

REPORT OF Head of Legal & Governance
To: Community and Resources Committee
Subject: Urgency Procedure Report
Date: 1st February 2021 **Reference:**

PURPOSE OF REPORT

For Members to note the urgent decisions recently taken under the Council's Urgency Procedure

1. INTRODUCTION

On the 22nd October 2020 the Government announced additional funding to support businesses subject to restrictions in Tier 2 or Tier 3. This is support for businesses that are not legally required to close, but nonetheless have been severely impacted by the localised restrictions on socialising put in place to manage the Coronavirus and save lives.

Funding was payable for restrictions from the 2nd December 2020 and the support will take the form of a grant funding scheme in the Financial Years 2020/2021.

The Scheme is attached, however Local Authorities have the freedom to determine the precise eligibility criteria. The Government has stipulated that funding is to be targeted towards hospitality and leisure businesses.

2. REPORT

These decisions were made under the Council's Urgency Procedure and signed off by the Leader the Chair of Community & Resources, and the Lead Member for Revenues and Benefits, as it was necessary to implement the Scheme prior to the next C and R meeting

To comply with the Constitution the decisions need to be reported to the next appropriate Community & Resources Committee explaining the reason for the urgency.

The Decision was as follows:

Details of Urgent Matter	Reason for the Urgency
Implementation of The Local Restriction Grants (Open) Policy	Grants needed to be administered prior to the next C and R meeting

3. IMPLICATIONS

Legal Implications

This report complies with the Council's Constitution

Financial Implications

Included in the report



Human Resources Implications

none.

Sustainability/Biodiversity Implications

none

Equality/Diversity

Decisions taken to support the vulnerable and to assist local business

Risk Management

n/a

Compliance with Policies and Strategies

Complies with the Council's constitution.

Data Protection (GDPR) Implications

Not applicable

Climate Change

Not applicable

Ward Member and Lead Member Views

The Leader, Lead Member and Chair of C and R were consulted and commented on the urgent decision. Their comments are included on the urgency procedure form.

4. CONCLUSIONS

The decisions were taken under the Urgency Procedure as the Scheme had to be implemented before the next C and R Committee as stipulated by the Government and to assist businesses in the current pandemic.

5. RECOMMENDATIONS

It is recommended that:

Councillors note the decisions taken under the Council's Urgency Procedure.



URGENCY PROCEDURE

Officer: Staci Dorey	Position: Head of Legal & Governance	Date: 13/01/2020
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Subject of Urgency: Local Restriction Grants
~~Test and Trace Scheme~~
 C Open Policy

Reason for Urgency:

Final Version of guidance received from the government in early January 2021 when scheme was payable for restrictions beginning on the 2nd December 2020. Scheme needs to be implemented as soon as possible, and prior to the next C and R Committee scheduled for the 1st February 2021 to assist businesses that are not legally required to close, but nonetheless have been severely impacted by the localised restrictions which have been put in place to manage the coronavirus.


Unable to obtain committee approval prior to implementation as the scheme needs to be put in place immediately, and the next C and R is not due to take place until the 1st February 2021

Ward and/or Lead Member(s) comments:

I'm happy that this scheme is implemented as soon as possible and is discussed at the C&R meeting that is scheduled to take place on 1st February 2021.

David Hurley Date: 13-Jan-2021

Finance Manager's Agreement : :

Signed:  Date: 14/1/2021

Member Agreement:

Signed: _____ Date: _____

Leader of Council / Deputy Leader of Council*

I confirm my Agreement with the Policy and eligibility criteria within in
 Signed Ken James Date: 13/01/2021

Chair / Vice Chair of Community & Resources Committee*

In agreement Chr Micks 14/1/21

Chief Executive Approval of Decision:

Signed:  Date: 14/1/2021

*delete as appropriate

Once completed a copy of this form should be given to the Democratic Services for record purposes.

IMPORTANT: Please ensure that a report is prepared for the next Community & Resources Committee meeting in accordance with the Report Writing Protocol.

