the purposes of this grant scheme, a business is considered to be trading if it is engaged in business activity. This should be interpreted as carrying on a trade or profession or buying and selling goods or services in order to generate turnover. Fully constituted businesses in liquidation, dissolved, struck off or subject to a striking-off notice are not eligible under these conditions. To help further, some trading indicators are included

below that can help assess what can be defined as trading for the purposes of the grant schemes. Indicators that a business is trading are:

- The business continues to trade, including online, via delivery services etc.
- The business is not in liquidation, dissolved, struck off or subject to a striking-off notice or under notice
- The business is engaged in business activity, managing accounts, preparing for reopening, planning and implementing COVID-safe measures
- This list of indicators is not exhaustive and Local Authorities must use their discretion to determine if a business is trading.

2.11 The council will operate an application process for all applicants for the grant and must be satisfied that businesses that have previously received related grants meet the eligibility criteria for the Omicron Hospitality and Leisure Grant. As a minimum, Local Authorities must hold the following information on all applicants:

- a) Name of business
- b) Business Trading Address including postcode
- c) Unique identifier (preferably Company Reference Number (CRN)) if applicable. If not applicable, VAT Registration Number, Self-Assessment/Partnership Number, National Insurance Number, Unique Taxpayer Reference, Registered Charity Number will also be acceptable)
- d) High level SIC Code
- e) Nature of Business
- f) Date business established
- g) Number of employees
- h) Business rate account number

2.12 This data may be shared with BEIS. The BEIS privacy notice, setting out how BEIS will handle personal data across all COVID-19 business grant schemes, can be found here: <https://www.gov.uk/government/publications/covid-19-grant-schemes-privacy-notice/covid-19-grant-schemes-privacy-notice>

2.13 Local Authorities are required to undertake pre-payment checks prior to the award of a grant.

2.14 **Hospitality**

2.14.1 For the purposes of this scheme, a hospitality business can be defined as a business whose main function is to provide a venue for the consumption and sale of food and drink.

2.14.2 Local Authorities may use the following criteria to assess whether a business is eligible for a grant under this threshold:

- Businesses offering in-person food and drink services to the general public.
- Businesses that provide food and/or drink to be consumed on the premises, including outdoors.

2.14.3 For these purposes, the definition of a hospitality business should exclude: food kiosks and businesses whose main service (generating 50% or more of income) is a takeaway (not applicable to those that have adapted to offer takeaways during periods of restrictions, in alignment with previous COVID-19 business grant schemes).

2.14.4 **Leisure**

2.14.5 For the purposes of this scheme, a leisure business can be defined as a business that provides opportunities, experiences and facilities, in particular for culture, recreation, entertainment, celebratory events and days and nights out.

2.14.6 Local Authorities may use the following criteria to assess whether a business is eligible for a grant under this threshold:

- Businesses that may provide in-person intangible experiences in addition to goods.
- Businesses that may rely on seasonal labour.
- Businesses that may assume particular public safety responsibilities.
- Businesses that may operate with irregular hours through day, night and weekends.

2.14.7 For these purposes, the definition of a leisure business should exclude: all retail businesses, coach tour operators, tour operators, and gyms and sports businesses where physical exercise or training is conducted on an individual basis or group basis.

2.14.8 **Accommodation**

2.14.9 For the purposes of this scheme, an accommodation business can be defined as a business whose main lodging provision is used for holiday, travel or other purposes.

2.14.10 Local Authorities may use the following criteria to assess whether a business is eligible for a grant under this threshold:

- Businesses that provide accommodation for 'away from home' stays for work or leisure purposes.
- Businesses that provide accommodation for short-term leisure and holiday purposes.

2.14.11 2.16.3 For these purposes, the definition of an accommodation business should exclude: private dwellings, education accommodation, residential homes, care homes, residential family centres and beach huts. Where holiday letting businesses cannot demonstrate any income generated from the let of the premises under consideration over a given period (e.g. the last 6-months) this could justify a judgement that the business is not trading.

3. **Exclusions to Omicron Hospitality and Leisure Grant funding**

3.1 The proposed exclusions in the list at paragraphs 2.14.3, 2.15.3 and 2.16.3, are not intended to be exhaustive and it is for the Local Authority to determine those cases where eligibility is unclear. Billing authorities will have a good understanding of the premises in their areas and will be readily able to form a view on eligibility in most cases.

3.2 Businesses that are not within the ratings system will not be eligible to receive funding under this scheme.

3.3 Businesses that have already received grant payments that equal the maximum permitted subsidy allowances will not be eligible to receive funding.

3.4 Businesses that are in administration, insolvent or where a striking-off notice has been made, are not eligible for funding under this scheme.

4. **How much funding will be provided to businesses?**

4.1 The Omicron Hospitality and Leisure Grant will support hospitality, leisure and accommodation business premises with one-off grants of up to £6,000.

