



Department for  
Business, Energy  
& Industrial Strategy

# Omicron Hospitality and Leisure Grant

Guidance for Local Authorities

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# The Guidance

1. This guidance is intended to support Local Authorities in administering the Omicron Hospitality and Leisure Grant to support businesses.
2. This support was announced on 21 December 2021. This guidance applies to England only from 21 December 2021. It is not retrospective.
3. This guidance is issued by the Secretary of State for Business, Energy and Industrial Strategy (BEIS) to Local Authorities in England.
4. Local Authority enquiries on this measure should be addressed to [businessgrantfunds@beis.gov.uk](mailto:businessgrantfunds@beis.gov.uk). Businesses seeking information should refer to the Government's business support website: <https://www.businesssupport.gov.uk/>

## Introduction

5. On 21 December 2021, Government announced the introduction of grant support for hospitality and leisure businesses in England. See announcement here: <https://www.gov.uk/government/news/1-billion-in-support-for-businesses-most-impacted-by-omicron-across-the-uk>.
6. The scheme provides support to hospitality, leisure and accommodation businesses, in recognition that the rise of the Omicron variant means that some businesses are likely to struggle over the coming weeks.
7. This support will take the form of a one-off grant funding scheme. Funding to be made available in Financial Year 2021-2022 and can be used in Financial Year 21/22 only. The scheme is called the Omicron Hospitality and Leisure Grant and is administered by business rate billing authorities in England.
8. This document provides guidance to Local Authorities about the operation and delivery of the Omicron Hospitality and Leisure Grant scheme.
9. Funding will be made available to all Local Authorities from January 2022. The scheme will close for applications on 28 February 2022 and all final payments must be made and dispersed to recipients by 31 March 2022.
10. Under the Omicron Hospitality and Leisure Grant scheme, Local Authorities will receive funding to be allocated in one-off grants to businesses. Grants of up to £6,000 will be paid to hospitality, leisure and accommodation businesses in England.

## How much funding will be provided to businesses?

11. The Omicron Hospitality and Leisure Grant scheme is for businesses on the Valuation Office Agency (VOA) ratings list only.
12. The Omicron Hospitality and Leisure Grant is a one-off grant.
13. The Omicron Hospitality and Leisure Grant will support hospitality, leisure and accommodation business premises with one-off grants of up to £6,000. The following thresholds apply for these businesses:
14. Businesses occupying hereditaments appearing on the local rating list with a rateable value of exactly £15,000 or under on 30 December 2021 will receive a payment of £2,667.
15. Businesses occupying hereditaments appearing on the local rating list with a rateable value over £15,000 and less than £51,000 on 30 December 2021 will receive a payment of £4,000.
16. Businesses occupying hereditaments appearing on the local rating list with a rateable value of exactly £51,000 or over on 30 December 2021 will receive a payment of £6,000.
17. Any changes to the rating list (rateable value or to the hereditament) after 30 December 2021 should be ignored for the purposes of eligibility. Local Authorities are not required to adjust, pay or recover grants where the rating list is subsequently amended retrospectively to 30 December 2021. In cases where it was factually clear to the Local Authority on 30 December 2021 that the rating list was inaccurate on that date, Local Authorities may withhold the grant and/or award the grant based on their view of who would have been entitled to the grant had the list been accurate. This is entirely at the discretion of the Local Authority and only intended to prevent manifest errors. In all cases, including those where the rating list is deemed inaccurate, all grant payments must be disbursed from the Local Authority by 31 March 2022.
18. Businesses will be eligible for this support from 30 December 2021 and Local Authorities must not make payments to businesses before this date. Subject to subsidy allowance conditions, businesses will be entitled to receive a grant for each eligible hereditament. So, some businesses may receive more than one grant where they have more than one eligible hereditament.

## Who will receive this funding?

### General eligibility

19. Where a grant is issued, the business that according to the billing authority's records was the ratepayer in respect of the hereditament on 30 December 2021 is eligible to receive the grant. Where a Local Authority has reason to believe that the information that they hold about the ratepayer is inaccurate they may

withhold or recover the grant and take reasonable steps to identify the correct ratepayer. Local Authorities should make clear to recipients that the grant is for the ratepayer and may be liable for recovery if the recipient was not the ratepayer on the eligible day.

