

REPORT OF **Head of Communities & Place**
To: **Community and Resources Committee**
Subject: **Decisions taken under Urgency Procedure**
Date: **14/03/2022**

Reference:

PURPOSE OF REPORT:

To report decisions taken under Urgency Procedure

1. INTRODUCTION

Two decisions have been made under Urgency procedure that require reporting to committee. These are in relation to:

- A) Approval of the discretionary policy for the granting of Non-Domestic Rates Covid-19 Additional Relief Fund, and;
- B) Additional Restrictions grant – Policy amendment to authorise single top up payments to qualifying public houses and restaurants who have received the Omicron Hospitality and Leisure Grant.

2. REPORT

See attached Urgency Procedure forms and associated supporting documentation

3. IMPLICATIONS

Legal Implications

N/A

Financial Implications

N/A

Human Resources Implications

N/A

Sustainability/Biodiversity Implications

N/A

Equality/Diversity

N/A

Risk Management

N/A

Compliance with Policies and Strategies



Data Protection (GDPR) Implications

N/A

Climate Change

N/A

Ward Member and Lead Member Views

Date of Consultation – N/A

4. CONCLUSIONS

N/A

5. RECOMMENDATIONS

That members note the decisions made under urgency procedure.

SUPPORTING INFORMATION

Consultations: Date of Consultation –Chief Executive, Leader, chair of
Community and Resources Committee.

Contact Officer: Officers Consulted -
Sean Kearney

Background Papers:



URGENCY PROCEDURE

Officer: Karina Baird	Position: NNDR & Income Team Leader	Date: 17.02.22
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Subject of Urgency: Approval of the discretionary policy for the granting of Non-Domestic Rate COVID-19 Additional Relief Fund (CARF)

Reason for Urgency: The government has provided funding for a local discretionary relief scheme. The relief is for the financial year 21/22 only and we have been awarded a fund of £802,250.

This relief is to assist those ratepayers whose businesses have been (and continue to be) affected by the pandemic, but were ineligible for the Business Support Grants that were available.

We have identified these businesses and calculated that we are able to award them a discount of 50% on their business rate liability for 21/22. This will be capped at a maximum amount of £25,000. This award allows us to help these business while leaving a 10% surplus for any changes that occur or new businesses that are rated during 21/22.

Ward and/or Lead Member(s) comments:

Date:

Strategic Director (Resources)'s Agreement: :

Signed:

Date:

Member Agreement:

Signed: 

Date: 21/02/2022

Leader of Council / Deputy Leader of Council*

Signed: 

Date: 21/02/2022

Chairman / Vice Chairman of Community & Resources Committee*

Chief Executive's Approval of Decision:

Signed: 

Date: 23/2/2022

*delete as appropriate

Once completed a copy of this form should be given to the Democratic Services Manager 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.

URGENCY PROCEDURE

Officer: Sean Kearney	Position: Head of Communities and Place	Date: 23/02/2022
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Subject of Urgency: Additional Restrictions Grant - Policy amendment to authorise single top up payments to qualifying public houses and restaurants who have received the Omicron Hospitality and Leisure Grant

Reason for Urgency:

The attached Additional Restrictions Grant Restart 3 (Omicron Top-up) - One off discretionary payment from 30/12/2021 Policy Version 2 describes the grant scheme and how funds will be distributed to qualifying businesses as the Council has been encouraged to do so by the government.

The Government have requested that payments are made as quickly as possible to the businesses that they identified as being worst affected by the Plan B announcements in December 2021. This policy amendment facilitates the swiftest possible distribution of remaining ARG funds while ensuring that Government guidance is followed.

Ward and/or Lead Member(s) comments:

N/A

Date:

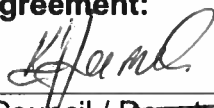
Senior Manager Agreement: :

Signed:

Date:

Member Agreement:

Signed:



Date: 23/2/22

Leader of Council / ~~Deputy Leader of Council~~*

Signed:

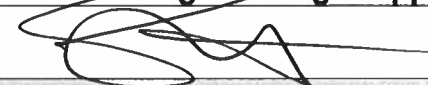
SEE ATTACHED EMAIL

Date: 24/2/22

Chairman / ~~Vice Chairman~~ of Community & Resources Committee*

Chief Executive/Strategic Manager Approval of Decision:

Signed:



Date: 25/2/22

*delete as appropriate

Once completed a copy of this form should be given to the Democratic Services Manager 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.

Sean Kearney

From: Robert Hicks <[REDACTED]>
Sent: 24 February 2022 18:43
To: Sean Kearney
Subject: Re: Urgent Decision

I agree
Bob

On 24 Feb 2022 13:51, Sean Kearney <Sean.Kearney@torridge.gov.uk> wrote:
Hi Bob

Please see the attached urgent decision. It relates to making one off, top up, grant payments to the pubs and restaurants in the district. This is the swiftest and easiest way to deliver the Government ARG funding to it's intended recipients.