Staci Dorey

Subject: Urgent Decision

From: Robert Hicks
Sent: 14 January 2021 17:03
To: Sean Kearney <Sean.Kearney@torridge.gov.uk>
Subject: Re: Urgent Decision

Fine by me
Bob

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Staci Dorey

Subject: Urgency Procedure - Local Restriction Grants (Open Policy)

From: Councillor James K <Councillor.James@torridge.gov.uk>

Sent: 13 January 2021 16:46

To: Staci Dorey <Staci.Dorey@torridge.gov.uk>

Cc: Councillor Hurley <Councillor.Hurley@torridge.gov.uk>; Councillor Hicks R <Councillor.Hicks@torridge.gov.uk>;

Steve Hearse <Steve.Hearse@torridge.gov.uk>; David Heyes <David.Heyes@torridge.gov.uk>

Subject: Re: Urgency Procedure - Local Restriction Grants (Open Policy)

Dear Staci

I am happy to confirm my agreement with the Local Restriction Grant (Open) Policy and the eligibility criteria with in it.

I am also happy with the urgency procedure form and to sign it if required.

Kind Regard

Ken

Sent from my iPad

<1. Policy LRSG (Open).docx>

<urgency_procedure_form LRG Grants (Open).doc>

Staci Dorey

From: Councillor Hurley
Sent: 13 January 2021 14:52
To: Staci Dorey; Councillor James K; Councillor Hicks R
Cc: Steve Hearse; David Heyes
Subject: Re: Urgency Procedure - Local Restriction Grants (Open Policy)
Attachments: urgency_procedure_form LRG Grants (Open)-1.odt

Good afternoon Staci

Please find attached my response.

Kind regards

David

From: Staci Dorey
Sent: 13 January 2021 14:36:16
To: Councillor James K; Councillor Hurley; Councillor Hicks R
Cc: Steve Hearse; David Heyes
Subject: Urgency Procedure - Local Restriction Grants (Open Policy)

Good afternoon Councillors

Please find attached an urgency procedure form, together with a copy of the Local Restriction Grants (Open) Policy. The scheme was announced by the Government back in December, however we were still awaiting the final guidance which we have only recently received. Funding for the grants is payable for restrictions affecting businesses from the 2nd December 2020. The support is to assist businesses under restrictions in Tier 2 and Tier 3, that are not legally required to close, but nonetheless have been severely impacted by the localised restrictions put in place to manage the coronavirus.

Local Authorities have discretion to determine the eligibility criteria however the Government has stated that it expects the funding to towards businesses in hospitality and leisure. I attach the urgency procedure form and the policy.

Please can I have your comments for the urgency procedure form.

Many thanks.

Kind regards

Staci Dorey Head of Legal and Governance (& Monitoring Officer)
Torridge District Council Riverbank House, Bideford, EX39 2QG
Phone 01237 428763
Mobile 07970 120139
Email staci.dorey@torridge.gov.uk

torridge.gov.uk



@torridgedc

URGENCY PROCEDURE

Officer: Staci Dorey	Position: Head of Legal & Governance	Date: 13/01/2020
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Subject of Urgency:
Local Restrictions Grants (Open) Policy

Reason for Urgency:

Final Version of guidance received from the government in early January 2021 when scheme was payable for restrictions beginning on the 2nd December 2020. Scheme needs to be implemented as soon as possible, and prior to the next C and R Committee scheduled for the 1st February 2021 to assist businesses that are not legally required to close, but nonetheless have been severely impacted by the localised restrictions which have been put in place to manage the coronavirus.

Unable to obtain committee approval prior to implementation as the scheme needs to be put in place immediately, and the next C and R is not due to take place until the 1st February 2021

Ward and/or Lead Member(s) comments:

I'm happy that this scheme is implemented as soon as possible and is discussed at the C&R meeting that is scheduled to take place on 1st February 2021.

David Hurley

Date:13-Jan-2021

Finance Manager's Agreement : :

Signed:

Date:

Member Agreement:

Signed:

Date:

Leader of Council / Deputy Leader of Council*

Signed:

Date:

Chair / Vice Chair of Community & Resources Committee*

Head of Paid Service Approval of Decision:

Signed:

Date:

*delete as appropriate

Once completed a copy of this form should be given to the Democratic Services for record purposes.

