

# **POLICY & RESOURCES (RECOVERY) SUB-COMMITTEE ADDENDUM 1**

**4.00PM, THURSDAY, 20 JANUARY 2022**

**HOVE TOWN HALL - COUNCIL CHAMBER**

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# ADDENDUM

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# Brighton & Hove City Council

## Agenda Item 26

### Policy & Resources Recovery Sub-Committee

**Subject:** Covid 19 Additional Relief Fund (CARF) and Additional Restriction Grant (ARG)

**Date of meeting:** 20 January 2022

**Report of:** Director Economy, Environment & Culture

**Contact Officer:** Name: Graham Bourne  
Tel: 01273 291800  
Email: graham.bourne@brighton-hove.gov.uk

**Ward(s) affected:** All

#### For general release

*Note: The special circumstances for non-compliance with Council Procedure Rule 7, Access to Information Rule 5 and Section 100B (4) of the Local Government Act as amended (items not considered unless the agenda is open to inspection at least five days in advance of the meeting) were that it was necessary to wait for and respond to further advice and guidance issued by the Department for Business Energy & Industrial Strategy.*

#### 1. Purpose of the report and policy context

- 1.1 The government has made provision for Brighton & Hove City Council to award up to £6.912m in business rates relief in the financial year 2021/22. The Covid 19 Additional Relief Fund (CARF) is intended to provide support to businesses not receiving support from existing rate relief schemes, nor likely to have been beneficiaries of business grants schemes, who, nonetheless, have been detrimentally impacted by the pandemic. This report outlines recommendations for the best utilisation of this opportunity.
- 1.2 On 21 December 2021 the government further announced that it would be providing a further £700m nationally for local authorities to award business grants to businesses impacted by restrictions being introduced to counter the emergence of the omicron variant., The main Omicron Hospitality and Leisure Grant (OHLG) scheme aimed at business rates payers will be accompanied by a £102m Additional Restrictions Grant (ARG), discretionary fund for the authorities to administer to non business rates payers where they too have been significantly impacted. As previously, there will be local discretion as to the qualifying criteria for the ARG.
- 1.3 In both circumstances time is of the essence in setting up workable schemes and providing the urgent support required. This report aims to address the immediate decisions needed to make this support effective.

## **2. Recommendations**

- 2.1 That Committee agrees to the development of a CARF local scheme following the principles laid in this report.
- 2.2 That members agree to delegate authority to the Executive Director Economy, Environment & Culture in consultation with the Chief Finance Officer to finalise the design of the CARF scheme, including the appropriate option for the level of awards, implementing its introduction and overseeing the allocation of awards in accordance with the timetable and principles of this report.
- 2.3 The Committee agrees to the development of an ARG local scheme following the new guidelines provided by government when they emerge and using the principles already established in the previous ARG scheme which was approved by Members of the Policy & Resources Recovery Sub-Committee in November 2020.
- 2.4 That Committee delegates authority to the Executive Director Economy, Environment & Culture in consultation with the Chief Finance Officer to finalise the design of the ARG scheme, implement its introduction and oversee the appropriate allocation of awards within the quickest timeframe possible.

## **3. Context and background information**

### *COVID 19 Additional Relief Fund*

- 3.1 On 25 March 2021 the Government announced a new COVID-19 Additional Relief Fund (CARF) of £1.5 billion stating that 'The fund will be available to support those businesses affected by the pandemic but that are ineligible for existing support linked to business rates'.
- 3.2 The intention was for it to complement, but not supplement, the Extended Retail Discount scheme intended to reduce rate liability for Hospitality, Retail, Events and Leisure business (full relief for April 2021 to June 2021 then 66% for the remainder of the year).
- 3.3 The government progressed the legislation for CARF alongside a temporary legislative change around business rates appeals. Both measures required parliamentary approval, which was delayed until the autumn.
- 3.4 On 15 December 2021 the Department for Levelling Up, Housing and Communities (DLUHC) issued a guidance document for the 'Covid -19 Additional Relief Fund'. The allocation available for Brighton & Hove City Council to spend in relation to this fund is £6.912m.
- 3.5 Because of the timing it would be easy to associate the relief with the current escalation of COVID restrictions in face of the omicron variant. However, that is not its purpose. It is a delayed scheme designed to support other measures introduced in the summer and to give local authorities flexibility to be understanding of local businesses that have suffered COVID related

hardship but most likely had not been beneficiaries of the business grant schemes targeted at businesses forced to close.