20. The primary principle of the Omicron Hospitality and Leisure Grant scheme is to support businesses that offer in-person services, where the main service and activity takes place in a fixed rate-paying premises, in the hospitality, leisure and accommodation sectors.
21. Annex A gives a list of businesses that fall into scope for hospitality, leisure and accommodation. This list is indicative of the types of businesses but is not exhaustive. Local Authorities will have to use their local knowledge and the definitions and criteria set out below to assist in making a decision on eligibility of a business for this scheme.
22. Businesses will only be eligible where their main service falls within hospitality, leisure or accommodation. If a business operates services that could be considered hospitality or leisure, and also fall into another category, the main service can be determined by assessing which category constitutes 50% or more of their overall income. The main service principle will determine whether a business receives funding. Businesses will need to declare which is their main service. Local Authorities will need to exercise their reasonable judgement to determine whether or not a business is eligible for grants and be satisfied that they have taken reasonable and practicable steps to pay eligible businesses.
23. It is understood that in some cases it may not be materially clear whether a business falls into one of the eligible categories, so decisions on the eligibility of these businesses will be at the Local Authorities' discretion.
24. Businesses must have been trading on 30 December 2021 to be eligible to receive funding under this scheme.
25. For the purposes of this grant scheme, a business is considered to be trading if it is engaged in business activity. This should be interpreted as carrying on a trade or profession, or buying and selling goods or services in order to generate turnover. Fully constituted businesses in liquidation, dissolved, struck off or subject to a striking-off notice are not eligible under these conditions. To help further, some trading indicators are included below that can help assess what can be defined as trading for the purposes of the grant schemes. Indicators that a business is trading are:
  - The business continues to trade, including online, via delivery services etc.
  - The business is not in liquidation, dissolved, struck off or subject to a striking-off notice or under notice
  - The business is engaged in business activity; managing accounts, preparing for reopening, planning and implementing COVID-safe measures

This list of indicators is not exhaustive and Local Authorities must use their discretion to determine if a business is trading.

26. Local Authorities will need to run an application process for all applicants for the grant and must be satisfied that businesses that have previously received related grants meet the eligibility criteria for the Omicron Hospitality and Leisure Grant. As a minimum, Local Authorities must hold the following information on all applicants:

- a. Name of business
- b. Business Trading Address including postcode
- c. Unique identifier (preferably Company Reference Number (CRN)) if applicable. If not applicable, VAT Registration Number, Self-Assessment/Partnership Number, National Insurance Number, Unique Taxpayer Reference, Registered Charity Number will also be acceptable)
- d. High level SIC Code
- e. Nature of Business
- f. Date business established
- g. Number of employees
- h. Business rate account number

27. Local Authorities should make clear to applicants that this data may be shared with BEIS. The BEIS privacy notice, setting out how BEIS will handle personal data across all COVID-19 business grant schemes, can be found here: <https://www.gov.uk/government/publications/covid-19-grant-schemes-privacy-notice/covid-19-grant-schemes-privacy-notice>.

28. Local Authorities are required to undertake pre-payment checks prior to the award of a grant and the application process should enable Local Authorities to carry out the required pre-grant fraud checks, as well as collecting the minimum data required for reporting, as set out in Annex B.

## Hospitality

29. For the purposes of this scheme, a hospitality business can be defined as a business whose main function is to provide a venue for the consumption and sale of food and drink.

30. Local Authorities may use the following criteria to assess whether a business is eligible for a grant under this threshold:

- Businesses offering in-person food and drink services to the general public.
- Businesses that provide food and/or drink to be consumed on the premises, including outdoors.

31. For these purposes, the definition of a hospitality business should exclude: food kiosks and businesses whose main service (generating 50% or more of income) is a takeaway (not applicable to those that have adapted to offer takeaways

during periods of restrictions, in alignment with previous COVID-19 business grant schemes). Annex A provides an indicative list of the types of businesses that can be supported under this scheme.

## **Leisure**

32. For the purposes of this scheme, a leisure business can be defined as a business that provides opportunities, experiences and facilities, in particular for culture, recreation, entertainment, celebratory events and days and nights out.

33. Local Authorities may use the following criteria to assess whether a business is eligible for a grant under this threshold:

- Businesses that may provide in-person intangible experiences in addition to goods.
- Businesses that may rely on seasonal labour.
- Businesses that may assume particular public safety responsibilities.
- Businesses that may operate with irregular hours through day, night and weekends.

