

Guidance for Businesses in East Lindsey

1. About this guidance

- 1.1. This guidance sets out the criteria East Lindsey District Council will apply to applications for the award of the Additional Restrictions Grant (Closed) to businesses within its administrative area.
- 1.2. Information about this fund will be published on the East Lindsey District Council website on:
<https://www.e-lindsey.gov.uk/argclosed>
- 1.3. Any enquiries about the guidance should be directed to: argclosed@e-lindsey.gov.uk

2. Introduction

- 2.1. Following the Government's announcement on 31st October 2020 introducing new national restrictions from 5th November to the 2nd of December 2020, certain businesses and venues are required to close or restrict how they provide goods and services for this period.
- 2.2. In response to this National Lockdown (and any future National Lockdowns), funding of £2,834,540 has been provided to East Lindsey District Council to support businesses up to March 2022 through the Additional Restrictions Grant (ARG).
- 2.3. East Lindsey District Council will be developing the Policy for expenditure of ARG funding over the coming months in response to local economic priorities and business support needs.
- 2.4. Recognising the immediate impact on some businesses, ARG will initially be distributed via the Additional Restrictions Grant (Closed) – a grant which supports businesses with premises that have been required to close by law during the Nov 5th 2020 to Dec 2nd National Lockdown (where the business owner/operator is not liable for business rates and not eligible for the Local Restrictions Support Grant).
- 2.5. This grant is a one-off payment and only covers the four week period (Nov 5th 2020 to Dec 2nd 2020) a business has closed due to National restrictions. **This is no longer a 'one-off' payment - please see Guidance for Businesses in East Lindsey – Policy Addendum 1 (3) and (5).**
- 2.6. The criteria and application process for this funding is based on Government Guidance (<https://www.gov.uk/government/publications/local-restrictions-support-grants-lrsg-and-additional-restrictions-grant-arg-guidance-for-local-authorities>) and has been developed in consultation with partner Local Authorities across Greater Lincolnshire.

3. How will the grants be provided?

- 3.1. East Lindsey District Council is responsible for delivering the grants to eligible businesses.
- 3.2. Applicants will **only** be able to apply for this grant via on-line application.
- 3.3. The grant application will be available to eligible businesses between 2nd December (12:00) and 11th December (23:59). **A second grant application window will run between 22nd January (12:00) and 1st February (12:00).**
- 3.4. East Lindsey District Council will announce via Corporate and Social Media communications when the Grant is available for businesses to apply.
- 3.5. Once the application window is closed and/or allocation of funds is fully committed to qualifying businesses, it will not be possible to make any further grants and the scheme will be closed.

- 3.6. Grant payments will be made within a maximum of five weeks following grant fund closure (see 3.3) – ELDC reserves the right to extend this payment window.
- 3.7. Businesses that are awarded grant funding under the scheme will be paid by BACS transfer when they have provided the Council with their bank account details and evidence of fixed property costs, and those details have been verified to the Council's satisfaction, following the Guidance provided by Government.
- 3.8. Should an applicant be deemed ineligible by not meeting the requirements of the policy (see point 5), they will be notified by email – ELDC's decision is final and there is no right to appeal.
- 3.9. This scheme is limited to one grant per eligible business property.
- 3.10. The ARG Closed is a grant, not a loan and will not need to be repaid by eligible parties.
- 3.11. The Council reserves the right to vary the terms of the scheme at any time should it be necessary to do so.

4. Eligibility – who may benefit from the scheme

- 4.1. This grant is intended for businesses with business premises (fixed costs) forced to close by law during the Nov 5th 2020 to Dec 2nd National Lockdown that do not pay business rates and are not eligible for the Local Restrictions Support Grant (LRSG eligible businesses are not eligible for this grant).
- 4.2. A business (property) must meet all of the qualifying criteria that are set out in this guidance to be eligible to receive the grant funding:
 - have been open as usual and providing in-person services to customers from their business premises on the 4th of November 2020 and then mandated to close by Government from 5th November 2020 (see Appendix A for a full list of closures) – seasonal businesses not operating between the 5th November 2020 and 2nd December 2020 are not eligible for this grant;
 - be able to evidence rent or mortgage costs for a building or premises which has a primary business purpose or trading use; and;
 - Is not Business Rates listed and/or has benefitted from an LRSG payment (including those businesses that were eligible but have not made an application).
- 4.3. It is expected that eligible businesses will fall into one of, but not restricted to, the following categories:
 - small businesses in shared spaces that don't have a separate business rates account for which they are liable;
 - regular market traders (indoor and outdoor) with fixed property costs (where the business is based in East Lindsey);
 - self-employed in-person service providers that rent a space in a property that is registered for Business Rates (e.g. a hairdresser renting a chair) for which they are not liable;
 - overnight accommodation providers (e.g. Bed and Breakfast accommodation)
- 4.4. Businesses must demonstrate that they meet the State Aid requirements by completing the declaration that is attached to the Government's Guidance for this Grant (see the link at paragraph 10.1 of this Guidance)..