4.2 The following thresholds apply for these businesses:

- Businesses occupying hereditaments appearing on the local rating list with a rateable value of exactly £15,000 or under on 30 December 2021 will receive a payment of £2,667.
- Businesses occupying hereditaments appearing on the local rating list with a rateable value over £15,000 and less than £51,000 on 30 December 2021 will receive a payment of £4,000.
- Businesses occupying hereditaments appearing on the local rating list with a rateable value of exactly £51,000 or over on 30 December 2021 will receive a payment of £6,000.

5. COVID-19 business grant subsidy allowance – Any queries on this complex area should be raised either with the relevant government department or your financial advisor.

5.1 The EU State aid rules no longer apply to subsidies granted in the UK following the end of the transition period, which ended on 31 December 2020. This does not impact the limited circumstances in which State aid rules still apply under the Withdrawal Agreement, specifically Article 10 of the Northern Ireland Protocol. However, in the vast majority of cases this will not apply. The United Kingdom remains bound by its international commitments, including subsidy obligations set out in the Trade and Cooperation Agreement (TCA) with the EU. BEIS Guidance for public authorities explaining the subsidies chapter of the TCA, World Trade Organisation rules on subsidies, and other international commitments can be found here: <https://www.gov.uk/government/publications/complying-with-the-uks-international-obligations-on-subsidy-control-guidance-for-public-authorities>

5.2 COVID-19 business grants subsidy allowances provided on the basis of the TCA

5.2.1 The below scheme rules should be applied to applicants at the level of economic actor, which is defined as an entity or a group of entities constituting a single economic entity regardless of its legal status, that is engaged in an economic activity by offering goods or services on a market.

5.2.2 There are three subsidy allowances for the COVID-19 Business Grant Schemes set out below: Small Amounts of Financial Assistance Allowance, the COVID-19 Business Grant Allowance and the COVID-19 Business Grant Special Allowance. For grants that could be in scope of the Northern Ireland Protocol, please see paragraphs 5.5.4 to 5.5.5 below.

5.2.3 We have concluded that the COVID-19 Business Grant Allowance and the COVID-19 Business Grant Special Allowance are compatible with the principles set out in Article 366 of the TCA and are targeted, proportionate, and effective in order to remedy difficulties caused by the COVID-19 pandemic for the purposes of Article 364(3). These two allowances constitute subsidy schemes for the purposes of Article 373(4) of the TCA and the transparency requirements at Article 369 of the TCA. Local Authorities will still need to consider their own transparency obligations in relation to individual award (see paragraph 5.5.4. below).

5.3 Small Amounts of Financial Assistance Allowance

5.3.1 Grants may be paid in accordance with Article 364(4) of the TCA, which enables an applicant to receive up to a maximum level of subsidy without engaging Chapter 3 of the TCA. This allowance is up to £325,000 Special Drawing Rights, to a single economic actor over a rolling period of three fiscal years (the “Relevant Period”), which is the equivalent of £335,000 as at 2 March 2021 (The Special Drawing Right calculator here can be used to calculate the exchange rate on the day the subsidy is awarded: https://coinmill.com/SDR_calculator.html.) When calculating the amount of subsidy an

applicant has received under Article 364(4) of the TCA in a Relevant Period, a local authority should have regard to 15 any subsidy given under Article 364(4) and any subsidy given under Commission Regulation (EU) No 1407/2013 (the De Minimis Regulation). An applicant may elect not to receive grants under the Small Amounts of Financial Assistance Allowance and instead receive grants only using the below allowances available under this scheme.

5.4 COVID-19 Business Grant Allowance

5.4.1 Where the Small Amounts of Financial Assistance Allowance has been reached or an applicant has elected not to receive a grant under this allowance, grants may be paid in compliance with the Principles set out in Article 366 of the TCA and in compliance with Article 364(3) of the TCA under the COVID-19 Business Grant Allowance (subsidies granted on a temporary basis to respond to a national or global economic emergency). For the purposes of the COVID-19 Business Grant Schemes, this allowance is £1,900,000 per single economic actor. This allowance includes any grants previously received under other COVID-19 Business Grant Schemes using the COVID-19 Business Grant Allowance and any State aid previously received under Section 3.1 of the European Commission's Temporary Framework across any other UK scheme. This may be combined with the Small Amounts of Financial Assistance Allowance to equal £2,235,000 (subject to the exact amount applicable under the Small Amounts of Financial Assistance Allowance using the Special Drawing Right calculator, and any other support an applicant has received under the Small Amounts of Financial Assistance Allowance in the Relevant Period).