34. For these purposes, the definition of a leisure business should exclude: all retail businesses, coach tour operators, tour operators, and gyms and sports businesses where physical exercise or training is conducted on an individual basis or group basis. Annex A provides an indicative list of the types of businesses that can be supported under this scheme.

## **Accommodation**

35. For the purposes of this scheme, an accommodation business can be defined as a business whose main lodging provision is used for holiday, travel or other purposes.

36. Local Authorities may use the following criteria to assess whether a business is eligible for a grant under this threshold:

- Businesses that provide accommodation for 'away from home' stays for work or leisure purposes.
- Businesses that provide accommodation for short-term leisure and holiday purposes.

37. For these purposes, the definition of an accommodation business should exclude: private dwellings, education accommodation, residential homes, care homes, residential family centres and beach huts. Annex A provides an indicative list of the types of businesses that can be supported under this scheme.

## **Exclusions to Omicron Hospitality and Leisure Grant funding**

38. The proposed exclusions in the list at paragraphs 31, 34 and 37, are not intended to be exhaustive and it will be for Local Authorities to determine those cases where eligibility is unclear. Billing authorities will have a good understanding of



the premises in their areas and will be readily able to form a view on eligibility in the majority of cases.

39. Businesses that are not within the ratings system will not be eligible to receive funding under this scheme.
40. Businesses that have already received grant payments that equal the maximum permitted subsidy allowances will not be eligible to receive funding.
41. Businesses that are in administration, insolvent or where a striking-off notice has been made, are not eligible for funding under this scheme.

## How will the grant be provided?

42. In line with the eligibility criteria set out in this guidance, Central Government will fully reimburse Local Authorities, in line with this guidance and the grant offer letter sent to Local Authorities, for the cost of the grant (using a grant under section 31 of the Local Government Act 2003).
43. This funding will be a one-off lump sum payment. Local Authorities will be responsible for delivering the funding to eligible businesses.
44. Local Authorities will receive 90% of the estimated grant funding based on an initial Government estimate. When this threshold of funding has been spent, Government will top up funding to Local Authorities if required. To ensure efficiency and a smooth funding delivery process, unnecessary underspend should be avoided where possible. Undispersed funds must be returned to BEIS.
45. Local Authorities, subject to local eligibility, will receive funding to meet the cost of payments to businesses within the business rates system based on the number of eligible hereditaments.
46. Local Authorities are business rate billing authorities in England. They are responsible for making payments to businesses and will receive funding from Government.
47. As part of their application process for the scheme, all businesses will be required to self-certify that they meet all eligibility criteria. Local Authorities must verify the evidence provided as part of pre-payment checks. Evidence of completed checks must be retained by Local Authorities.
48. We are committed to meeting the New Burdens costs to Local Authorities for this scheme. A New Burdens assessment will be completed, and funding then provided to authorities.
49. It is expected that Local Authorities will provide local businesses with grant funding as soon as possible from 30 December 2021.

50. The application closure date for this scheme is 28 February 2022. Grants cannot be awarded or offers issued after this date. All final payments must be made and dispersed to recipients by 31 March 2022.
51. All monies must be fully defrayed from the Local Authority bank account by 31 March 2022. Any monies paid after this date will not be reimbursed under this scheme and the Local Authority will be liable for this amount.
52. The Local Authority must email or write to the business, stating that by accepting the grant payment, the business confirms that they are eligible for the grant scheme.

## Will grants be subject to tax?

53. Grant income received by a business is taxable. The Omicron Hospitality and Leisure Grant will need to be included as income in the tax return of the business.
54. Only businesses that make an overall profit once grant income is included will be subject to tax.
55. Payments made to businesses before 5 April 2022 will fall into the 2021/22 tax year. Unincorporated businesses will be taxed when they receive the grant income.

