

Public Document Pack

EMERGENCY DELEGATED NON EXECUTIVE DECISION

To the Chief Executive to take such action on behalf of the Council as appears to him/her necessary in circumstances that prevent obtaining the necessary authority from an appropriate committee following consultation with the Leader of the Council or the Chairman of the committee concerned. Where the Chief Executive is acting in an emergency and it involves spending outside any budgetary provision, then any expenditure must be reported to Full Council at the first available opportunity. (In accordance with Part 3 of the Councils Constitution 3. (B 1) (1.1) Scheme of Delegation to Officers specific delegation to the Chief Executive.)

South Lakeland District Council Emergency Non-Executive Decision Additional Restrictions Grant

Date: 20/11/2020

Reference: 017

Reason for emergency

The announcement of the Additional Restrictions Grant and the time line expected by Government in the delivery of that grant do now allow the Council to delay a decision until the next Full Council. It is therefore considered necessary in these circumstances and following consultation with the Leader of the Council or the Chairman of the committee concerned.

Where the Chief Executive is acting in an emergency and it involves spending outside any budgetary provision, then any expenditure must be reported to Full Council at the first available opportunity (in accordance with Part 3 of the Councils Constitution 3. (B 1) (1.1) Scheme of Delegation to Officers specific delegation to the Chief Executive.)

The decision is required to be taken due to the Government's recent announcement for a new package of financial support grants for businesses that will be administered by local authorities to pay the grants in response to the second national lockdown. Funding will be provided by the Government for the new grants. The Government have requested the grants are processed and paid as soon as possible, with the funding expected to be paid in early November 2020.

The reasons for this urgent decision are outlined in the Emergency Executive Decision taken on 20th November 2020 (attached).

Portfolio: Finance and Resources Portfolio Holder
Decision Maker: Chief Executive
Report Author: Gareth Candlin – Operational Lead (Specialist Services)
Ruth Leahy – Specialist (Economy and Culture)
Wards: All

1.0 Expected Outcome

1.1 The South Lakeland business community will be supported at this time through the administering of grants for eligible businesses.

1.2 Please see Appendix A and associated Delegated Executive Decision for full details of these schemes.

2.0 Proposed Decision

2.1 It is recommended that the Chief Executive approves:

- (1) **Appropriate budgets be established outside the approved budget and policy framework to receive the monies and distribute funds to businesses as per Government guidance relating to the Additional Restrictions Grants.**

Appendices Attached to this Report

Appendix No.	Name of Appendix
A	Emergency Delegated Executive Decision: Additional Restrictions Grant 20 November 2020

Approved by:	Signature and Date
Chief Executive	20/11/2020
In consultation with	
The Chairman of the Council	20/11/2020

APPENDIX A

EMERGENCY DELEGATED EXECUTIVE DECISION

In accordance with the Leaders decision and noted by Cabinet on 25/03/2020 to delegate to the Chief Executive any executive decision in this COVID 19 Global pandemic emergency or that is urgent or that would be necessary or expedient, or which would otherwise protect the Council's interests, including key decisions.

South Lakeland District Council Emergency Delegated Executive Decision Additional Restrictions Grants

Date: 20/11/2020

Reference: 012

Reason for emergency

The Chief Executive received emergency delegated executive decision making powers on the 25th March 2020. It is considered that this decision is necessary or arises from the global COVID-19 pandemic.

The matter is urgent, necessary and expedient and is needed to protect the Council's interests.

The decision is required to be taken due to the Government's recent announcement for a new package of financial support grants for businesses that will be administered by local authorities. Funding will be provided by the Government for the new support grants for businesses due the announcement of a second national lockdown. The Government have requested the grants are processed and paid as soon as possible, with the funding be paid to the Council on the 13th November 2020. It is expected that the payment of grants will ease financial pressures for eligible businesses.

Due to the timing of the receipt of the Government Guidance (announced 30th October 2020) and the date of the next Cabinet meeting being on 25th November 2020, we require an emergency decision.

