

# Cabinet Agenda

Thursday, 27 May 2021 at 2.00 pm

Council Chamber, Muriel Matters House, Breeds Place, Hastings, East Sussex,  
TN34 3UY

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		Page No.
1.	Apologies for Absence	
2.	Declaration of Interests	
3.	Additional Restrictions Grant (ARG) Scheme Policy (Tranche 3) <i>(Peter Grace, Chief Finance Officer)</i> <i>(Cabinet Decision)</i>	1 - 14

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# Agenda Item 3



**Report To:** Managing Director

**Date of Meeting:** 26 May 2021

**Report Title:** Additional Restrictions Grant (ARG) Scheme Policy (Tranche 3)

**Report By:** Peter Grace  
(Chief Finance Officer)

**Key Decision:** Yes

**Classification:** Open

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## Purpose of Report

To agree a new Policy for the use and distribution of the Additional Restrictions Grant (ARG) funding received from government. This third scheme is aimed at assisting businesses with costs which have not been eligible for the government's Local Restrictions Support Grant (closed) scheme or the government's restart grants , as well as potentially supporting some other businesses that have been severely impacted by the pandemic. The grant monies received are to cover the period up to 30 June 2021.

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## Recommendation(s)

- 1. The Council's Managing Director in consultation with the Leader of the Council, the Deputy Leader, and the lead member for Financial Management and Estates approve the Hastings Additional Restrictions Grant Scheme Policy -Tranche 3 on behalf of the Council under Emergency Powers.**
- 2. The Chief Finance Officer is authorised to make technical amendments and adjustments to the scheme in consultation with the lead member for Financial Management and Estates to ensure available funding is distributed, and that it meets the criteria set by the Council and remains in line with Central Government guidance.**

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## Reasons for Recommendations

1. The Council needs to agree a further Additional Restriction Grant scheme (a discretionary grant scheme) as a matter of urgency to further support businesses within the Borough if the opportunity for further funding is not to be missed.
2. Developing a scheme which has limited levels of funding that can not be exceeded, requires a degree of delegated authority to make technical amendments and adjustments to the scheme if grants are to be awarded quickly and to those which meet the eligibility

criteria.

## Introduction

1. This further discretionary grant scheme has been developed by the Council in response to an original announcement made by the Secretary of State for Business, Energy & Industrial Strategy 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.
2. 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.
3. Initially the grant scheme applied where local restrictions (LCAL3) were put in place. It also applies where a widespread national lockdown is announced which happened again from 19 December 2020.
4. Localised restrictions are 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.
5. 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.
6. Grants under this further scheme will be available until 30 June 2021.

## Proposal on Use of Funding

7. It is recognised that this funding will be insufficient to support all businesses that have suffered severe financial impacts as a result of the pandemic.
8. The scheme must be relatively simple to administer and apply for. The levels of grants awarded must be sufficient to make a difference to the businesses that have been severely impacted and need to recover. The period which the grant funding scheme is required to cover is potentially long and a number of uncertainties remain.
9. This policy is being designed as there are still funds available for distribution which allows for another scheme to help businesses reopen as the restrictions ease. This scheme will, in part, assist non business rated premises and is similar to the Restart Grant which is already available for those businesses that have a Rateable Value (RV).
10. This scheme will offer much needed support to rated business premises that have received no help through the statutory grant schemes, including the Restart grant, since the November lockdown.
11. This further 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 on

31 October 2020 which sets out the basic circumstances whereby an additional restriction grant may be made, and a further announcement on 3 March 2021, which introduced additional grant support for non-essential retail, hospitality, accommodation, leisure, personal care and gym businesses in England.

## Eligibility Criteria and Awards

12. Unlike the previous business support grant schemes, the Council is able, should it so choose, to use this funding for other business support activities. However, the Government envisage that this will primarily take the form of discretionary grants. Should the Council distribute all funding by 30 June, additional funding will be forthcoming which the Council can then use on further support measures for business.
13. 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, and there will be weekly returns to government on its use, and audit assurance programmes to prevent and detect fraudulent applications. Whilst many of the key conditions will still apply the Council has the discretion to determine the amount of funding offered to individual businesses, eligibility criteria and the frequency of payment.
14. 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.
15. **The ARG Policy – Tranche 3**

The draft policy (attached) includes assistance to Businesses that have not qualified for the statutory schemes since the November lockdown commenced and not received a statutory Restart grant, and;

- Supply goods and services to the leisure, retail, hospitality, events and tourism sectors or are in these sectors or;
  - Did not have to close but have been seriously affected by the pandemic (e.g. manufacturing businesses, nurseries, convenience stores, garages offering car repair services).
  - Business rated properties, businesses in shared spaces and other Non-rated Premises, and home based businesses.
16. The grants range from £4,000 to £18,000 per property.

