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**West Devon
Borough
Council**

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Dear Councillor

WEST DEVON HUB COMMITTEE - TUESDAY, 1ST DECEMBER, 2020

I refer to the agenda for the above meeting and attach papers in connection with the following item(s).

Agenda No	Item
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3.	<u>Items Requiring Urgent Attention</u> (Pages 1 - 16)
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To consider those items which, in the opinion of the Chairman, should be considered by the Meeting as matters of urgency:

Additional Restrictions Grant

Yours sincerely

Darryl White
Democratic Services Manager

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Report to: **Hub Committee**

Date: **1 December 2020**

Title: **Additional Restrictions Grant**

Portfolio Area: **Council – Cllr Neil Jory.**

Wards Affected: **All**

Urgent Decision: **Y** Approval and clearance obtained: **Y**

Date next steps can be taken: **Immediately**

Author: **Chris Brook** Role: **Director of Place and Enterprise**

Contact: **Chris.brook@swdevon.gov.uk**

Recommendations:

That the Hub Committee:

- 1.1. Note the Additional Restrictions Grant (ARG) scheme in Appendix A, including the scheme of delegation to administer the scheme contained therein; and**
- 1.2. Approve the use of £50k from the ARG funding for wider business support measures (in addition to a potential further £50k which is subject to a separate report for approval for the broadband reserve. This would bring the total ARG funding for wider business report to £100k). Expenditure against the reserve to be delegated to the Director of Place and Enterprise and Head of Placemaking in consultation with Leader of the Council.**

2. Executive summary

- 2.1. The Council is required to administer the funds issued to it for the ARG as direct business grants and for wider business support activity.
- 2.2. The funding available to WD is £1,115,920 until March 2022, and the proposed scheme for administering the funding is attached in Appendix A.
- 2.3. The scheme is aligned in principle to other 2nd tier authorities in Devon and is open to all businesses (with some exceptions) that can evidence a significant impact from the national lockdown or subsequently from Tier 3 restrictions.

3. Background

- 3.1. National lockdown commenced on the 5th of November and the guidance for the ARG was released on the 9th November 2020, with the first of multiple FAQs released on the 11th of November.
- 3.2. The ARG is discretionary with “guidance” issued by BEIS (The Department for Business, Energy & Industrial Strategy) aiming it at those business that have suffered a significant impact as a result of the national lockdown or tier 3 restrictions.
- 3.3. A Devon wide approach to principle has been adopted to ensure consistency across the County as follows:
 - A 3 tranche approach with the funding being allocated on an on demand basis to businesses for the national lockdown up to about 1/3 of the available funds. This would probably equate to up to 400 businesses. Subsequent tranches will address future lockdown events or tier 3 restrictions. There is risk of demand and supply not aligning with this approach, but the funding must last until March 2022 and there will be no further funding made available.
 - A requirement to evidence “significant impact”. This is a reduction in trading or profit in excess of 50%. There is some variation across Devon in this threshold.
 - Common grant award thresholds of £500, £934, £1400 or £2100, depending on the Rateable Value (RV) of the premises.
 - Funding for wider business support activity, taken from the 3rd tranche of funding, but each Council to decide its own allocation amount and use.
 - One grant only policy with respect to the LRSG Closed.
 - House sharing (AirBnB) excluded.
- 3.4. The scheme went live for applications on Friday 27th of November for 3 weeks. Due to the resources available and work required to assess and processing each application, it is anticipated that it could take a month from the closure of the scheme to conclude payments. This is very dependent on demand and the restrictions in place during the period, as tier 3 restrictions will require ongoing LRGS Closed applications to be processed as well.
- 3.5. The wider business support element of the ARG, proposed at £50k at this time, is yet to be finalised, but could include support for the following organisations, and would be issued on a case by case basis where there is an evidential need and benefit:
 - Business Information Point (BIP) – extending the work we already do offering targeted support to pre-start businesses, particularly focused in engaging with individuals who have recently been made redundant and young people looking for self-employment.

- Tavistock BID renewal – the BID ends on 31st August 2021 and is due to go to a renewal ballot of its 312 business members at the beginning of July; the BID team requires additional support to consult its members and design their next five year business plan, alongside lobbying its members to vote YES for a further five year BID term.
 - Visit Devon – with Tourism identified as a primary driver for employment in the South Hams and West Devon, there is genuine reason to expand marketing of our regions to Domestic and International visitors, a service being offered through Visit Devon as a collaborative initiative.
 - Greater Dartmoor LEAF and South Devon Coastal LAG – targeted at business growth and new job creation, to complete delivery of projects stalled through COVID impacts during 2020, the LEAF and LAG projects need to continue through 2021 and to achieve this the delivery team require another year of funding.
- 3.6. It is proposed that any funding allocation from the ARG for wider business support would be the subject to scrutiny (and delegated authority for spend) by the Head of Placemaking and Director of Place and Enterprise, in consultation with the Leader of the Council.