## Managing the risk of fraud and payments in error

56. The Government will not accept deliberate manipulation and fraud. Any business caught falsifying their records to gain additional grant money will face prosecution and any funding issued will be recovered, as may any grants paid in error.
57. Local Authorities must continue to ensure the safe administration of grants and that appropriate measures are put in place to mitigate against the increased risks of both fraud and payment error. In this respect, grant administrators should supplement existing controls with digital tools to support efficient, appropriate and accurate grants awards.
58. For the avoidance of doubt, Local Authorities are required to undertake pre-payment checks for all Omicron Hospitality and Leisure Grant payments. These checks are required to be undertaken before any payments are issued to businesses and Local Authorities should retain evidence of such. This requirement is not limited to new applicants and should look at both the company and the company's bank account.

## Company check

59. The Government Grants Management Function have waived the annual fee and made their digital due-diligence tool, Spotlight, available to Local Authorities to support the administration of COVID-19 business grants until 31 March 2022.

Use of Spotlight (or an equivalent tool) for enhanced checks to support pre-award due diligence is required. Evidence of Spotlight checks undertaken needs to be retained by Local Authorities for audit purposes.

60. Spotlight complements existing pre-award due-diligence checks and highlights areas of risk to inform grant-making decisions, through fundamental (basic) due diligence checks. In particular, Spotlight can quickly and easily flag where organisations have recently become inactive to support authorities review the ongoing viability of recipients prior to making awards.
61. Spotlight can also provide enhanced due diligence, through a paid-for service, and grant administrators are encouraged to consider the benefits of enhanced due diligence. Local Authorities should discuss their digital tool requirements with the Government Grants Management Function at: [spotlight-localauthority@cabinetoffice.gov.uk](mailto:spotlight-localauthority@cabinetoffice.gov.uk)

### Bank account check

62. Grant payments should only be made to UK bank accounts.
63. The Government Counter Fraud Function has worked in partnership with Experian to introduce two new complementary products to assist public bodies in addressing residual fraud risks when dispersing funds for the COVID-19 financial support schemes by addressing their residual fraud risks. These tools will allow Local Authorities to:
  - a. verify the bank accounts of companies in receipt of these business grants; and
  - b. provide insight into whether the company was trading at the relevant date for these grants.
64. These tools are available via the National Fraud Initiative (NFI) and can be used for both pre- and post-payment checks. They apply to both registered companies (at Companies House) and unregistered companies such as sole traders. For further information and to access the tools, please email [helpdesk@nfi.gov.uk](mailto:helpdesk@nfi.gov.uk)
65. Local Authorities can utilise the following tools (or equivalent) to undertake the required company and bank account pre-payment checks: Companies House, Experian (either directly or NFI tool), NAFN, Mint, Cifas, TransUnion “call” validate tool, Equifax Equip “report” tool, Spotlight, rent/mortgage statement or lease agreement, utility bills, building and content insurance premiums.
66. The Bank Account Verification Tool is widely available to Local Authorities, and we would recommend use of the tool to mitigate the risk of business impersonation fraud.

## Pre- and post-event assurance

67. All Local Authorities are required to follow this guidance and conduct activity to provide assurance that all grants have been paid out in line with the eligibility and subsidy allowance conditions for these schemes.
68. The general principle applies that Local Authorities are responsible and accountable for the lawful use of funds under Section 151 of the Local Government Act 1972. The Section 151 Officer within the Local Authority is required to exercise their duties in line with the Chartered Institute of Public Finance and Accountancy (CIPFA) guidance, ensuring their oversight of the proper administration of financial affairs within the Local Authority, including these grants.
69. Any undispersed funding or funds outside the scope of the scheme criteria will need to be returned to BEIS in full within 30 days of the completion of the reconciliation exercise.
70. Local Authorities must be satisfied that all subsidy allowance conditions have been fully complied with when making grant payments. LAs are recommended to seek their own advice on subsidy control compliance. LAs should assure themselves in respect of awards made and retain appropriate evidence in support.
71. To deliver the assurance requirement, Local Authorities must have pre- and post-payment assurance processes in place for this grant scheme to assure all grants issued and must retain evidence of such. Local Authorities must ensure these processes are in place as soon as possible. The process must cover the minimum two pre-payment checks (company and bank account) for grants to be paid, but also the post-payment assurance checking regime that the Local Authority will introduce to identify irregular payments. The Spotlight tool includes the functionality to add schemes pre- or post-award.
72. Assurance Guidance is issued by the Secretary of State for Business, Energy and Industrial Strategy to Local Authorities in England and applies to assurance on all Covid-19 Business Support Grant schemes. Local Authorities should operate in line with the published Assurance Guidance <https://www.gov.uk/government/publications/local-restrictions-support-grants-lrsg-and-additional-restrictions-grant-arg-guidance-for-local-authorities>
73. Where checks discover that payments have been made in error or have been claimed as a result of fraud, any initial recovery action will need to be undertaken by the Local Authority who should operate in line with the published Debt Recovery Guidance, which can be found here <https://www.gov.uk/government/publications/local-restrictions-support-grants-lrsg-and-additional-restrictions-grant-arg-guidance-for-local-authorities>