### **Excluded businesses - both local and national restrictions**

17. The following businesses will **not** be eligible for an award:
  - a) Businesses in areas outside the scope of the localised restrictions, as defined by Government and not subject to a widespread national restriction, save for those

detailed in this scheme;

- b) Businesses that have chosen to close but not been required to, will **not** be eligible;
- c) Businesses which have already received grant payments that equal the maximum levels of Subsidy Allowance as described in paragraph 7 of the policy.
- 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.
- e) Businesses that have received a previous grant award they were not entitled to receive and have not repaid it or where recovery action or prosecution action is being contemplated or undertaken.
- f) Businesses based wholly or mainly outside the Borough, or where not business rated the individual is not a permanent resident of Hastings Borough Council.

### **The Effective Date**

- 18. The effective date for eligibility is the date of the widespread national restrictions. Businesses must have been trading on 1 April 2021 to be eligible to receive grant support.

### **Funding**

- 19. The Council received further funding from government in January 2021 and the total funding now amounts to £2,676,332, of which an element has been paid out in respect of the period 5 November to 2 December 2020 (ARG Tranche 1) and payments in respect of the current scheme, ARG Tranche 2, which will continue to be made until 30 June 2021 (or until funds are fully committed).
- 20. Once the Council's area is removed from local restrictions (LCAL3) or widespread national restrictions, it had been announced that there would be no additional funding to be received from government even if either the local restrictions or widespread national restrictions are imposed. This is no longer the case and additional funding will be forthcoming provided all existing funds are distributed before 30 June 2021.
- 21. Therefore, for this third round of the ARG scheme, all remaining funding (currently around £1.5m) will be made available on a first come first served basis.
- 22. The level of uptake and estimate of the grants payable under this third round scheme are not known and hence it is a first come first served scheme. Those who have already been successful for the ARG – Tranche 2 will not need to apply again but will be automatically considered. Not all will be eligible as some will have received the statutory Restart grant from government.

### **Applications and Information**

- 23. The Council's website can be updated to allow applications for the ARG 3 scheme.
- 24. The application portal will be opened as soon as possible and HBC will make the payments as rapidly as possible. Applications will be considered against the criteria laid down as and when they are received, and business checks will be undertaken by the Revenues team and internal auditors to verify the details supplied.

## **Delegation**

25. It is recommended that the Chief Finance Officer in consultation with the member for Financial Management and Estates be given delegated authority to make technical and other changes to the scheme to stay within the agreed criteria, government guidelines and funding levels.

## **Review and Appeals**

26. The Council will operate an internal review process and will accept an applicant's request for a review of its decision.
27. All such requests must be made in writing to the Council within 14 days of the Council's decision and should state the reasons why the applicant is aggrieved with the decision of the Council. New information may be submitted at this stage to support the applicant's appeal.
28. The application will be reconsidered by a senior officer, as soon as practicable, and the applicant informed in writing or by email of the decision.

## **Subsidy Allowance (formerly EU State Aid)**

29. The new domestic subsidy allowance for the COVID-19 business support grants took effect on 4 March 2021. Applications made prior to that date are subject to the previous rules.
30. This scheme is covered by three subsidy allowances which are set out below.
  - a) Small Amounts of Financial Assistance Allowance means you are allowed up to £335,000 (subject to exchange rates) over any period of three years COVID-19 Business Grant Allowance.
  - b) You are then allowed up to £1,600,000 COVID-19 Business Grant Special Allowance if you have reached your limits under the Small Amounts of Financial Assistance Allowance and COVID-19 Business Grant Allowance.
  - c) You may be able to access a further allowance of funding under these scheme rules of up to £9,000,000. Under certain conditions, grants under these three allowances can be combined for a potential total allowance of up to £10,935,000 (subject to exchange rates).

## **Other Grant Conditions and Responsibilities of the Grant Recipient**

31. The Council has been advised that all grants are taxable. Applicants will need to make their own enquiries to establish any taxable position or liability.