5. Ineligibility

- 5.1. This grant is not intended for business:

- that are able to continue to trade because their substantive business does not depend on providing direct in-person services from premises and can operate their services effectively remotely (e.g. accountants, solicitors, architects and other professional services);
- that have chosen to close but not been required to close by law for the period (05/11/20 to 02/12/20), due to National restrictions;
- that are in liquidation or dissolved or subject to a striking off notice, or are defined as an undertaking in difficulty on 31 December 2019, (See appendix 2);
- 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;
- that are Home based businesses that do not have distinct business space (a distinct space could be a salon in a room) and associated fixed property costs;
- that have chosen not to reopen since March 2020;

In addition, the following are not eligible for this grant:

- Seasonal businesses that already closed before the 5th November 2020 and have not re-opened before 2nd December 2020;
- Market traders where the business is not based in East Lindsey (but may stand on East Lindsey markets); and;
- Businesses on the ratings list (LRSG is available to these businesses).

6. How much funding will be provided to businesses?

- 6.1. A flat rate grant will be awarded of £1,334 in line with the Local Restrictions Support Grant. **Payments will be made on a calendar month basis - please see Guidance for Businesses in East Lindsey – Policy Addendum 1 (3) and (5).**

7. Will the Additional Restrictions Grant Closed be subject to tax?

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

8. What will the process be for a business to access the Additional Restrictions Grant Closed?

- 8.1. **The application form (including state aid declaration) and guidance will be available on the East Lindsey District Council website with effect from 22nd January 2021 (12:00). The scheme will close to new applications on 1st February 2021 (12:00) (or sooner if the fund allocation has been committed).**
- 8.2. The application form will include gateway criteria, standardised questions, request the upload of a current business bank account statement (or the primary private bank account used for the business) and signed rent/business mortgage statements – only eligible applicants will be able to complete and submit the application form.

- 8.3. Documents used to support evidence of entitlement to a business grant must be uploaded in jpeg, jpg, png, docx or pdf format and be no larger than 5MB.
- 8.4. All applicants will need to complete a declaration to confirm that they are the liable party, their business is legally required to close, that the business is eligible in accordance with the scheme conditions, to confirm the accuracy of all information within the application form and that receipt of grant complies with State Aid rules.
- 8.5. ELDC is required to account for how it spends public funds. Your personal information will not be shared with any third party other than our data processor or with Central Government or Grant awarding bodies for the purposes of the spend. Your data may be shared for the purposes of re-claiming any grant that you are not entitled to or where there has been any misrepresentation or fraud or where we are permitted or required to share your personal data by law.
- 8.6. If an application is not complete and is awaiting further information, the scheme may be fully committed whilst this takes place. Therefore, it is imperative that all information is provided at point of submission.

Managing the risk of fraud

East Lindsey District Council will not accept deliberate manipulation and fraud – and any business caught falsifying their records to gain grant money will face prosecution and any funding issued will be subject to claw back, as may any grants paid in error.

The Governments Grant Management and Counter Fraud digital assurance tool, Spotlight, will be used to check pre-payment and post-payment compliance.

By signing the final declaration of the application form you are confirming that all information provided is a true and accurate record and can be used.

Businesses must tell the Council of any changes in circumstances that might affect eligibility for grant payments. Failure to do this could lead to grants being clawed back.

Appendix A

Extract from Schedule 2 of The Health Protection (Coronavirus, Restrictions) (England) (No. 4) Regulations 2020 for those businesses mandated to close: https://www.legislation.gov.uk/uksi/2020/1200/pdfs/uksi_20201200_en.pdf

Businesses subject to restrictions or closure;

PART 1 : Hospitality businesses

1. Restaurants, including restaurants and dining rooms in hotels or members' clubs.
- 2.— (1) Cafes, including workplace canteens (subject to sub-paragraph (2)), but not including—
 - (a) cafes or canteens at a hospital, care home or school, or provider of post-16 education or training (as defined in paragraph 1(8) of Schedule 17 to the Coronavirus Act 2020(a));
 - (b) canteens at criminal justice accommodation or an establishment intended for use for naval, military or air force purposes or for the purposes of the Department of the Secretary of State responsible for defence;
 - (c) services providing food and drink or either to the homeless.(2) Workplace canteens may remain open where there is no practical alternative for staff at that workplace to obtain food.
3. Bars, including bars in hotels or members' clubs.
4. Social clubs.
5. Public houses.

PART 2 : Other businesses

6. Cinemas.
7. Theatres.
8. Nightclubs, dance halls, discotheques and any other venue which—
 - (a) opens at night,
 - (b) has a dance floor or other space for dancing by members of the public (and for these purposes members of the venue in question are to be considered members of the public), and
 - (c) provides music, whether live or recorded, for dancing.
9. Bingo halls.
10. Concert halls.
11. Museums and galleries.
12. Casinos.