4. Options available and consideration of risk

- 4.1. BEIS have made it clear that there will be no further funding for the ARG and yet it is unknown how long it will be required to be open for as there is no clarity of future restrictions.
- 4.2. There is a risk that the demand for ARG support and the funding do not align and the Council will have to stand by the choices it has made in the ARG scheme, namely; an on demand approach to payment and a “soft” cut off initially of 1/3rd of the funding.
- 4.3. There is a high likelihood that the processing of the ARG will be slower than would be preferred, due to the prioritisation of the LRSG Closed scheme and the work required to assess each ARG application. The Council will remain flexible in its resourcing to mitigate this reputational risk.
- 4.4. Members will be kept informed of the demand and performance of the ARG through the member’s bulletin and other channels including as required, member briefings.

5. Proposed Way Forward

- 5.1. To note the ARG scheme in Appendix A
- 5.2. Approve the use of £50k from the ARG funding for wider business support measures (in addition to the £50k for the broadband reserve, which is subject to a further approval in a separate report).

- 5.3. To delegate expenditure from the reserve to the Director of Place and Enterprise and Head of Placemaking, in consultation with the Leader of the Council.

6. Implications

Implications	Relevant to proposals Y/N	Details and proposed measures to address
Legal/Governance	Y	None
Financial implications to include reference to value for money		The funding award of £1,115,920 is to be spent through the ARG scheme (including wider business support) and no other purpose. It is to support the ARG until March 2022 or until it is spent, whichever is the soonest.
Risk		Reference section 4
Supporting Corporate Strategy		Business and Enterprise
Climate Change - Carbon / Biodiversity Impact		None
Comprehensive Impact Assessment Implications		
Equality and Diversity		None
Safeguarding		None
Community Safety, Crime and Disorder		None.
Health, Safety and Wellbeing		None
Other implications		

Supporting Information

Appendices:

Appendix A – ARG Scheme



West Devon Borough Council Additional Restrictions Grants (ARG) Scheme

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Definitions

The following definitions are used within this document:

'Additional Restrictions Grant (ARG)' means the additional funding provided by Government. Funding will be made available to eligible Local Authorities at the point that national restrictions are imposed or at the point the Local Authority first entered LCAL 3 local restrictions;

'COVID-19' (coronavirus); means the infectious disease caused by the most recently discovered coronavirus;

'Department for Business, Energy & Industrial Strategy (BEIS)'; means the Government department responsible for the scheme and guidance;

'Effective date'; means, for eligibility of the grant, the date of the local restrictions or the date of widespread national restrictions. For the purpose of this scheme the date cannot be before 14th October 2020;

'Hereditament(s)'; means the assessment defined within Section 64 of the Local Government Finance Act 1988;

'Local Covid Alert Level' (LCAL) means the level of alert determined by Government and Local Authorities for the area. LCALs have three Tiers. Tier 1 (Medium): Tier 2 (High) and Tier 3 (Very High). For the purposes of these schemes the definitions used are LCAL1, LCAL2 and LCAL3.

'Local lockdown'; means the same as **'Local restrictions';**

'Local rating list'; means the list as defined by Section 41 of the Local Government Finance Act 1988

'Local restrictions'; and **'Localised restrictions'** means legally binding restrictions imposed on specific Local Authority areas or multiple Local Authority areas, where the Secretary of State for Health and Social Care requires the closure of businesses in a local area under regulations made using powers in Part 2A of the Public Health (Control of Disease) Act 1984 in response to the threat posed by coronavirus and commonly as part of a wider set of measures;

'Local Restrictions Support Grant Scheme (Closed)'; means the grant scheme developed by the Council in response to an announcement made by the Secretary of State for Business, Energy & Industrial Strategy made on 9th September 2020 and amended on 9th October 2020 and which is applicable to businesses forced to close under either LCAL3 or where national restrictions are in place;

'Local Restrictions Support Grant Scheme (Closed) Addendum'; means the changes made to the Local Restrictions Support Grant Scheme (Closed) due to widespread nationwide restrictions;