## **Government Reporting**

32. The Council are required to report to the government the level of grants distributed on a weekly basis. Details of companies applying, and payments made will be shared with the

responsible government departments and HMRC.

## **Risk Management - Managing the Risk of Fraud and the Protection of Public Funds**

33. Any applicant caught falsifying information to gain grant money or failing to declare entitlement to any specified grants will face prosecution and any funding issued will be recovered from them. The Council will use a number of tools, such as credit reference agencies and the government's Spotlight software.

## **Economic/Financial Implications**

34. The grants are fully funded by the government.

## **Local People's views**

35. The views of local business organisations and Councillors were sought on the development of the first discretionary grant scheme (June 2020), and the initial ARG scheme generally mirrored the same eligibility criteria.
36. The views of local business organisations and Councillors will be sought wherever possible.

## **Organisational Consequences**

37. A working group has been set up within the Council to develop the scheme and monitor performance. This has comprised officers from, Revenues and Benefits, Transformation, IT, Regeneration, Communications, Accountancy, and Audit.
38. This is putting additional pressures on resources, at the same time as running the existing grant and hardship schemes and providing reconciliation and assurance returns to government and HMRC etc. The diversion of resources inevitably impacts on other areas of work – with consequent backlogs and increased pressures on staff.
39. The online application form, and details of the supporting evidence required, is being developed by the Energy Development and Delivery Project Manager and is expected to be available on the website in the next few days.

## **Timetable of Next Steps**

Action	Key milestone	Due date (provisional)	Responsible
Gain Approval under Emergency Powers		w/c 24/5/2021	Chief Finance Officer
Application Window opens	Open Application Window/ Communications/ Emails to those who have made expressions of interest	w/c24/5//21	Communications/ IT/ Transformation Team
Assessment and Processing of Payments	Assessments of applications	Ongoing to 30 June 2021	Revenues and Benefits Manager/ Chief Finance Officer/ Transformation Team/

Payment of Grants	Payment of Awards	Ongoing to 30 June 2021	Accountancy
Review of Scheme & Development of further proposals	Development of further support packages following review of the take-up of the initial scheme	Ongoing	Chief Finance Officer/ Revenues and Benefits Manager/ Transformation Team/ Communications

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## Wards Affected

All

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## Policy Implications

### Equalities and Community Cohesiveness **No**

Crime and Fear of Crime (Section 17)	No
Risk Management	Yes
Environmental Issues & Climate Change	No
Economic/Financial Implications	Yes
Human Rights Act	No
Organisational Consequences	Yes
Local People's Views	Yes
Anti-Poverty	No
Legal	No

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## Additional Information

Documents Attached:

- (i) Additional Restrictions Grant Policy – Tranche 3

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## Officer to Contact

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# HASTINGS BOROUGH COUNCIL

## ADDITIONAL RESTRICTIONS GRANT (ARG) SCHEME POLICY

### (Tranche 3)

#### 1. 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 policy is being designed as there are still funds available for distribution which allows for another scheme to help businesses reopen as the restrictions ease. This scheme will, in part, assist non business rated premises and is similar to the Restart Grant which is already available for those businesses that have a Rateable Value (RV).
- 1.3 However, this scheme will also offer much needed support to rated business premises that have received no help through the statutory grant schemes, including the Restart grant, since the November lockdown.
- 1.4 This further 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 on 31 October 2020 which sets out the basic circumstances whereby an additional restriction grant may be made, and a further announcement on 3 March 2021, which introduced additional grant support for non-essential retail, hospitality, accommodation, leisure, personal care and gym businesses in England.
- 1.5 Whilst the awarding of grants is largely 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.
- 1.6 The scheme applies where local restrictions (LCAL3) are in place, or have been in place, **or** where a widespread national lockdown has been announced.
- 1.7 Grants under this scheme are one-off payments and must be paid before 30 June 2021.

#### 2. Funding

- 2.1 Under the Additional Restrictions Grant Scheme (ARG) provisions, Local Authorities received an initial 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 The Council received further funding from government in January 2021 and the total funding now amounts to £2,676,332, of which an element has been paid out in respect of the period 5 November to 2 December 2020 (ARG Tranche 1) and payments in respect of the current scheme, ARG Tranche 2, which will continue to be made until 30 June 2021 or until funds are fully committed.
- 2.3 Once the Council's area is removed from local restrictions (LCAL3) or widespread national restrictions, it had been announced that there would be no additional funding to be received from government even if either the local restrictions or widespread national restrictions are imposed. This is no longer the case and additional funding will be forthcoming provided all existing funds are distributed before 30 June 2021

2.4 Therefore, the Council has determined that for this third round of the ARG scheme, all remaining funding, currently around £1.5m, will be available on a first come first served basis.