This is a Key Decision: **Yes**

Portfolio:	Finance and Resources Portfolio Holder
Decision Maker:	Chief Executive
Report Author:	Gareth Candlin – Operational Lead (Specialist Services) Ruth Leahy – Specialist (Economy and Culture)
Wards:	All
Forward Plan:	Exemption from publication requirements / Forward Plan (key decision) requirements and call in obtained

1.0 Reasons for Proposed Decision and Expected Outcome

- 1.1** Due to the second national lockdown announced on 30th October 2020 and planned between 5th November 2020 and 2nd December 2020 with the possibility of the UK

Government extending the lockdown beyond this date dependent on the Coronavirus infection rate. We require a process and policy regarding the administration of the grants.

- 1.2 Many businesses have been mandated to close which will have a severe impact on businesses who will see a significant reduction in income as a result of new national restrictions.
- 1.3 The Additional Restrictions Grant (**ARG**) has been announced by Government to support businesses who will be significantly impacted by the lockdown.
- 1.4 South Lakeland District Council has been granted **£2,101,760** for the ARG from Government to distribute to eligible businesses under this scheme.
- 1.5 The ARG grant scheme follows the Government-funded Small Business Grant Fund (SBGF) Retail, Hospitality and Leisure Grant Fund, (RHLGF), Local Authority Discretionary Grant Fund (LADGF) that were administered by local authorities following the first national lockdown in March 2020.
- 1.6 SLDC will distribute grant funding to eligible businesses through an online application and validation process, used in the aforementioned grant schemes.
- 1.7 It is expected that the payment of grants will ease financial pressures for eligible businesses. This decision will contribute significantly in assisting businesses during COVID-19, helping with job retention and business viability in difficult circumstances and avoiding economic collapse by giving additional resources to businesses with properties within the district.

2.0 Proposed Decision

2.1 It is recommended that the Chief Executive:-

- (1) **Approve the Additional Restrictions Grant**
- (2) **That a non-executive emergency decision is taken to confirm appropriate budgets be established outside the approved budget and policy framework to receive the grant funding and distribute funds as per Government guidance; and**
- (3) **Agree to delegate the identification, determination and payment of the grants in accordance with the scheme (see Appendix 1) to qualifying businesses to the Operational Lead for Specialist Services.**
- (4) **Delegates to the Operational Lead for Specialist Services, in consultation with the Portfolio Holder for Finance and Resources, authority to make any amends to the ARG to reflect future changes in Government guidance or change in local need.**

Review Date:	31 March 2021
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3.0 Background and Proposals

- 3.1 The government has announced the ARG to be targeted at businesses not mandated to close but significantly affected by the second national lockdown.

The grant levels apply to ARG as follows:

- Businesses occupying hereditaments appearing on the local rating list with a rateable value of exactly £15,000 or under on the date of the commencement

of the widespread national restrictions will receive a payment of £1,334 per 28-day qualifying restriction period. For businesses not in the local rating list it will be based on number of employees 1-9.

- Businesses occupying hereditaments appearing on the local rating list with a rateable value over £15,000 and less than £51,000 on the date of the commencement of the widespread national restrictions will receive a payment of £2,000 per 28-day qualifying restriction period. For businesses not in the local rating list it will be based on number of employees 10-24.
- Businesses occupying hereditaments appearing on the local rating list with a rateable value of exactly £51,000 or above on the commencement date of the widespread national restrictions, will receive £3,000 per 28-day qualifying restriction period. For businesses not in the local rating list it will be based on number of employees 25+.

During the lockdown, a single grant to cover the four-week period will be paid to each eligible business. The grant amounts will be fixed. Businesses in the local rating list with more than one qualifying property will receive more than one grant. Businesses not on the local rating list will receive one grant per business.

3.2 Please see Appendix 1 for the South Lakeland ARG

4.0 Consultation

4.1 A common and consistent approach has been agreed by all District Councils in Cumbria, allowing for specific references to business sectors within districts to support their own local economic make up.

4.2 A working group of officers including specialists and case managers have agreed the process for collecting information and administering payment of grants.