## Monitoring and reporting requirements

74. Local Authorities must retain necessary data and BEIS will undertake regular data collection exercises with the input of Local Authorities. This reporting enables accurate monitoring, evaluation, and assurance of business support grant payments. LAs should retain evidence of all grant awards made, payments issued and assurance steps undertaken.
75. Further details on data collection requirements are outlined in Annex B.
76. To assist in fraud prevention and recovery Local Authorities are required to include the name of the grant (OHLG) and Local Authority code as part of the payment reference when making a payment to a business.
77. If Local Authorities detect *any* fraud that is attempted or actual, whether it is local, or organised, large scale, systematic or crosses Local Authority boundaries then they must report it in real time to the dedicated inbox at NAFN National Anti-Fraud Network ([intel@nafn.gov.uk](mailto:intel@nafn.gov.uk)). This is so Government can build up a full picture of what is going on and get vital information and alerts back to Local Authorities in real time, this also feeds into the wider intelligence network on counter fraud within Grants.
78. If a case is categorised as organised, large scale, systematic or crosses Local Authority boundaries by NAFN, they will pass the case to NATIS who investigate serious and organised fraud on behalf of BEIS.
79. Local Authorities may be contacted for further information to assist with lines of enquiry being pursued.
80. NATIS may determine that the case is not something they could pursue and will return it to the Local Authority making the original referral. In these cases, the LA should try and secure repayment from the debtor through all reasonable and practicable steps.
81. Where a Local Authority is taking the lead in investigating fraudulent activity where the attempted or suspected fraud is local (rather than organised, large scale, systematic or crosses Local Authority boundaries), they are expected to instigate the recovery of the grant themselves. If a referral is made to NAFN for consideration of investigation, where the Local Authority does not have the resources to investigate, then any attempts that have been made to recover funds, should be included in the referral to NAFN. Local Authorities may wish to pursue referral of the case to local police, however this is at their discretion.
82. A referral should still be made to NAFN where a Local Authority is investigating a suspected or actual fraud to enable NAFN/NATIS to interrogate their systems to identify any links to other cases and to identify possible links to organised crime groups.

## COVID-19 Business Grant Subsidy Allowance

83. The EU State aid rules no longer apply to subsidies granted in the UK following the end of the transition period, which ended on 31 December 2020. This does not impact the limited circumstances in which State aid rules still apply under the Withdrawal Agreement, specifically Article 10 of the Northern Ireland Protocol. However, in the vast majority of cases this will not apply. The United Kingdom remains bound by its international commitments, including subsidy obligations set out in the Trade and Cooperation Agreement (TCA) with the EU. BEIS Guidance for public authorities explaining the subsidies chapter of the TCA, World Trade Organisation rules on subsidies, and other international commitments can be found here: <https://www.gov.uk/government/publications/complying-with-the-uks-international-obligations-on-subsidy-control-guidance-for-public-authorities>.

### COVID-19 business grants subsidy allowances provided on the basis of the TCA

84. The below scheme rules should be applied to applicants at the level of economic actor, which is defined as an entity or a group of entities constituting a single economic entity regardless of its legal status, that is engaged in an economic activity by offering goods or services on a market.

85. There are three subsidy allowances for the COVID-19 Business Grant Schemes set out below: Small Amounts of Financial Assistance Allowance, the COVID-19 Business Grant Allowance and the COVID-19 Business Grant Special Allowance. For grants that could be in scope of the Northern Ireland Protocol, please see paragraphs 92 to 94 below.

86. We have concluded that the COVID-19 Business Grant Allowance and the COVID-19 Business Grant Special Allowance are compatible with the principles set out in Article 366 of the TCA and are targeted, proportionate, and effective in order to remedy difficulties caused by the COVID-19 pandemic for the purposes of Article 364(3). These two allowances constitute subsidy schemes for the purposes of Article 373(4) of the TCA and the transparency requirements at Article 369 of the TCA. Local Authorities will still need to consider their own transparency obligations in relation to individual award (see paragraph 92 below).