'Ratepayer'; means the person who, according to the Council's records, was the ratepayer liable for occupied rates in respect of the hereditament at the date of the local restrictions or widespread national restrictions;

'State Aid Framework'; means the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak published on 19 March 2020; and

'Temporary Framework for State aid'; means the same as the **'State Aid Framework'.**

1.0 Purpose of the Scheme and background.

- 1.1 The purpose of this document is to determine eligibility for a payment under the Council's Additional Restrictions Grant Scheme (ARG). The Council, as the Business Rates Billing Authority is responsible for payment of these grants.
- 1.2 This discretionary grant scheme has been developed by the Council in response to an announcement made by the Secretary of State for Business, Energy & Industrial Strategy made on 31st October 2020 which sets out the basic circumstances whereby an additional restriction grant payment may be made by the Council to a business which has to close or are severely affected due to localised or widespread national restrictions being put in place to manage coronavirus and save lives.
- 1.3 Whilst the awarding of grants will largely be at the Council's discretion, the Department for Business, Energy & Industrial Strategy (BEIS) has set down criteria which **must** be met by each business making an application.
- 1.4 This scheme applies for the period of the current widespread national lockdown. National restrictions are nationally binding widespread restrictions imposed by Parliament under legislation. The current national restrictions are made under the Health Protection (Coronavirus, Restrictions) (England) (No. 4) Regulations 2020.
- 1.5 Additional Restrictions Grant funding will be available for the 2020/21 and 2021/22 financial years only.

2.0 Funding

- 2.1 Under the Additional Restrictions Grant Scheme (ARG) provisions, Local Authorities will receive a one-off lump sum payment amounting to £20 per head in each area when local restrictions (LCAL3) or widespread national restrictions are imposed.
- 2.2 Once the Council's area is removed from local restrictions (LCAL3) or widespread national restrictions, no additional funding will be received from Government even if either the local restrictions or widespread national restrictions are re-instated.
- 2.3 The Council has been allocated an amount of £1,115,920 which will be used to;
 - support businesses during the current widespread national restriction period of 5th November 2020 to 2nd December 2020;
 - provide strategic Economic Development projects both during and post the COVID-19 crisis; and
 - provide funding in case of further national or LCAL3 restrictions before 31st March 2022.

3.0 Eligibility criteria and awards

- 3.1 The Council is able to use this funding for business support activities and Government envisage that this will primarily take the form of discretionary grants although it can be used for wider business support activities.
- 3.2 If Local Authorities use the Additional Restriction Grant for direct business support grants, Government has stated that the same conditions of grant **must** apply as for the Local Restrictions Support Grant (Closed) scheme. However, the Council will have the discretion to alter the amount of funding offered to individual businesses and the frequency of payment.
- 3.3 Government has stated that the Council *may* also consider making grant payments to those businesses which, while not legally forced to close are nonetheless severely impacted by the restrictions put in place to control the spread of COVID-19. Government has also stated that the Council may also wish to assist businesses which are outside of the rating system and which are effectively forced to close but, in all cases, will be awarded subject to evidence of need.
- 3.4 This document details the eligibility criteria for the widespread national restriction period 5th November 2020 until 2nd December 2020.

Eligibility Criteria - widespread national restriction period

- 3.5 For the purposes of this scheme the Council has decided that the following eligibility criteria must be met in order to receive an Additional Restriction Grant (ARG) during the widespread national restriction period.
- 3.6 In line with Government guidance, the Council's Additional Restrictions Grants (ARG) scheme will support businesses that have had their trade affected by the current restrictions. This includes closed businesses that don't pay business rates as well as businesses that have not been required to close but are still severely impacted by the restrictions.
- 3.7 The Council particularly encourages applications from businesses both within and which supply the retail, hospitality and leisure sectors, including the events sector. In prioritising support to those businesses most adversely impacted by the current restrictions, the Council will be proactive in communicating the availability of the Additional Restrictions Grants (ARG) to retail, hospitality and leisure related businesses, including those with whom the Council had contact in relation to the previous Local Authority Discretionary Business Grants. Businesses in these sectors will still have to evidence they have been severely impacted as set out in 3.9 below.
- 3.8 Businesses and organisations which are not included within the specific list of exclusions detailed within this scheme will be able to apply to the Additional Restrictions Grants (ARG) scheme if sufficient evidence can be provided that they have been 'severely impacted' by the current national restrictions. This includes non-excluded home-based and mobile businesses that can evidence they are registered companies or sole traders.