5.5 COVID-19 Business Grant Special Allowance

5.5.1 Where an applicant has reached its limit under the Small Amounts of Financial Assistance Allowance and COVID-19 Business Grant Allowance, it may be able to access a further allowance of funding under the COVID-19 Business Grant Schemes of up to £10,000,000 per single economic actor, provided the following conditions are met: a. The Special Allowance covers only the applicant's uncovered fixed costs incurred during the period between 1 March 2020 and the date of application, including such costs incurred in any part of that period ('eligible period'); b. Applicants must demonstrate a decline in turnover during the eligible period of at least 30% compared to the same period in 2019. The calculation of losses will be based on audited accounts or official statutory accounts filed at Companies House, or approved accounts submitted to HMRC which includes information on the applicant's profit and loss; c. 'Uncovered fixed costs' means fixed costs not otherwise covered by profit, insurance or other subsidies; d. The grant payment must not exceed 70% of the applicant's uncovered fixed costs, except for micro and small enterprises (for the purposes of this scheme defined as less than 50 employees and less than £9,000,000 of annual turnover and/or annual balance sheet), where the grant payment must not exceed 90% of the uncovered fixed costs; e. Grant payments under this allowance must not exceed £10,000,000 per single economic actor. This allowance includes any subsidies previously received in accordance with Section 3.12 of the European Commission's Temporary Framework or previously received under the COVID-19 Business Grant Schemes using this COVID-19 Business Grant Special Allowance; all figures used must be gross, that is, before any deduction of tax or other charge; f. Grants provided under this allowance shall not be cumulated with other subsidies for the same costs.

5.5.2 An applicant must be able to provide the necessary documentation to demonstrate it is eligible for funding under this COVID-19 Business Grant Special Allowance. Local Authorities must first verify that an applicant can meet all the criteria set out under this allowance before providing further funding under this allowance.

5.5.3 Grants provided in excess of the Small Amounts of Financial Assistance Allowance may not be granted to applicants that were defined as an 'undertaking in difficulty' (as defined in

Annex C below) on 31 December 2019. In derogation to the above, grants can be granted to micro or small enterprises (as defined above) that were already in difficulty on 31 December 2019 provided that they are not subject to collective insolvency proceedings.

5.5.4 Local Authorities must ensure the remaining applicable provisions of the subsidies chapter of the TCA are complied with. In particular, the transparency obligations under article 369. The transparency database can be found at <https://manageuksubsidies.beis.gov.uk/>. All schemes and individual awards over £500,000 must be uploaded within six months of being granted. Any ad hoc awards of at least 325,000 Special Drawing Rights over three years to an individual beneficiary must also be uploaded within six months of being granted. For access to and any further questions on the database, please contact the BEIS subsidy control team at subsidycontrol@beis.gov.uk.

5.5.5 For the avoidance of doubt, grants under the Small Amounts of Financial Assistance Allowance, the COVID-19 Business Grant Allowance and the COVID-19 Business Grant Special Allowance may be combined for a potential total allowance of £12,235,000 (taking into account all grants previously received under the COVID-19 business grants schemes and subject to the exact amount applicable under the Small Amounts of Financial Assistance Allowance using the Special Drawing Right calculator and the three fiscal year period applicable to the Small Amounts of Financial Assistance Allowance).

5.6 Article 10 of the Northern Ireland Protocol

5.6.1 Grants in scope of Article 10 of the Northern Ireland Protocol remain subject to EU State aid rules, following the end of the Transition Period which ended on 31 December 2020. Article 10 provides that EU State aid rules will continue to apply to the UK in respect of measures which affect trade in goods and electricity between Northern Ireland and the European Union.

5.6.2 In assessing whether Article 10 may apply, Local Authorities are directed to Section 7 of the technical BEIS Guidance which covers the practical application of Article 10. Local Authorities applying Article 10 must follow Section 7 of the technical BEIS Guidance.

5.6.3 Where a Local Authority grant falls within scope of Article 10 of the Northern Ireland Protocol, then a Local Authority cannot rely on the Small Amounts of Financial Assistance Allowance. Instead, a Local Authority must see if the grant can be awarded under the De Minimis Regulation which allows for up to 200,000 euros of subsidy to be given to an undertaking in a rolling three year fiscal period. If a grant falls within scope of the Northern Ireland Protocol and the De Minimis Regulation cannot be relied upon, then the Local Authority will need to satisfy itself there is another legal route to award the grant in compliance with EU State aid Rules. For example, the grants may be given under the European Commission's Temporary Framework.

6. Appeals

6.1 Under the Local Government Finance Act 1992, there is no right of appeal against the Council's use of discretionary powers. However, the Council operate an internal review process and will accept a customer's request for an appeal of its decision. All requests must be made in writing to the Head of Revenues and Benefits, within one month of the Council's decision, and should state the reasons why the ratepayer is aggrieved with the decision of the council. New information may be submitted at this stage to support the ratepayer's appeal. Requests will be considered by the Chief Finance Officer as Section 151 Officer.

6.2 For ratepayers who remain aggrieved and wish to pursue the matter further, the next step is to make an application for judicial review

This page is intentionally left blank