### Small Amounts of Financial Assistance Allowance

87. Grants may be paid in accordance with Article 364(4) of the TCA, which enables an applicant to receive up to a maximum level of subsidy without engaging Chapter 3 of the TCA. This allowance is up to £325,000 Special Drawing Rights, to a single economic actor over a rolling period of three fiscal years (the “**Relevant Period**”), which is the equivalent of £335,000 as at 2 March 2021<sup>1</sup>. When calculating the amount of subsidy an applicant has received under Article 364(4) of the TCA in a Relevant Period, a local authority should have regard to

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<sup>1</sup> The Special Drawing Right calculator here can be used to calculate the exchange rate on the day the subsidy is awarded: [https://coinmill.com/SDR\\_calculator.html](https://coinmill.com/SDR_calculator.html)

any subsidy given under Article 364(4) and any subsidy given under Commission Regulation (EU) No 1407/2013 (the **De Minimis Regulation**). An applicant may elect not to receive grants under the Small Amounts of Financial Assistance Allowance and instead receive grants only using the below allowances available under this scheme.

## COVID-19 Business Grant Allowance

88. Where the Small Amounts of Financial Assistance Allowance has been reached or an applicant has elected not to receive a grant under this allowance, grants may be paid in compliance with the Principles set out in Article 366 of the TCA and in compliance with Article 364(3) of the TCA under the COVID-19 Business Grant Allowance (subsidies granted on a temporary basis to respond to a national or global economic emergency). For the purposes of the COVID-19 Business Grant Schemes, this allowance is £1,900,000 per single economic actor. This allowance includes any grants previously received under other COVID-19 Business Grant Schemes using the COVID-19 Business Grant Allowance and any State aid previously received under Section 3.1 of the European Commission's Temporary Framework across any other UK scheme. This may be combined with the Small Amounts of Financial Assistance Allowance to equal £2,235,000 (subject to the exact amount applicable under the Small Amounts of Financial Assistance Allowance using the Special Drawing Right calculator, and any other support an applicant has received under the Small Amounts of Financial Assistance Allowance in the Relevant Period).

## COVID-19 Business Grant Special Allowance

89. Where an applicant has reached its limit under the Small Amounts of Financial Assistance Allowance and COVID-19 Business Grant Allowance, it may be able to access a further allowance of funding under the COVID-19 Business Grant Schemes of up to £10,000,000 per single economic actor, provided the following conditions are met:

- a. The Special Allowance covers only the applicant's uncovered fixed costs incurred during the period between 1 March 2020 and the date of application, including such costs incurred in any part of that period ('eligible period');
- b. Applicants must demonstrate a decline in turnover during the eligible period of at least 30% compared to the same period in 2019. The calculation of losses will be based on audited accounts or official statutory accounts filed at Companies House, or approved accounts submitted to HMRC which includes information on the applicant's profit and loss;
- c. 'Uncovered fixed costs' means fixed costs not otherwise covered by profit, insurance or other subsidies;