- 3.9 Each application will be considered on a case-by-case basis and the Council considers 'significant impact' to describe an evident drop in the businesses' normal trading, income or service provision of at least 50% compared to a more representative period of comparable trading. It should be shown that this decreased level of trade is a direct consequence of the period of national restrictions, and not as a result of more predictable (e.g. seasonal) fluctuations in demand.
- 3.10 Full details on how to claim are shown in Section 4.
- 3.11 To prevent an overspend from the Council's allocation of funding, applications will not be accepted from any business that is eligible for an award from the Local Restrictions Support Grant (Closed) Scheme.
- 3.12 Only one Additional Restrictions Grants (ARG) will be awarded to any business covering the current 4-week national restriction period (5th Nov 2020 to 2nd Dec 2020). The Council will make payment as a single sum. Any subsequent period of new national restrictions will require a new application for Additional Restrictions Grants (ARG) from any business which would be required to satisfy what may be different eligibility criteria for that scheme. No automatic right of approval for any subsequent grant is implied or should be assumed of from the current scheme.

Award Levels

- 3.13 The Council has decided the following grant award levels for the current widespread national restrictions;

Total payment per 28 days (5th November 2020 to 2nd December 2020)	
Where the business suffers a significant financial impact; or where the business is closed, and the business is not subject to Non-Domestic rating;	Lower grant level £500 Upper grant level £934
Where the business suffers a significant financial impact and is subject to Non-Domestic rating (Business Rates); RV £0 - £15,000	£934
Where the business suffers a significant financial impact and is subject to Non-Domestic rating (Business Rates); RV over £15,001 - £50,999	£1,400
Where the business suffers a significant financial impact and is subject to Non-Domestic rating (Business Rates); RV £51,000	£2,100

In taking decision on the appropriate level of grant, the Local Authority will take into account the level of fixed costs faced by the business in question, whether they are unable to trade online and the consequent scale of coronavirus losses.

Excluded businesses

3.14 The following businesses will **not** be eligible for an award:

- (a) Businesses which can obtain a grant under the Local Restrictions Support Grant Scheme (Closed);
- (b) Businesses in areas outside the scope of the restrictions, as defined by Government and not subject to a widespread national restriction;
- (c) Businesses which have already received grant payments that equal the maximum levels of State aid permitted under the de minimis and the COVID-19 Temporary State Aid Framework; and
- (d) Businesses that were in administration, are insolvent or where a striking-off notice has been made at the date of the local restriction or widespread national restriction.

3.15 In addition to the above and to ensure limited grant funds are prioritised to those businesses most severely impacted by the current national restrictions, the following businesses and hereditaments are specifically excluded from Council's Additional Restrictions Grants (ARG) scheme:

- Any properties or parts of properties used for personal use
- Charitable business receiving other help from public funds;
- Show homes;
- Car parking;
- Storage containers; Containers; Storage premises;
- Yards, land or properties used for storage only;
- Advertising or advertising stations or hoardings;
- Communication stations or telecommunication equipment
- Solar panel sites;
- ATM's, cash machines or equivalent;
- Schools / Academies / Educational establishments and premises (which are publicly funded);
- Lockers; Beach huts or similar structures;
- Businesses in the accommodation sector that advertise solely on home sharing websites;
- Businesses in the accommodation sector that are second homes, whole homes or part homes that are also let to paying guests; and
- Businesses that are able to trade as they are not wholly dependent on providing 'in person' services from the premises.

The Effective Date

3.16 The effective date for eligibility is the 5th November 2020 being the date of the widespread national restriction. Businesses **must** have been trading on the day prior to national restrictions to be eligible to receive grant support.

Who can receive the grant?

- 3.17 Government has stated that the person who will receive the grant will be the person who, according to the Council's records, was the ratepayer in respect of the hereditament at the effective date. Where there is no entry in the rating list for the business, the Council will have discretion to determine who should receive the grant.
- 3.18 Where the Council has reason to believe that the information it holds about the ratepayer or applicant at the effective date is inaccurate, it may withhold or recover the grant and take reasonable steps to identify the correct ratepayer or applicant.
- 3.19 Where, it is subsequently determined that the records held are incorrect, the Council reserves the right to recover any grant incorrectly paid.
- 3.20 Where any business or individual misrepresents information or contrives to take advantage of the scheme, the Council will look to recover any grant paid and take appropriate legal action. Likewise, if any person is found to have falsified records in order to obtain a grant.