4.3 The Portfolio Holder for Finance and Resources, the Leader of the Council and Cabinet have been consulted on the detail of this decision and appended guidance.

5.0 Alternative Options

5.1 SLDC do not accept this funding: this would not comply with the request from Government and would not give critical support to businesses operating within South Lakeland, and therefore this is not a recommended option.

5.2 SLDC administer grants beyond the scheme set out by Government: this is not affordable for the Council, and therefore is not the recommended option.

6.0 Links to Council Priorities

6.1 Supporting our Economy: To aid job retention and business viability in difficult circumstances; avoiding economic collapse and enhancing the culture of the district by giving additional resources to businesses, including eligible cultural organisations, with properties within the district.

7.0 Implications

Financial, Resources and Procurement

7.1 The Government has made it clear that Councils can recover the additional cost incurred by the Council in administering this scheme.

7.2 The Government are funding the entirety of the scheme.

Human Resources

- 7.2 There are no direct human resources implications of this report. Staff from around the Council will assist in the processing of grant claims.

Legal

- 7.3 The Council has powers under the Localism Act 2011 to make these payments. Legal advice has been provided on the grants application form and the state aid implications. A separate non-executive decision will be taken to address the changes to the Budget and Policy Framework.

Health, Social, Economic and Environmental

- 7.4 Have you completed a Health, Social, Economic and Environmental Impact Assessment? No
- 7.5 If you have not completed an Impact Assessment, please explain your reasons: This has not been deemed as necessary in this instance. The impact of the scheme applies to businesses which are eligible within the district and is vital to prevent many small businesses becoming insolvent following Government required closure.
- 7.6 Summary of health, social, economic and environmental impacts: n/a

Equality and Diversity

- 7.7 Have you completed an Equality Impact Analysis? No
- 7.8 If you have not completed an Impact Assessment, please explain your reasons: This has not been deemed as necessary in this instance, this applies to all those with businesses which are entitled within the district.
- 7.9 Summary of equality and diversity impacts: n/a

Risk

Risk	Consequence	Controls required
Grants are not given in accordance with Government guidance	Government will not reimburse the Council for payments made outside the Government schemes	Grant applications will be verified to be compliant with Government guidance and business eligibility
Grants are given to fraudulent claimants	Grants are given to businesses or individuals that are not eligible	Verification has been built into the grant process including requesting sufficient evidence and using Government tools to avoid fraudulent claims
Grants are not issued promptly	Businesses will not receive financial assistance as set out by Government	Online portal developed for efficient application of grants, resource trained and in place to review and approve
Online application and verification processes to manage a multi-million pound scheme in just a few days in order to get grants paid to businesses with minimal delay	Reputational impact to the Council and delays to the processing of payments	Learning from previous scheme will significantly reduce risk. Robust process in place to expedite payments.

Contact Officers

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Appendices Attached to this Report

Appendix No.	Name of Appendix
1	SLDC Additional Restictions Grant

Background Documents Available

Name of Background document	Where it is available
Additional Restriction Grant, guidance for local authorities	https://www.gov.uk/government/publications/local-restrictions-support-grants-lrsg-and-additional-restrictions-grant-arg-guidance-for-local-authorities
Approved by:	Signature and Date (or email confirmation)
Chief Executive	20/11/2020
Or such person as delegated by the Chief Executive in writing	n/a
In consultation with	
The Leader of the Council	20/11/2020
And Relevant Portfolio Holder	20/11/2020
CMT Directors	
The following interests were declared – disclosable pecuniary interest or other or none	n/a