- d. The grant payment must not exceed 70% of the applicant's uncovered fixed costs, except for micro and small enterprises (for the purposes of this scheme defined as less than 50 employees and less than £9,000,000 of annual turnover and/or annual balance sheet), where the grant payment must not exceed 90% of the uncovered fixed costs;
  - e. Grant payments under this allowance must not exceed £10,000,000 per single economic actor. This allowance includes any subsidies previously received in accordance with Section 3.12 of the European Commission's Temporary Framework or previously received under the COVID-19 Business Grant Schemes using this COVID-19 Business Grant Special Allowance; all figures used must be gross, that is, before any deduction of tax or other charge;
  - f. Grants provided under this allowance shall not be cumulated with other subsidies for the same costs.
90. An applicant must be able to provide the necessary documentation to demonstrate it is eligible for funding under this COVID-19 Business Grant Special Allowance. Local Authorities must first verify that an applicant can meet all the criteria set out under this allowance before providing further funding under this allowance.
91. Grants provided in excess of the Small Amounts of Financial Assistance Allowance may not be granted to applicants that were defined as an 'undertaking in difficulty' (as defined in Annex C below) on 31 December 2019. In derogation to the above, grants can be granted to micro or small enterprises (as defined above) that were already in difficulty on 31 December 2019 provided that they are not subject to collective insolvency proceedings.
92. Local Authorities must ensure the remaining applicable provisions of the subsidies chapter of the TCA are complied with. In particular, the transparency obligations under Article 369. The transparency database can be found at <https://manageuksubsidies.beis.gov.uk/>. All schemes and individual awards over £500,000 must be uploaded within six months of being granted. Any ad hoc awards of at least 325,000 Special Drawing Rights over three years to an individual beneficiary must also be uploaded within six months of being granted. For access to and any further questions on the database, please contact the BEIS subsidy control team at [subsidycontrol@beis.gov.uk](mailto:subsidycontrol@beis.gov.uk).
93. For the avoidance of doubt, grants under the Small Amounts of Financial Assistance Allowance, the COVID-19 Business Grant Allowance and the COVID-19 Business Grant Special Allowance may be combined for a potential total allowance of £12,235,000 (taking into account all grants previously received under the COVID-19 business grants schemes and subject to the exact amount applicable under the Small Amounts of Financial Assistance Allowance using the Special Drawing Right calculator and the three fiscal year period applicable to the Small Amounts of Financial Assistance Allowance).



## Article 10 of the Northern Ireland Protocol

94. Grants in scope of Article 10 of the Northern Ireland Protocol remain subject to EU State aid rules<sup>2</sup>, following the end of the Transition Period which ended on 31 December 2020. Article 10 provides that EU State aid rules will continue to apply to the UK in respect of measures which affect trade in goods and electricity between Northern Ireland and the European Union.
95. In assessing whether Article 10 may apply, Local Authorities are directed to Section 7 of the technical BEIS Guidance which covers the practical application of Article 10. Local Authorities applying Article 10 must follow Section 7 of the technical BEIS Guidance.
96. Where a Local Authority grant falls within scope of Article 10 of the Northern Ireland Protocol, then a Local Authority cannot rely on the Small Amounts of Financial Assistance Allowance. Instead, a Local Authority must see if the grant can be awarded under the De Minimis Regulation which allows for up to 200,000 euros of subsidy to be given to an undertaking in a rolling three year fiscal period. If a grant falls within scope of the Northern Ireland Protocol and the De Minimis Regulation cannot be relied upon, then the Local Authority will need to satisfy itself there is another legal route to award the grant in compliance with EU State aid Rules. For example, the grants may be given under the European Commission's Temporary Framework<sup>3</sup>.

## General

97. BEIS may vary the terms of these schemes or suspend or close the schemes with immediate effect, without notice and at any time, and requiring that undispersed funds are returned to BEIS within 30 days.

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<sup>2</sup> This means grants in scope of Article 10 of the Northern Ireland Protocol must comply with the provisions set out in the 4<sup>th</sup> amendment of the State aid Temporary Framework dated 13 October 2020.

<sup>3</sup> The UK Temporary Framework for State aid for COVID-19 responses currently expires on 31 December 2021. A decision on approval of extension of the UK scheme from the Commission is pending at the time of writing.

## Annex A – Business categorisation for the purposes of grant funding thresholds

Threshold definitions for the purposes of this scheme are restated below:

- **Hospitality definition:** a business whose main function is to provide a venue for the consumption and sale of food and drink
- **Leisure definition:** a business that provides opportunities, experiences and facilities, in particular for culture, recreation, entertainment, celebratory events, days and nights out, betting and gaming
- **Accommodation definition:** a business whose main lodging provision is used for holiday, travel and other purposes.

This table sets out types of businesses that are eligible under the sector thresholds for this scheme. This list is not exhaustive, but indicative of the types of businesses that can be supported under this scheme.