4.0 How will grants be provided to Businesses?

- 4.1 The Council is fully aware of the importance of these grants to assist businesses and support the local community and economy. The Council's Additional Restrictions Grant (ARG) scheme together with the Local Restrictions Support Grant (Closed) will offer a lifeline to businesses who are struggling to survive during to the COVID-19 crisis.
- 4.2 Full details of the Council's scheme, including how to apply are available online at: <https://www.westdevon.gov.uk/ARG>
- 4.3 The application form is available to complete with effect from 27th November 2020 (subject to systems development resource) and this initial scheme will remain open for a period of 3 weeks to the 18th December 2020. The Council reserves the right to close the scheme earlier should the allocated funding be exhausted.
- 4.4 All applicant businesses will be required to upload up to date bank statement(s) (for the account used by the business). This must contain the name of account, sort code and account number for verification purposes. The statement(s) should include recent transactions to show trading at the beginning of November.
- 4.5 The Council will undertake both pre- and post-payment anti-fraud checks. Any attempt to fraudulently claim public grant funding will result in funds being recovered and legal action being taken.
- 4.6 In all cases, businesses will be required to confirm that they are eligible to receive the grants. Businesses are under an obligation to notify the Council should they no longer meet the eligibility criteria for any additional grants.
- 4.7 The Council reserves the right request any supplementary information from businesses, and they should look to provide this, where requested, as soon as possible.

- 4.8 An application for an Additional Restriction Grant is deemed to have been made when a duly completed application form is received via the Council's online procedure.
- 4.9 All monies paid under this scheme will be funded by Government and paid to the Council under S31 of the Local Government Act 2003.

5.0 EU State Aid requirements

- 5.1 Any grant is given as aid under the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak published on 19 March 2020. This means that businesses receiving support under these provisions can receive up to €800,000 in aid over three years (being the current and the previous two years).
- 5.2 Any grant awarded is required to comply with the EU law on State Aid. This will involve the applicant declaring to the Council if they have received any other de minimis State aid or aid provided under the EU Commission COVID-19 Temporary Framework.
- 5.3 If the applicant has not received any other de minimis State aid, they are not required to make that declaration to the Council or to complete any declaration statement.

6.0 Scheme of Delegation

- 6.1 This scheme is considered a matter of urgency by the Head of Paid Service under Part 3a of the scheme of delegation and shall be delegated to him in consultation with the Chairman and Vice-Chairman of the Hub Committee subject to a report being made to the next meeting of the Hub Committee.
- 6.2 Officers of the Council will administer the scheme and the S151 Officer, Director of Place and Enterprise are authorised to make technical amendments to the scheme, and, to determine individual awards as required outside of the levels specified in 3.3 in rare circumstances.
- 6.3 The Council reserves the right to change this scheme at any time.

7.0 Notification of Decisions

- 7.1 All decisions made by the Council shall be notified to the applicant either in writing or by email. A decision shall be made as soon as practicable after an application is received.

8.0 Reviews of Decisions

- 8.1 All grants will be approved by the S151 Officer, Director of Place and Enterprise and Head of Customer Improvement. This decision will be final and there will be no appeal process.

9.0 Complaints

9.1 The Council's 'Complaints Procedure' (available on the Council's website) will be applied in the event of any complaint received about this scheme.

10.0 Taxation and the provision of information to Her Majesty's Revenues and Customs (HMRC)

10.1 The Council has been informed by Government that all payments under the scheme are taxable.

10.2 The Council does not accept any responsibility in relation to an applicant's tax liabilities and all applicants should make their own enquiries to establish any tax position.

10.3 All applicants should note that the Council is required to inform Her Majesty's Revenue and Customs (HMRC) of all payments made to businesses.

11.0 Managing the risk of fraud

11.1 Neither the Council, nor Government will accept deliberate manipulation of the schemes or fraud. Any applicant caught falsifying information to gain grant money or failing to declare entitlement to any of the specified grants will face prosecution and any funding issued will be recovered from them.

11.2 Fraud tools such as the digital due diligence tool Spotlight and the National Fraud Initiative (NFI) tool will be used as part of the assurance process.

11.3 Applicants should note that, where a grant is paid by the Council, details of each individual grant may be passed to Government.

12.0 Recovery of amounts incorrectly paid

12.1 If it is established that **any** award has been made incorrectly due to error, misrepresentation or incorrect information provided to the Council by an applicant or their representative(s), the Council will look to recover the amount in full.

13.0 Data Protection and use of data

13.1 All information and data provided by applicants shall be dealt with in accordance with the Council's Data Protection policy and Privacy Notices which are available on the Council's website.