Please let me know if you have any questions and if you approve then drop me an email that I can attach to the decision sheet.

Best regard

Sean

Sean Kearney Head of Communities & Place
Torridge District Council Riverbank House, Bideford, EX39 2QG
Phone 01237 428708
Email sean.kearney@torridge.gov.uk

torridge.gov.uk



@torridgedc

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Additional Restrictions Grant Restart 3 (Omicron Top-up) - One off discretionary payment from 30/12/2021 Policy Version 2

Enhanced business support settlements were first provided to areas entering Tier 3 restrictions for the first time from 14 October 2020. With the 31 October 2020 announcement that national restrictions would be reintroduced, the scheme was extended and formalised into the Additional Restrictions Grant to support all Local Authorities or Combined Authorities. This Additional Restrictions Grant guidance applies from 14 October 2020.

The scheme is called the Additional Restrictions Grant (ARG) and is administered by business rate billing authorities in England.

The ARG funding scheme aims to support businesses severely impacted by coronavirus restrictions when most needed. Per BEIS letter 21/12/2021, use of this funding is at the LA's discretion but is intended to support businesses who are impacted by COVID-19 but may not be eligible for the Omicron Hospitality and Leisure grant. **Torridge District Council has used their discretion to support public houses and restaurants who have received the Omicron Hospitality and Leisure Grant**

As part of their application process for the scheme, all businesses will be required to self-certify that they meet all eligibility criteria

Local Authorities allocate funding through business support grants or through wider business support measures. All funding provided under this scheme should provide direct support to businesses.

The grant amounts given to individual businesses will be subject to subsidy allowances.

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

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.

ARG funding should not be used as a wage support mechanism, for capital projects that do not provide direct business support, or to fund projects whereby Local Authorities are the recipients.

All businesses that are trading and meet other eligibility criteria may apply to receive funding under this scheme. There is no starting date from which businesses must have been trading in order to qualify for grant funding.

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 has staff on furlough
- The business continues to trade online, via click and collect 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.

For the avoidance of doubt, applications are now required under this scheme for new applicants.

Local Authorities will need to run a new application process for first-time applicants and must be satisfied that businesses that have previously received related grants under this scheme continue to meet the eligibility criteria for the ARG if further grants are awarded. 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 (if applicable)
- i. Cumulative total of previous funding received under all COVID-19 grants schemes

In addition, the application process should also enable Local Authorities to carry out the required pre-grant fraud checks (including unique identifier), as well as the minimum data reporting requirements set out in Annex A.

Grant income received by a business is taxable. The Additional Restrictions Grant will need to be included as income in the tax return of the business.

Only businesses which make an overall profit once grant income is included will be subject to tax.

Payments made to businesses before 5 April 2021 will fall into the 2020/21 tax year. Payments after 6 April 2021 will fall into the 2021/22 tax year. Unincorporated businesses will be taxed when they receive the grant income.

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.

Local Authorities must continue to ensure the safe administration of grants and that appropriate measures are put in place to mitigate against the increased risks of both fraud and payment error. In this respect, grant administrators should supplement existing controls with digital tools to support efficient, appropriate, and accurate grants awards.

For the avoidance of doubt, Local Authorities are required to undertake pre-payment checks for all Additional Restrictions Grant payments. This is a stricter position than that taken for previous COVID-19 business support grant schemes. These checks are required to be undertaken before any payments are issued to businesses ~~and can be commenced in advance of 1 April 2021~~. This requirement is not limited to new applicants and should look at both the company and the company's bank account.

A company and VAT check will be made (if applicable) and the bank statements of companies in receipt of these business grants will be verified and checked that the company was trading at the relevant date for these grants.

Local Authorities must be satisfied that all subsidy allowance conditions have been fully complied with when making grant payments.

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. 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>

Grants may be paid in accordance with Article 3.2(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 325,000 Special Drawing Rights, to a single economic actor over any period of three fiscal years, which is the equivalent of £335,000 as of 2 March 2021. 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.

Where the Small Amounts of Financial Assistance Allowance has been reached, grants may be paid in compliance with the principles set out in Article 3.4 of the TCA and in compliance with Article 3.2(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 these scheme rules, this allowance is £1,600,000 per single economic actor. This allowance includes any grants previously received under the COVID-19 business grant schemes 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 £1,935,000 (subject to the exact amount applicable under the Small Amounts of Financial Assistance Allowance using the Special Drawing Right calculator).