IMPORTANT: Please ensure that a report is prepared for the next Community & Resources Committee meeting in accordance with the Report Writing Protocol.

Local Restriction Grants (Open) Policy

- On Thursday 22 October, the Government announced additional funding to support businesses under restrictions in Tier 2 or Tier 3. This is support for businesses that are not legally required to close but which are severely impacted by the localised restrictions on socialising put in place to manage coronavirus and save lives.
- National and local restrictions are legally binding restrictions imposed where the Secretary of State for Health and Social Care requires the closure of businesses 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.
- This support will take the form of a grant funding scheme in Financial Year 2020-2021.
- This grant scheme will be available to Local Authorities subject to Tier 2 or Tier 3 restrictions
- The Local Restrictions Support Grant (Open) is aimed at hospitality and leisure businesses. Local Authorities will have discretion as to how to award grant funding to individual businesses. The grant funding can only be spent on business grants.
- Funding will be payable for restrictions beginning 2 December 2020
- Local Authorities have the freedom to determine the precise eligibility criteria for these grants. However, Government would expect the funding to be targeted at hospitality and leisure businesses. Local Authorities should consider how the Local Restrictions Support Grant (Open) funding can help kickstart recovery by supporting sustainable businesses that have not been legally required to close but which are severely impacted by Tier 2 or 3 restrictions
- It is recognised that Local Authorities are likely to need to run some form of application process. This will allow Local Authorities to undertake proportionate pre-payment checks to confirm eligibility relative to their local scheme and to allow each Local Authority to determine how to use its discretion in relation to the appropriate level of grant. Prepayment checks must include confirmation that, by accepting payments, recipients are in compliance with State aid rules.
- Where limits to funding available for this scheme require Local Authorities to prioritise which types of businesses will receive funding, it will be up to Local Authorities to determine

which types of business are most relevant to their local economy. There will be no penalty for Local Authorities because of their use of discretion to prioritise some business types.

- **Businesses must have been trading the day before local restrictions came into force to be eligible to receive funding under this scheme. Where local restrictions are preceded by national 'lockdown' measures, requiring the closure of businesses that are otherwise eligible, it is accepted that those businesses are still trading.**
- **Businesses that were in administration, are insolvent or where a striking-off notice has been made are not eligible for funding under this scheme.**
- **Eligible businesses that have a voluntary agreement but are not insolvent, in liquidation or in administration will be eligible to receive a grant if they are still trading and operating, but only under de minimis, if the agreement means the business is ineligible for a grant under the COVID-19 Temporary Framework for UK Authorities.**
- **The Local Authority must make the business aware that, by accepting the grant payment, the business confirms that they are eligible for the grant schemes. This includes where Local Authorities already have bank details for businesses and are in a position to send out funding immediately, or where the Local Authority is sending a cheque to a business.**
- **Businesses will need to notify their Local Authority if they no longer meet the eligibility criteria for additional grants at any point in each 14-day grant cycle period.**
- **Grant income received by a business is taxable. The Local Restrictions Support Grant will need to be included as income in the tax return of the business.**
- **Only businesses that make an overall profit once grant income is included will be subject to tax.**
- **The Government will not accept deliberate manipulation and fraud. Any business caught falsifying their records to gain additional grant money will face prosecution, and any funding issued will be recovered, as may any grants paid in error**