- 3.6 The council's expenditure against the CARF is effectively reimbursed as part of the regular NNDR3 business rate reconciliation process. There is no provision for the council to retain any underspend. Any spending over the maximum allocation would not be reimbursed.
- 3.7 The relief can only be awarded in respect of business rate liability for 2021/22.
- 3.8 The relief cannot be awarded for periods where the premises are classed as empty. This definition of empty relates to the existing business rates legislation identifying unoccupied business properties. The definition is technical but for the most part does not encompass premises temporarily out of use because of COVID restrictions, or where businesses are adapting to be COVID compliant.
- 3.9 The relief cannot be applied to businesses in receipt of, or potentially entitled to Extended Retail Discount. Therefore, Hospitality, Retail, Leisure and Event businesses will not benefit from any additional support from this scheme for premises where there is public access, though they may benefit in respect of office, workshop or storage space they operate in support of their public access premises.
- 3.10 The council cannot award the relief to itself.
- 3.11 The relief cannot be awarded where 100% in total relief is already being applied. Therefore, businesses in receipt of small business rates relief (100% for 2021/22) would not be eligible.

#### *Number of eligible businesses*

- 3.12 As at 21 December 2021 there are 11,447 premises in the city subject to business rates.
- 3.13 4,187 premises are already in receipt of full reliefs and will not be eligible for further relief support.
- 3.14 3,119 premises are in receipt of Extended Retail Discount and Nursery Discount will not be eligible for CARF support.
- 3.15 973 premises are classed as empty and are exempt from relief support.
- 3.16 Brighton & Hove City Council is liable for business rates on 208 premises and these are not eligible for CARF.
- 3.17 1,108 premises are in other exclusion categories – either prescribed or proposed (detailed in 4.10 to 4.11).

- 3.18 The remaining 1,852 premises are potentially eligible for CARF support if they apply and satisfy the criteria.
- 3.19 The main categories of business that are potentially eligible are Offices (1252), Workshops (182), Warehouses (125), Stores (132) and Factories (52).

*Addition Restriction Grants (ARG)*

- 3.20 On 30 December 2021 the government issued guidance for this round of the scheme. The parameters are similar to previous schemes with emphasis on supporting the hospitality, leisure, events and accommodation businesses not eligible for the main Omicron Hospitality Leisure Grant but which are also impacted significantly by the restrictions and the Omicron variant.
- 3.21 On 7 January 2021 the Council was informed that its additional ARG allocation would be £721,124. This equates to 288 awards of £2,500 each.
- 3.22 As at the point of the completion of this report the council was still seeking clarity regarding application, due diligence and payment deadlines, as clarification issued in January 2022 does not align with the guidance provide to Local Authorities on 30 December 2021.
- 3.23 At the point of the completion of this report the provisional date for the launch of the online application process was 14 January 2022. Administration of ARG applications will not commence until the 21 January 2022 once this report has been considered and approved.
- 3.24 It is recommended that, subject to the guidance clarification, the local scheme is delivered using similar principles to those previously employed. These principles were approved by the Policy & Resources Recovery Sub-Committee in November 2020. The main principles of that report were:
- The discretionary grants will first and foremost pick up those who the main grant scheme is aimed at, but who are not eligible due to a technicality (e.g. they are not registered as the business rate bill payer, or they are a business within the eligible category that does not trade from fixed premises).
  - The funding must target sectors that are affected by the restrictions, either directly or as part of the supply chain. This will be of particular support to businesses that supply retail, leisure, events, personal care, entertainment venues, and indoor attractions businesses which cannot operate or are severely restricted in their ability to operate during the restrictions period. It is unlikely to include sectors that are less affected like construction, technology and financial and professional services.
  - The expected high volume of applicants means that supply is likely to outstrip demand as the available funds are significantly smaller than in previous Covid grant funding rounds. As with previous rounds of



the Covid support for business the grants cannot be used to subsidise for loss of income.

- The government has determined that access to the fund must be based on need. Applicants will therefore have to evidence that they have high fixed costs and have been significantly impacted by the restrictions and the Omicron Variant.
- As with the previous discretionary grant scheme, it should be made clear that the purpose of the grants is to support businesses, keep them operating and contributing to the economy.