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 these scheme rules of up to £9,000,000 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 £9,000,000 per single economic actor. This allowance includes any grants previously received in accordance with Section 3.12 of the European Commission's Temporary Framework; 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.

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

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 B 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.

If a grant is awarded under the Small Amounts of Financial Assistance Allowance, Local Authorities must ask the recipient whether, when cumulated with any De Minimis State Aid or Small Amounts of Financial Assistance that the business has received in the last three years, the grant will mean that the recipient has received more than 325,000 Special Drawing Rights (approximately £335,000 at the time of writing). If it has, then the grant must be declared on the BEIS transparency database within six months of it being made.

If the grant is awarded under the COVID-19 Business Grant Allowance or the COVID-19 Business Grant Special Allowance, Local Authorities must ask the recipient whether, when cumulated with any other grant under the allowances, the recipient has received more than £500,000. If it has, then the grant must be declared on the BEIS transparency database within six months of it being made.

Local discretion applied since 18/06/2021

Businesses must be based and trading in the Torridge District Council area prior to 30/12/2021 (the start date of the programme). The main programme was closed on 19th January 2022 and a discretionary top-up grant for pubs and restaurants who have received the OHLG introduced in its place

TDC may vary the terms of these schemes or suspend or close the schemes with immediate effect, without notice and at any time. Torridge District Council reserves the right to request further evidence to support the information given in an application.

Original grant programme

- Grants are on a first come/first served basis until the available funds have been awarded
- Grant awards will be between £250 - £6000 and calculated individually
- Applicants who have a rateable value of £51,000 or more or who are recognised as larger local businesses which are important to the local economy will have their grant award topped up to £6000, subject to approval by Torridge District Council
- The estimated reduction in income and fixed premises costs for December are added together and a grant award calculated based on the total.
 - If the figure is less than £1000, the actual total will be awarded, subject to a minimum grant of £250
 - If the figure is between £1000 and £2666, the actual total will be awarded
 - If the figure is £2667 or more, £2667 will be awarded. The approver has discretion to increase this to the actual figure subject to a maximum award of £6000. If the grant award is increased by 50% or more than the original grant award (£4001 - £6000) then TDC approval is required

Eligible sectors

Businesses can have received Restart and ARG Restart and ARG self-isolation

Businesses who are eligible for or have received the new government Omicron Hospitality and Leisure grant are NOT eligible for this grant

Hospitality (non-business rate payers only)	a business whose main function is to provide a venue for the consumption and sale of food and drink
Leisure (non-business rate payers only)	a business that provides opportunities, experiences and facilities, in particular for culture, recreation, entertainment, celebratory events and days and nights out.
Accommodation (non-business rate payers only)	a business whose main lodging provision is used for holiday, travel or other purposes.
Travel and tourism sector (business rate payers and non-business rate payers)	including group travel, travel agents and tour operators, coach operators, English language schools
Personal Care (business rate payers and non-business rate payers)	a business which provides a service, treatment or activity for the purposes of personal beauty, hair, grooming, body care and aesthetics, and wellbeing, gyms
Supply chain (business rate payers and non-business rate payers)	Wedding industries, nightclubs, theatres, events industries, wholesalers, breweries, freelance and mobile businesses (including caterers, events, hair, beauty and wedding related businesses), non-essential retail, essential retail, taxi drivers, catteries and

	kennels, accommodation support services food kiosks and businesses whose main service is a takeaway
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The application process will be open until 28th February 2022 or until available funds are committed

Evidence required

Additionally for all categories the council reserves the right to request additional information to assess the impact of COVID restrictions on turnover

Most recent bank statement for the account used by the business - this must show:

- account name
- sort code
- account number
- transactions from 1st December 2021 to date, with business transactions clearly identified if it is a personal account
- self-declaration of estimated turnover for December 2021 prior to Omicron variant being identified

Fixed costs

- (evidenced by most recent bill/rent or mortgage statement/policy document showing premium)
 - Rent/mortgage
 - Water
 - Gas/Elec
 - Telephone/internet
 - Property insurance
 - Trade waste
 - Council Tax

Top Up grant programme

Pubs and restaurants who have received the OHLG by 28th February 2022 will be awarded a top-up grant from the discretionary ARG fund of the same value of their OHLG. An invitation to apply will be sent out week commencing 1st March 2022 with a return date of 7th March 2022. All validation checks will have already been completed at the time the OHLG was processed. Applicants will complete declarations contained in the invitation including the SAFAA declaration.

The applicant will be requested to complete the invitation and return it to receive the top-up payment.

Issue Status:	Issued/Updated - updated	Issue Date:	21/02/2022
Issued By:	Victoria Price	Authorised by (Signed):	
Policy ref number	RSTT103	Next Review Date:	28/02/2022
Directory:	Support	Version	2