Support type	Types of businesses	
Hospitality	Food courts Public houses/pub restaurants Restaurants	Roadside restaurants Wine bars Cafés
Leisure	Casinos and gambling clubs Cinemas Museums and art galleries Stately homes & historic houses Theatres Zoos & safari parks Amusement parks Wedding venues Events venues Night clubs & discotheques	Arenas Concert halls Tourist attractions Theme parks Amusement arcades Soft play centres or areas Clubs & institutions Village halls & scout huts, cadet huts, etc.
Accommodation	Caravan parks Caravan sites and pitches Chalet parks Coaching inns Country house hotels Guest houses Hostels Hotels Lodge	Holiday apartments, Cottages or bungalows Campsites Boarding houses Canal boats or other vessels B&Bs Catered holiday homes Holiday homes

## Annex B – Data reporting

1. As part of the Post Payment reporting process, Local Authorities will be required to report to the Department on the grant fund and to adhere to data reporting requirements. This will include reporting to BEIS progress in making payments to eligible rate paying businesses, and detailed information of grants awarded.
2. Local Authorities are required to collect information from businesses receiving these grant payments and will be required to account for how the funding has been spent. Grant recipients should also be advised that they may be contacted for research purposes, and that their data will be shared with BEIS for research and evaluation purposes. The list below sets out the minimum information required from Local Authorities to be reported for the Omicron Hospitality and Leisure Grant:
  - a. Business Rate Payer name
  - b. Hereditament address
  - c. Ratepayer email address
  - d. Size of business the grant relates to
  - e. Sector
  - f. Unique identifier (preferably Company Reference Number)
  - g. Grant awarded
  - h. Amount of grant paid
  - i. Date grant paid
  - j. Grant name
3. Local Authorities will need to ensure they have appropriate data protection arrangements in line with the General Data Protection Regulation (GDPR) and the Data Protection Act 2018. Local Authorities should make clear to applicants that this data may be shared with BEIS. The BEIS privacy notice, setting out how BEIS will handle personal data across all COVID-19 grant schemes, can be found here <https://www.gov.uk/government/publications/covid-19-grant-schemes-privacy-notice/covid-19-grant-schemes-privacy-notice>. Data may be shared with other enforcement agencies for the prevention and detection of crime.
4. Local Authorities are required to complete weekly reports using the Data Management System. Collecting more detailed reports will allow us to maximise use of the data, for example in completing constituency data, and so reduce the requests we make of Local Authorities.
5. Further details of the data submission process, including login details, supporting material, guidance on the data submission timings and process, guidance on the use of the system, example spreadsheets, definition of terms, and applicable training is available to Local Authorities. Local Authorities can contact [lagraints.data@beis.gov.uk](mailto:lagraints.data@beis.gov.uk) with any queries.
6. BEIS will consolidate the reports received to support monitoring and evaluation information of the grant. This includes providing high-level performance reports including summaries of the number of businesses supported and total amount spent. We do this for a number of different reasons, including;

- a. Accountability – to provide a clear and transparent basis for why this policy has been implemented, and its progress over time
- b. Efficiency – ensuring that we are maximising the value delivered from this public spending and ensuring opportunities for analysis and learning for the future
- c. Effectiveness – ensuring that policy makes a positive impact and understanding the context of when that happens.

## Annex C – Undertaking in difficulty

'Undertaking in difficulty' means an undertaking in respect of 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. For the purposes of this provision, 'share capital' includes, where relevant, any share premium.

(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 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:

(1) the undertaking's book debt to equity ratio has been greater than 7.5 and

(2) the undertaking's EBITDA interest coverage ratio has been below 1.0.

## Annex D – COVID-19 Business Grant Schemes

The COVID-19 business grant schemes are:

- Omicron Hospitality and Leisure Grant (OHLG)
- Additional Restrictions Grant (ARG)
- Restart Grant
- Closed Business Lockdown Payment
- Christmas Support Payment for wet-led pubs (CSP)
- Local Restrictions Support Grant (Closed) Addendum: 5 January onwards
- Local Restrictions Support Grant (Closed) Addendum: Tier 4
- Local Restrictions Support Grant (Closed) Addendum
- Local Restrictions Support Grant (Sector)
- Local Restrictions Support Grant (Closed)
- Local Restrictions Support Grant (Open)
- Local Authority Discretionary Grant Fund
- Retail, Hospitality and Leisure Grant Fund
- Small Business Grant Fund

Scheme specific guidance can be found at

<https://www.gov.uk/government/publications/local-restrictions-support-grants-lrsg-and-additional-restrictions-grant-arg-guidance-for-local-authorities> and  
<https://www.gov.uk/government/publications/coronavirus-covid-19-guidance-on-business-support-grant-funding>