### **3. Eligibility Criteria**

3.1 For the purposes of this scheme the Council has determined that the following eligibility criteria must be met in order to receive an Additional Restriction Grant (Tranche 3):

- a) the business was trading on 1 April 2021
- b) the business has not received any statutory grants since November lockdown which started on 5 November 2020
- c) the business has not received a statutory Restart grant effective from 1 April 2021
- d) only one business may apply in respect of a premises where the same director is linked to the other business or businesses at the same premises
- e) all businesses must provide evidence of trading such as VAT registration, business bank account, details of company etc. in support of any application.

### **4. Eligibility Criteria - Business rated premises**

4.1 The following businesses will be eligible to claim:

- a) Businesses that have not qualified for the statutory schemes since the November lockdown commenced and not received a statutory Restart grant, and;
  - Supply goods and services to the leisure, retail, hospitality, events and tourism sectors or are in these sectors.
  - Did not have to close but have been seriously affected by the pandemic (eg manufacturing businesses, nurseries, convenience stores, garages offering car repair services).

### **Eligibility Criteria - Non Rated business premises (Shared spaces)**

4.2 Shared spaces are defined by the Council as businesses that do not have a separate assessment for Non-Domestic Rating (ie those businesses that do not occupy a separate hereditament within the 2017 Rating List), and on the effective date were trading and shared the premises with other businesses.

4.3 In shared spaces, business rates and other costs are normally included in the rent.

### **Eligibility Criteria - Non Rated business premises (Other)**

4.4 This part of the scheme is a fixed £4,000 grant for smaller businesses that do not have much or any fixed costs. This will include the following:

- a) Bed and Breakfast businesses that are subject to council tax rather than business rates and meet the following criteria:
  - pay council tax (domestic) rather than business rates,
  - provide short stay accommodation for no more than six persons at any one time within the past year
  - the property is the sole or main residence of the proprietor and the proprietor resides in the property attending to paying guests during their stay.

b) Market Traders who meet the following criteria:

- Market traders are defined as a business or person who sells goods wholly or mainly to visiting members of the public from a stall, pitch or similar and do not occupy a separate hereditament within the 2017 Rating List.
- The businesses must have been required to close (eg non-food).
- All market traders must prove to the council that as at the effective date, they had a regular (at least weekly) pitch or stall within the Council's area and they reside in the borough. Where a market trader trades less frequently, the business will not be considered priority for a grant.

c) Small businesses that operate from home and are not business rated, but have significant losses relating to the pandemic. Includes, but is not limited to:

- Businesses offering accommodation-finding services to language schools
- Businesses offering services in people's homes (e.g. cleaners, plumbers, electricians etc)
- Musicians and other performers
- Creative artists selling their works in tourism/retail outlets;

4.5 These grants will only be payable to businesses established in the borough and the business owner is also a permanent resident within the boundary of Hastings Borough Council.

## 5. Award Levels

5.1 The table below sets out the proposed amount to be awarded for the different grant categories as specified in the policy.

5.2 It is proposed that the grant award levels detailed in the table below will be paid as one-off payments.

<b>Additional Restrictions Grant (Tranche 3)</b>	<b>Grant Level</b>
<b>Business Rated premises &amp; shared spaces</b>	
<b>1. For businesses with a Rateable Value of up to £15k</b>	<b>£8,000</b>
<b>2. For businesses with a Rateable Value of over £15k and up to £51k</b>	<b>£12,000</b>
<b>3. For businesses with a Rateable Value of over £51k</b>	<b>£18,000</b>
<b>4. Businesses in a Shared Space - no Rateable Value</b>	<b>£8,000</b>
<b>5. Other Businesses (see paragraph 4.4 above):</b>	<b>£4,000</b>
<ul style="list-style-type: none"> <li>• <b>Bed &amp; Breakfast (domestic premises)</b></li> <li>• <b>Market Traders</b></li> <li>• <b>Small businesses that operate from home</b></li> </ul>	

5.3 Where a successful application has been made under ARG (Tranche 2), no further application will be required as they will be considered automatically.