- The general principle applies that Local Authorities are responsible and accountable for the lawful use of funds under Section 151 of the Local Government Act 1972. The Section 151 Officer within the Local Authority is required to exercise their duties in line with the Chartered Institute of Public Finance and Accountancy (CIPFA) guidance, ensuring their oversight of the proper administration of financial affairs within the Local Authority, including of these grants.
- Local Authorities must be satisfied that all State aid requirements have been fully complied with when making grant payments. Full details, including sample declaration forms, are contained in in this guidance.
- To deliver this assurance requirement, Local Authorities should develop pre- and post-payment assurance plans for each grant scheme. There should be an eligibility check and a recipient check on all payments, whether pre- or post-payment. The plans should set out the actions and checks Local Authorities will undertake to ascertain regularity of payments. They should cover the pre-payment checks for grants still to be paid, but also the post payment assurance checking regime that the Local Authority will introduce to identify irregular payments.
- The volume and depth of checks that a Local Authority undertakes as detailed in these plans should be proportionate to the grant value versus the cost of the check, and informed by a Fraud Risk Assessment of the likelihood of error and/or fraud in the payments they have made.
- Consequently, Fraud Risk Assessments should also be undertaken for each grant scheme and comprise part of the assurance plan. To support Local Authorities in developing their risk assessments the Department will provide risk assessment templates tailored to the relevant funds
- Where checks discover that payments have been made in error or have been claimed as a result of fraud, any initial recovery action will need to be undertaken by the Local Authority.
- Local Authorities must retain necessary data and BEIS will undertake regular data collection exercises. The data will include:
 - number of applications received for the scheme,
 - number of payments being processed,
 - number of actual payments, and
 - value of payments made.

- The United Kingdom left the EU on 31 January 2020, nonetheless under the Withdrawal Agreement the State aid rules continue to apply during a transition period, subject to regulation by the EU Commission. The Local Authority must be satisfied that all State aid requirements have been fully met and complied with when making grant payments, including, where required, compliance with all relevant conditions of the EU State aid De-Minimis Regulation, the EU Commission Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak, the approved Covid-19 Temporary Framework for UK Authorities, and any relevant reporting requirements to the EU Commission.
- Payments made can be provided under the existing De Minimis rules, provided doing so does not exceed the €200,000 threshold² to any one organisation over a three-year fiscal period. Payments made where the De Minimis threshold has been reached should be paid under the Covid-19 Temporary Framework for UK Authorities (threshold €800,000).
- The amended Temporary Framework enables EU Member States to give up to the nominal value of €800,000 per company (€120,000 per undertaking active in the fishery and aquaculture sector or €100,000 per undertaking active in the primary production of agricultural products). This can be combined also with so-called de minimis aid (to bring the aid per company to up to €1 million) and with other specific types of aid. Any business that has reached the limits of payments permissible under the De Minimis, the UK Covid-19 Temporary State Aid Framework, and all other UK schemes under the terms of the European Commission's Temporary Framework will not be able to receive further grant funding.
- On 13 October 2020 the European Commission (CION) announced further amendments to its State aid Temporary Framework - introducing a new measure enabling further support to companies facing a decline in turnover during the eligible period of at least 30% compared to the same period of 2019 due to the coronavirus outbreak. The support can be provided for up to 70% (90% in case of micro and small companies) of the beneficiaries' fixed costs that are not covered by their revenues or other specified sources, up to a maximum amount of EUR 3 million per undertaking. The aid under this measure cannot be cumulated with other aid for the same eligible costs and is subject to further conditions set out in the Temporary Framework. The UK Government has notified the CION of its intention to use the new provision and must await approval from the CION to do so. The Covid-19 Temporary Framework for UK Public Authorities will need to be amended before aid under this new measure may be provided. All Local Restrictions Support
- There is no appeals procedure and the Council's decision is final

- The Local Authority has the discretion to pay grants to the same businesses or to different eligible businesses in subsequent qualifying periods.

- **SPECIFIC DISCRETION APPLIED AT LCAL2 – HIGH - TIER 2 & 3**

- The Government has announced the following funding tiers as a guide for Local Authorities.
- Grants of up to £467 per 14-day period for businesses occupying hereditaments with a rateable value of exactly £15,000 or under on the date of the commencement of the local restrictions.
- Grants of up to £700 per 14-day period for businesses occupying hereditaments with a rateable value over £15,000 and less than £51,000 on the date of the commencement of the local restrictions.
- Grants of up to £1,050 per 14-day period for businesses occupying hereditaments with a rateable value of exactly £51,000 or above on the date of the commencement of the local restrictions.

- Once this policy has been approved, subsequent amendments can be done by way of delegated authority to Sean Kearney

- The application process for this grant will be an online application form