<p><i>Due to COVID 19 and Government announcements, it has not been possible for this Key decision to be included in a Forward Plan at least 28 clear days before the decision was to be made. It is not possible to comply with the General Exemption procedure.</i></p> <p><i>In accordance with Part 4 of the Constitution - Rules of Procedure – Access to Information Rules – Paragraph 16, the Chairman of the Overview and Scrutiny Committee (Cllr Hughes) has agreed that the taking of the decision is urgent and could not reasonably be deferred because for the reasons outlined in this report and the timescales required to protect the public/business interest and to comply with Government advice.</i></p> <p><i>This being “special urgency”</i></p>	20/11/2020
<p><i>In accordance with Part 4 of the Constitution – Rules of Procedure – Overview and Scrutiny Procedure Rules - paragraph 16(j), the Chairman of the Council (Cllr Coleman) agrees that this decision is reasonable in all the circumstances and that it is treated as urgent for the reasons outlined above and, therefore, the decision is exempt from call-in.</i></p>	20/11/2020

South Lakeland District Council - Additional Restrictions Grant Policy

Background

1. The government has announced an Additional Restrictions Grant (ARG) one-off fund to be provided to Local Authorities, based on a £20 per head of population, as a result of the National Restrictions during November 2020.
2. South Lakeland District Council (SLDC) has been awarded £2,101,760 to spend during 2020/21 and 2021/22 to support businesses impacted by additional restrictions. It is expected that this money will be spent on direct business grants or provision of business support for businesses. This policy sets out the criteria and process for the provision of additional restrictions grants to businesses. SLDC does not commit to spending the full award amount in this way but recognises the importance of issuing grants quickly to businesses who are impacted by restrictions but not eligible for the Local Restrictions Support Grant (Closed), which provides grants to businesses in hereditaments on the rating list and are legally required to close.
3. The Council wishes to use the money provided to help businesses continue to trade once the restrictions are removed and businesses are able to trade with some greater degree of normality. The Council envisages that the grant will be used to maintain the business and help towards retaining employees within the business.

National Criteria

4. The Government has set out that where the Additional Restrictions Grant is used for provision of grants it must meet the same conditions of grant as the Local Restrictions Support Grant (Closed). These conditions are
 - The business must have been trading the day before the additional restrictions were introduced i.e. the 4th November 2020. Businesses that were in administration, are insolvent or where a striking-off notice has been made are not eligible for funding under this scheme.
 - Grant income received by a business is taxable
 - Grant income is subject to State Aid regulations.
5. The Government has encouraged Local Authorities to develop schemes to help 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. This could include – for example – businesses which supply the retail, hospitality, and leisure sectors, or businesses in the events sector.

6. The guidance also suggested Local Authorities may choose to help businesses outside the business rates system, which are effectively forced to close – for example market traders.
7. Finally the guidance proposes that Local Authorities could use ARG funding to provide additional support to larger local businesses which are important to the local economy, on top of the funding provided to those businesses via the LRSG (Closed) scheme, with due reference to State Aid.
8. The government guidance and criteria can be seen in full here:
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/932623/V.1. Additional Restrictions Grant - FINAL LA guidance 03112020.pdf

Eligibility

9. The Council plans to align its ARG Scheme from Government proposal outlined above for eligibility. The Council's scheme will be predominantly focussed on those businesses who demonstrate their eligibility as being severely impacted by the introduction of the latest round of restrictions.
10. For reference the guidance for national restrictions which apply from 5 November 2020 can be found at <https://www.gov.uk/guidance/new-national-restrictions-from-5-november>.
11. The latest restrictions are less restrictive than the previous national lockdown e.g. Traders can continue to visit homes, people may continue to go to their workplace where their work cannot be done from home and their businesses is not legally required to close, and many businesses are already established in new patterns of working from home. Eligibility for this fund compared to the previous discretionary grant fund reflects these changes.
12. Businesses eligible for this grant will largely fall under three categories:
 - Businesses that have been mandated to close because of the nation restrictions and that aren't in the business rates list or not the ratepayer;
 - Businesses that are able to stay open that are in the business rates list and have been adversely affected by the national restrictions;
 - Businesses that have received support through LRSG(C) grant scheme but are deemed of strategic importance to the district's economy.
13. More specifically, eligible businesses are as follows;

Category A

Businesses required to close but are not in the rates system, or are not the ratepayer and are therefore not eligible for the LRSG, for example:

- i. B&Bs who pay Council Tax rather than business rates;
- ii. Small businesses in shared commercial space providing in-person services who do not have their own business rates assessment;
- iii. Personal Care services i.e. hairdressers, beauty therapists, physiotherapists, who either operate mobile, at home, or in a shared space which is legally required to close, where these businesses are not the direct business ratepayer;
- iv. Regular market traders who do not sell essential goods as outlined in Government legislation. Those who sell essential goods may also be eligible where their regular market has been cancelled by organisers and they are unable to attend.