5.4 The level of grants may be amended depending on the level of uptake.

#### **Excluded businesses - both local and national restrictions**

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

- a) Businesses that have chosen to close but not been required to, will **not be eligible**;
- b) Businesses which have already received grant payments that equal the maximum levels of Subsidy Allowance as described at paragraph 7.
- c) 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.
- d) Businesses that have received a previous grant award they were not entitled to receive and have not repaid it or where recovery action or prosecution action is being contemplated or undertaken.
- e) Businesses based wholly or mainly outside the Borough, or where not business rated the individual is not a permanent resident of Hastings Borough Council.

#### **The Effective Date**

5.6 The effective date for eligibility is the date of the widespread national restrictions. Businesses **must** have been trading on 1 April 2021 to be eligible to receive grant support under this round of the scheme.

#### **Who can receive the grant?**

5.7 Details of who is eligible to claim and how to make a claim are available on the Council's website:

**<https://www.hastings.gov.uk/my-council/covid19/businesses/lrsg/>**

5.8 Where any business 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 applicant is found to have falsified records in order to obtain a grant.

#### **6. How will grants be paid to Businesses?**

6.1 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 is intended to offer a lifeline to businesses who are struggling to survive during the Covid-19 crisis, and to help businesses recover and invest further to meet different ways of working in the future.

6.2 In all cases, businesses will be required to confirm that they are eligible to receive the grants. This includes circumstances where the Council already has bank details for the business and are in a position to send out funding immediately. Businesses are under an obligation to notify the Council should they no longer meet the eligibility criteria for any additional grants.

6.3 The Council reserves the right to request any supplementary information from businesses, and they should look to provide this, where requested, as soon as possible.

6.4 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.

6.5 All monies paid under this scheme will be funded by government and paid to the Council under S31 of the Local Government Act 2003.

## **7. Subsidy Allowance (formerly EU State Aid)**

- 7.1 The new domestic subsidy allowance for the COVID-19 business support grants took effect on 4 March 2021. Applications made prior to that date are subject to the previous rules.
- 7.2 This scheme is covered by three subsidy allowances which are set out below.
- 7.3 Small Amounts of Financial Assistance Allowance means you are allowed up to £335,000 (subject to exchange rates) over any period of three years COVID-19 Business Grant Allowance.
- 7.4 You are then allowed up to £1,600,000 COVID-19 Business Grant Special Allowance if you have reached your limits under the Small Amounts of Financial Assistance Allowance and COVID-19 Business Grant Allowance.
- 7.5 You may be able to access a further allowance of funding under these scheme rules of up to £9,000,000. Under certain conditions, grants under these three allowances can be combined for a potential total allowance of up to £10,935,000 (subject to exchange rates).

## **8. Scheme of Delegation**

- 8.1 The Council has approved this scheme.
- 8.2 Officers of the Council will administer the scheme, and the Section 151 Officer is authorised to make technical scheme amendments to ensure it meets the criteria set by the Council and in line with government guidance.

## **9. Notification of Decisions**

- 9.1 Applications will be considered on behalf of the Council by the Revenues and Benefits Service.
- 9.2 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.

### **Review of Decisions**

- 9.3 The Council will operate an internal review process and will accept an applicant's request for a review of its decision.
- 9.4 All such requests must be made in writing to the Council within 14 days of the Council's decision, and should state the reasons why the applicant is aggrieved with the decision of the Council. New information may be submitted at this stage to support the applicant's appeal.
- 9.5 The application will be reconsidered by a senior officer, as soon as practicable, and the applicant informed in writing or by email of the decision.

## **10. Complaints**

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

## **11. Taxation and the provision of information to Her Majesty's Revenues and Customs (HMRC)**

- 11.1 The Council has been informed by government that all payments under the scheme are taxable.
- 11.2 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.
- 11.3 All applicants should note that the Council is required to inform her Majesty's Revenue and Customs (HMRC) of all payments made to businesses.

**12. Managing the risk of fraud**

- 12.1 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.

**13. Recovery of amounts incorrectly paid**

- 13.1 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.

**14. Data Protection and use of data**

- 14.1 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.
- 14.2 Applicants should note that, where a grant is paid by the Council, details of each individual grant will be passed to the relevant government departments and HMRC.