13. Betting shops and adult gaming centres.
14. Spas.
15. Nail, beauty salons, hair salons and barbers.
16. Tanning salons.
17. Massage parlours.
18. Sexual entertainment venues, within the meaning given in paragraph 2A of Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982(a) (“the 1982 Act”).
19. Hostess bars, within the meaning given by paragraph 3B of Schedule 3 to the 1982 Act(b).
20. Tattoo and piercing parlours.
21. Skating rinks.
22. The following indoor facilities: dance studios, fitness studios, gyms, sports courts, swimming pools, bowling alleys, amusement arcades, playgrounds or soft play areas or other indoor leisure centres or facilities, including indoor games, recreation and entertainment venues.
23. Circuses, funfairs and fairgrounds (whether outdoors or indoors), theme parks and adventure parks and activities.
24. Outdoor sports centres or amenities, including water sports, stables, shooting and archery venues, golf courses, driving ranges, outdoor gyms, outdoor swimming pools, water parks and aquaparks.
25. Outdoor markets (except for livestock markets, stalls selling food and any other retailer listed in Part 3).
26. Showrooms and other premises, including outdoor areas, used for the sale or hire of caravans, boats or any vehicle which can be propelled by mechanical means, and car washes.
27. Auction houses (except for auctions of livestock or agricultural equipment).
28. Model villages.
29. Visitor attractions at film studios.
30. Aquariums, zoos, safari parks, farms, wildlife centres and any place where animals are exhibited to the public as an attraction.
- 31.— (1) Indoor attractions at visitor attractions such as—
 - (a) botanical or other gardens, biomes or greenhouses;
 - (b) stately or historic homes, castles or other heritage sites;
 - (c) landmarks, including observation wheels or viewing platforms;
 - (d) sculpture parks.

(2) For the purposes of sub-paragraph (1), an “indoor attraction” means those parts of a venue, including visitor centres but not including toilets for visitors, which—

(a) would be considered to be enclosed or substantially enclosed for the purposes of section 2 of the Health Act 2006 under the Smoke-free (Premises and Enforcement) Regulations 2006; and

(b) are, in normal times, open for members of the public to visit for the purposes of recreation, whether or not for payment.

32.— (1) Conference centres and exhibition halls, so far as they are used to host conferences, exhibitions, trade shows, private dining events or banquets, other than conferences or events which are attended only by employees of the person who owns or is responsible for running the conference centre or exhibition hall.

(2) For the purposes of this paragraph, a “trade show” is an event held to bring together members of a particular industry to display, demonstrate and discuss their latest products and services with members of the public.

PART 3 : Businesses permitted to remain open

33. Food retailers, including food markets, supermarkets, convenience stores and corner shops.

34. Off licenses and licensed shops selling alcohol (including breweries).

35. Pharmacies (including non-dispensing pharmacies) and chemists.

36. Newsagents.

37. Hardware stores.

38. Building merchants, and building services.

39. Petrol stations.

40. Car repair and MOT services.

41. Bicycle shops.

42. Taxi or vehicle hire businesses.

43. The following businesses—

(a) banks;

(b) building societies;

(c) credit unions;

(d) short term loan providers;

(e) savings clubs;

(f) cash points;

(g) undertakings which by way of business operate currency exchange offices, transmit money (or any representation of money) by any means or cash cheques which are made payable to customers.

44. Post offices.

45. Funeral directors.

46. Laundrettes and dry cleaners.

47. Dental services, opticians, audiology services, chiropody, chiropractors, osteopaths and other medical or health services, including services relating to mental health.

48. Veterinary surgeons and pet shops.

49. Agricultural supplies shop.

50. Storage and distribution facilities, including delivery drop off or collection points, where the facilities are in the premises of a business included in this Part.

51. Car parks.

52. Public toilets.

53. Garden centres.

Appendix 2**What does it mean to be an Undertaking in Difficulty?**

An 'undertaking in difficulty' is defined as an undertaking in which at least one of the following circumstances occurs:

- a. In the case of a limited liability company (other than an SME that has been in existence for less than three years), where more than half of its subscribed share capital has disappeared as a result of accumulated losses. This is the case when deduction of accumulated losses from reserves (and all other elements generally considered as part of the own funds of the company) leads to a negative cumulative amount that exceeds half of the subscribed share capital.
- b. In the case of a company where at least some members have unlimited liability for the debt of the company (other than an SME that has been in existence for less than three years), where more than half of its capital as shown in the company accounts has disappeared as a result of accumulated losses.
- c. Where the undertaking is subject to collective insolvency proceedings or fulfils the criteria under its domestic law for being placed in collective insolvency proceedings at the request of its creditors.
- d. Where the undertaking has received rescue aid and has not yet reimbursed the loan or terminated the guarantee, or has received restructuring aid and is still subject to a restructuring plan.
- e. In the case of an undertaking that is not an SME, where, for the past two years:
 - i. The undertaking's book debt to equity ratio has been greater than 7.5; and
 - ii. The undertaking's earnings before interest, tax, depreciation and amortisation (EBITDA) interest coverage ratio has been below 1.0.

This test only applies to payments made under the Temporary Framework, but excludes small and micro businesses (less than 50 employees and less than EUR 10 million of annual turnover and/or annual balance sheet).