#### **4. Analysis and consideration of alternative options**

##### *COVID 19 Additional Relief FUND*

- 4.1 The guidance has just been released but it includes little specific detail as to the design of any potential scheme. Therefore, the Council has to devise and deliver its own scheme.
- 4.2 There has been little opportunity to discuss the options with other authorities forming their own scheme. This process will begin to take place in mid-January and the officers have already signed up to webinar sessions to ensure any final design incorporates best practice.
- 4.3 However, in preparation for the final scheme being devised, officers have established the principles they believe should underpin the local scheme and provisional recommendations for the scheme.

##### *Objective*

- 4.4 It is proposed that the council introduces a scheme that maximises the opportunity for local businesses to benefit from CARF. The intention is to promote the scheme and encourage take up from business categories that, while not forced to have closed, will have suffered significant detriment because of the pandemic.

##### *Principles*

- 4.5 Businesses will need to apply for the relief. It is recommended that a time limit is set for applications and that, subject to confirmation that this is permissible within the guidance, applications will need to be received by the end of the financial year, 31 March 2022. This is a clear date for businesses to work to, whilst allowing them ample time to make submissions. Local businesses in eligible categories will be contacted and invited to apply.
- 4.6 As part of the application process, a business will need to evidence that they have been 'adversely affected by the pandemic and have been unable to adequately adapt to that impact', ie. be able to demonstrate they have been adversely impacted by coronavirus restrictions at their premises either due to social distancing, government recommendations to work from home, or

reduced demand (directly, or where the business predominantly supplies other businesses who were unable to trade).

4.7 Different options for setting the levels of awards are:

- Option 1 - Wide distribution of a single percentage relief – Awards would be based on 30% of the business rates liability for an individual premises, to a maximum cap of £12,000 per annum. This would give capacity to make an award to all 1,852 potential eligible businesses in with an average award of circa £3,000.
- Option 2 - Medium distribution of a higher level award – Awards would be based on 50% of the business rates liability for an individual premises to a maximum cap £20,000 per annum. Potentially this would give capacity to make 1,000 awards of circa £6,000.
- Option 3 - Lower distribution of awards at the level equivalent to retail relief Awards would be based on 75% of the business rates liability for an individual premises to a maximum cap of £30,000 per annum. Potentially this would give capacity to make 750 awards of circa £9,000.
- Option 4 - Two levels of awards Two levels of awards would give the equivalent of retail relief to businesses that supply to Hospitality, Retail, Events and Tourism and essential health services such as dental practices. It further allows the capacity to recognize other businesses affected with a lower level of impact. Awards will be based on 75% of the business rates liability for supply businesses, to a maximum cap of £30,000 per annum and 25% of the business rates liability for non-supply businesses to a maximum cap of £12,000. Potentially this would give capacity to make 500 awards at the higher rate and 500 at the lower.

4.8 Option 4 is recommended, as it is consistent with the ARG principles of focusing on the most impacted businesses while giving flexibility to recognise the impact elsewhere.

4.9 The total of awards will be limited to the amount of funding provided by government. If the fund is exhausted no further awards will be made.

#### *Exclusions*

4.10 The government guidance states that the following should be excluded from consideration for support (the number of premises affected are included in the figure stated in 3.17):

- Unoccupied hereditaments
- Government departments, legislative bodies, and the armed forces

- Local government including parish and town councils, local authority owned companies
- NHS including NHS and Foundation Trusts, practitioners who provide services under contract to the NHS
- Maintained schools, Academy Schools and Further / Higher Education Institutions
- Fire
- Police
- Businesses that have already identified as being beneficiaries of public funds equal to, or in excess of subsidy limits within the UK-EU Trade and Cooperation Agreement (TCA) or will exceed those limits if a CARF relief is awarded.

4.11 Additionally, it is recommended that the following exclusions also apply to be consistent with the principles set by the council for previous awards and for the fair application of the scheme (the number of premises affected are included in the figure stated in 3.17):

- Premises or spaces subject to business rates where people are not employed to manufacture a product or deliver a service. These would include beach huts, advertising hoardings, communication masts, individual car parking and garage spaces.
- Businesses in administration, liquidation or subject to a strike off notice on companies house or who entered have entered into a CVA or IVA during the course of 2020/21.
- Where there is evidence to support this, businesses who cause a detrimental impact on the region, our residents, or our communities (including businesses who undertake tax avoidance schemes).
- Businesses who have been issued penalties in 2021/22 for breaching covid regulations.
- Businesses who can claim back any business rates paid (for example: from the government, or from a landlord if the tenancy agreement specifies that rent is inclusive of rates).
- Businesses who are liable for business rates on more than 35 non-domestic hereditaments in England (a liability in this context will include both occupied and unoccupied liabilities)

#### *Additional Restriction Grants*

4.12 Subject to receiving additional guidance that diverts from earlier iterations, the recommendation is to develop a scheme based on previously agreed principles. These principles have proven robust to date and considering the time scales involved, no alternative considerations are being suggested.