Category B

Businesses that have been able to stay open and have a rateable value which supply the closed retail, hospitality, and leisure sectors. This should not include businesses where supply to essential retail accounts for 50% or more of their business.

Category C

Businesses based within South Lakeland in the events sector who have had at least 1 event planned and cancelled in November 2020.

Category D

Any other business not covered above which is able to demonstrate that they have been severely impacted by the latest round of restrictions only. As these businesses are undefined, further evidence may be requested where it is not easily evident to the assessor that they meet this criteria.

This category will only be considered if there are adequate remaining funds once Categories A, B and C have been assessed.

Category E

Businesses that have received a Local Restrictions Support Grant (Closed) can also apply for the Additional Restrictions Grant if they remain severely impacted by the lockdown period even after having received a Local Restrictions Support Grant (Closed). For such businesses, a top up grant of £1,000 may be available and considered on a case by case in the following scenarios:

- a) Larger local businesses which are considered to be important to the local economy, this could either be on an SLDC wide basis, or particularly important to a town or village;
- b) Businesses considered to have unusually high costs, relevant to their size, as a result of national restrictions.

14. Category E will only be considered if there are adequate remaining funds once Categories A-D have been assessed. This scheme will be made available after the closing date of the main scheme and details will be available on our website.
Applications for the Categories A-D should be made by the 20th December 2020.
15. Applications from businesses under ARG that are in the business ratings list with a rateable value should submit one application per hereditament (property). Businesses outside the business ratings list without a rateable value should only submit one application per business.
16. The Council reserves the right to reject application or withdraw this grant scheme based on the amount of funding remaining, and should demand far outstrip the funding allocation, priorities will be based on the ordering of the categories above.
17. Companies that are in administration, are insolvent or where a striking-off notice has been made are not eligible for funding under this scheme.
18. This scheme is aimed at local businesses, therefore in order to be eligible for the fund, the business will have to be predominantly based in SLDC with the majority of their business or headquarters in SLDC.

How much is available?

19. The Council has received £2,101,760 as a one off payment to support businesses. This can be spent during this and the next financial years and the Council has no guarantee that it will receive further funding of this kind. Therefore the Council reserves the right not to spend the full allocation during this initial grants programme in order to ensure future finance is available to support businesses over a longer time period for which the grant has been issued.
20. The guidance states that: 'Local authorities will have the discretion to alter the amount of funding offered to individual businesses and the frequency of payment' when compared to the Local Restrictions Support Grant (Closed). However, to ensure parity between businesses in both schemes, the Council will initially use the same grant amounts, and reserves the right to alter this at a later date.
21. For businesses eligible for this funding, who are ratepayers of hereditaments on the rating list, grant amounts will be equal to the Local Restrictions Support Grant (LRSG) scheme:
 - a) Businesses occupying hereditaments appearing on the local rating list with a rateable value of exactly £15,000 or under on 5 November will receive a payment of £1,334
 - b) Businesses occupying hereditaments appearing on the local rating list with a rateable value over £15,000 and less than £51,000 on 5 November will receive a payment of £2,000

- c) Businesses occupying hereditaments appearing on the local rating list with a rateable value of exactly £51,000 or above on 5 November, will receive £3,000

22. For those businesses eligible for this funding who are not the ratepayers or fall outside the business rates list (no rateable value), the grants will be awarded on size, based on number of employees as follows:

Number of employees	0-9	10-24	25+
Grant amount	£1,334	£2,000	£3,000

Application process

23. Due to the lower value of the grant awards the Council therefore has confidence in opening up the scheme to businesses to apply, without utilising a two week application window approach as was previously taken. Applicants should however not rush their application and take time to ensure all questions have been answered clearly and correctly with the appropriate evidence provided. If not, then this is likely to slow down the process of getting grant funding out to businesses or could lead to the grant application being refused for failure to provide the correct information in the requested format.
24. The Council will review this scheme on 1 December 2020 in light of Government proposals for 3rd December 2020 onwards.
25. An online application for the grant fund will be made available on SLDC's website. Please ensure your application is returned answered fully with **all the relevant documents attached**. If you do not have access to the internet then please can 01539 733333 and a Council Officer will be able to complete the form with you over the phone.
26. It will be important that you provide all the information accurately and truthfully, and provide all the supporting documents that are requested. Failure to do so could lead to your application being declined or significantly delayed.
27. Once your application has been received, the Council will seek to reach a decision within 10 working days, and for successful applicants to receive the money within 15 working days of their application being submitted.
28. You must answer all of the questions honestly when completing your application, if the Council suspects any business is trying to fraudulently claim the grant, it will investigate accordingly. Where evidence of fraud is present, we will prosecute the offending business.

Appeals Process

29. There is no right to appeal and the decision of the Council is final.

30. The Council’s interpretation of this document is at its own discretion and it will be the final arbiter of the definitions contained within this policy.

What evidence will I need to provide?

31. The Council is relying on businesses to be honest and open with the Council and present to us their evidence of need and eligibility for the Additional Restrictions Grant.
32. As part of your application you will need to provide the following information.

Information	Evidence Required	Comment
Payment details	Copy of bank statement clearly showing name, address, sort code and account number	This must match the name of the business or individual listed on the business rates bill or lease/mortgage agreement
Evidence of trading on or before 4 November 2020	This will be done on self-declaration and verified using other evidence provided as part of your application.	Where you have a business rates account this will be sufficient as the date liable will be used. For businesses that are not rated we reserve the right to ask for additional evidence if required. This could be in the form of stock orders, lease agreements etc.
Evidence of eligibility under state aid rules	This will be done by way of self-declaration on the online application form	If you are unsure whether state aid applies to your business you need to seek independent legal advice

Definitions

33. “Bed and Breakfast” - The property should be wholly or mainly used as guest premises and will in most cases be registered as a food businesses with the Council. Properties which are mainly domestic and renting a spare room through ‘Air BnB’ or similar are not eligible.
34. “Self-catering holiday cottage” - Self-catering holiday cottages which are available to let for short periods that total 140 days or more per year should be rated as a self-catering property and valued for business rates. Those which are registered for business rates will be eligible through the Local Restrictions Support Grant (Closed) scheme, those which meet the criteria to be registered for business rates but have not yet transferred over will be eligible through this scheme. Those who do not meet the 140 days criteria will not be eligible for either scheme.
35. “Market Traders” refers to traders on weekly or monthly markets or street traders. Where market traders operate in more than one Cumbrian Local Authority area, they should apply to only one Local Authority for a grant, this should be the Local Authority area in which they primarily operate.

State Aid

36. 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.
37. The Council will require each business to confirm that by accepting the grant payment, the business confirms that they are eligible for the grant scheme, including that any payments accepted will be in compliance with State aid requirements.

Tax

38. Grant income received by a business is taxable therefore funding paid under the Additional Restrictions Grant will be subject to tax. Only businesses which make an overall profit once grant income is included will be subject to tax.

Data Protection

39. We are committed to protecting your personal data and privacy and to complying with the requirements of the General Data Protection Regulation (GDPR), the Data Protection Act 2018 and other privacy laws. The information you supply on this form may be shared with our contractors and partners, who help to deliver our services. We will only retain your personal data for as long as necessary to fulfil the purposes it was collected for, after which time it will be securely deleted. For more information on how we protect your personal data, see our [Privacy Policy](#).

Right to update the policy

40. The Council reserves the right to update and change this policy without notification or prior warning in the event that the government updates or changes its guidance to us or in the event of an error or omission.