## **5. Community engagement and consultation**

5.1 As the provision of these grants is part of an emergency response to rapidly financially support businesses impacted by omicron there is insufficient time to consult on the changes or use the community framework. The latitude for the council to adapt the schemes to local needs is limited by the prescription

of the government guidance and the need to align administration to the suggested priorities within the guidance to fairly administer limited funds.

- 5.2 Throughout the course of the pandemic the Economic Development Team has liaised and consulted with local business representative groups to understand where pressures are most acute. It has also fielded and responded to local and national representations from specific service sectors. The knowledge gained from this interaction has been incorporated in previous ARG designs and the principles of those designs will be carried forward into this iteration.

## **6. Conclusion**

- 6.1 The report recommends delegated responsibility to ensure support is delivered as a matter of urgency so local businesses can weather the latest COVID restrictions. Officers are now very experienced in operating such schemes and designing local discretions in accordance with member's priorities and, in this exceptional instance, returning to committee to endorse final schemes would introduce critical delay.

## **7. Financial implications**

- 7.1 The government has allocated £6.912m to the council to implement business rate relief using the Covid 19 Additional Relief Fund based on a locally agreed scheme. There is no provision for the council to retain any underspend. Any spending over the maximum allocation would not be reimbursed.
- 7.2 The council has also been awarded £0.721m for Additional Restrictions Grant (Round 3) to cover the period 30 December 2021 to 31 March 2022. This will be subject to government reconciliation with any underspends being returned to government.

Finance officer consulted: James Hengeveld Date consulted :10/01/22

## **8. Legal implications**

- 8.1 Subsidies are permitted under the current subsidy control regime when the amount paid to each economic operator is below £332,000 over three years. Grant applicants will be required to declare that the grant will not put them over that limit. There are therefore no subsidy control concerns.

Name of lawyer consulted: Alice Rowlands Date consulted (22/12/21):

## **9. Equalities implications**

- 9.1 The schemes set out in this report are designed to safeguard employment, local businesses and the economy.
- 9.2 Through previous schemes the Revenues & Benefits and Economic Development Team have provided support to those struggling to understand

the requirements of the application process. As the process and become more familiar demand for this support has reduced. Because of HMRC, banking and transaction requirements most businesses have access to support if English is not a first language.

- 9.3 The services are also pro-active in contact potentially eligible business to ensure maximum take-up. Pro-active contact will be used to invite claims for both of the schemes.

## **10. Sustainability implications**

- 10.1 The report concerns schemes that rapidly distribute financial support to businesses during the pandemic. The schemes are government instigated and there are no sustainability criteria in the application criteria.
- 10.2 The provisional design of the CARF scheme includes an exclusion 'Where there is evidence to support this, businesses who cause a detrimental impact on the region, our residents, or our communities'

## **11. Other Implications**

### **Crime & disorder implications:**

- 11.1 The main Omicron Hospitality Leisure Grant scheme has in-built fraud detection and prevention measures. The ARG awards will be subject to similar scrutiny. The Council's Internal Audit & Counter Fraud Team provide investigative support to the administration process.
- 11.2 The provisional CARF scheme includes an exclusion that applies to businesses who have been issued penalties in 2021/22 for breaching covid regulations.

### **Public health implications:**

- 11.3 The schemes in the support are part of the government financial support package that encourages an environment of compliance to the measures introduced to mitigate the impact of the pandemic.
- 11.4 The provisional CARF scheme includes an exclusion that applies to businesses who have been issued penalties in 2021/22 for breaching covid regulations and therefore have endangered public health.

## **Supporting Documentation**

### **1. Background documents**

1. BEIS guidance for CARF - <https://www.gov.uk/government/publications/covid-19-additional-relief-fund-carf-local-authority-guidance>
2. BEIS guidance for ARG - [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1044351/additional-restrictions-grant-la-guidance.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1044351/additional-restrictions-grant-la-guidance.pdf)

