



Department for
Business, Energy
& Industrial Strategy

Covid-19 Business Grant Funding Schemes

Debt Recovery, Returning Reclaimed Grants and Referring Outstanding Debts to the Department: Guidance for Local Authorities

Small Business Grant Fund

Retail, Hospitality and Leisure Grant Fund

Local Authority Discretionary Grant Fund

Local Restrictions Support Grant (Open)

Local Restrictions Support Grant (Closed)

Local Restrictions Support Grant (Sector)

Local Restrictions Support Grant (Closed) Addendum

Local Restrictions Support Grant (Closed) Addendum: Tier 4

Local Restrictions Support Grant (Open) Version 2

Local Restrictions Support Grant (Closed) Version 2

Local Restrictions Support Grant (Closed) Addendum: 5 January onwards

Christmas Support Payment for Wet Led Pubs (CSP)

Closed Businesses Lockdown Payment

Restart Grants

Additional Restrictions Grant Fund

Omicron Hospitality and Leisure Grant



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Notes:

1. The process outlined in this Guidance Note for Repayment should only be followed after the Reconciliation¹ of the grant scheme has completed unless repayment is through a repayment plan. If a repayment plan is agreed with the business, then the process outlined at paragraph 29 below should be followed.
2. All debt referrals should follow the process outlined at paragraphs 31-33 below regardless of whether a grant scheme reconciliation has completed.

Introduction

1. In response to the Coronavirus, Covid-19, the Government announced there would be support for businesses. Part of this support has been grants available in financial years 20/21 and 21/22, paid through Local Authorities.
2. Guidance documents² were published to support Local Authorities in administering the grant schemes which include eligibility requirements for each scheme.
3. Local Authorities are required to complete assurance activity on all Covid-19 business grants awarded to check that the recipient was eligible to receive the funds and that the funds were paid correctly.
4. Where a Local Authority identifies that an award of grant was ineligible then it must attempt recovery. This document provides guidance to Local Authorities on the debt recovery processes to be followed for all schemes, including the minimum debt recovery requirements, and the process for referring outstanding debts to BEIS.

About this Guidance

5. This Guidance sets out the criteria which Local Authorities must consider as they manage debt recovery processes. This guidance replaces Version 5 of the Debt Recovery Guidance issued in January 2022 and applies to England only.
6. This Guidance sets out the reasonable and practicable steps Local Authorities should undertake to reclaim grants paid in error, non-compliantly or to someone who made a fraudulent claim. It also provides guidance to Local Authorities on the processes to follow should the reclaim be unsuccessful.
7. The Business Grant Assurance Guidance sets out the framework within which Local Authorities should carry out pre- or post-payment assurance checks, based on project risk assessments and post assurance plans. To avoid duplication, this Guidance does not cover these areas.
8. Local Authority enquiries should be addressed to BusinessGrantsAssurance@beis.gov.uk.

¹ [Assurance Guidance for LAs](#)

² [Covid 19 Grant Scheme Guidance](#)

Background

9. Local Authorities have a responsibility to provide assurance to both themselves and the Department to minimise the risk of errors/fraud and over-payments.
10. The Secretary of State confirmed that the Department will stand behind any erroneous payments, subject to Local Authorities:
 - taking all reasonable and practicable measures as set out in the Assurance Guidance to avoid making payment to ineligible businesses or fraudulent applications; and
 - then having exhausted all reasonable and practicable steps as set out in this Guidance to recover any ineligible, fraudulent or incorrect payments.
11. Where a Local Authority can evidence that it took all reasonable and practicable steps in line with the published Guidance, the Department will be accountable for any sums not recovered.

Identifying ineligible / erroneous payments

12. Where a Local Authority identifies through assurance activity that a grant payment was ineligible it must determine whether the payment was made because of (i) error, (ii) non-compliance or (iii) fraud.

(i) Error

Where a Local Authority identifies that it made a payment in error, (for example, where payment has been made to an incorrect bank account or a grant has been paid twice) it must determine whether this was an isolated incident and ensure that checks have been undertaken to make sure this risk was not repeated or if it was, that appropriate action was taken.

A Local Authority must instigate recovery on all grants paid in error, and reasonable and practicable steps as detailed at paragraphs 21-26 below must be followed by a Local Authority to attempt to recover a grant awarded in error.

If a grant paid in error is not recovered it can be referred to BEIS if the Local Authority follows the minimum recovery process set out in this Guidance. The Local Authority will have to complete Annex B for any debt referred and set out clearly in that document why the referral sits under error.

(ii) Non-Compliance

Where a Local Authority identifies that an award of grant was non-compliant (for example where the business receiving the grant did not satisfy the scheme eligibility criteria) they must determine whether it was intentional on the part of the business or a misunderstanding or misinterpretation of guidance. If the non-compliance is considered intentional then this should be treated as fraud.

A Local Authority must instigate recovery on all grants judged to be non-compliant, and reasonable and practicable steps as detailed at paragraphs 21-26 below must be followed by a Local Authority to attempt to recover a non-compliant grant.

If a grant paid and identified as being non-compliant is not recovered, it can be referred to BEIS if the Local Authority follows the minimum recovery process set out in this Guidance. The Local Authority will have to complete Annex B for any debt referred and set out clearly in that document why the referral sits under non-compliance.

(iii) Fraud

Where a Local Authority identifies actual or suspected fraud related to the award or payment of a Covid-19 Business Grant it must follow the following minimum steps:

- It should take the lead in investigating fraudulent activity where the fraud is local (rather than organised, large scale, systematic or crosses Local Authority boundaries). The Local Authority is expected to instigate the recovery of the grant itself where a debt has occurred.
- It must investigate the fraud in line with its own anti-fraud procedures and may wish to pursue referral of the case to local police, however referral is at the Local Authority's discretion.
- It must instigate recovery of any grant paid in line with the Debt Recovery process outlined in this Guidance; and
- It must report the fraud in real time to the dedicated inbox at NAFN National Anti-Fraud Network (intel@nafn.gov.uk) and detail any attempts that have or will be made by the Local Authority to recover funds.

If the Local Authority is unable to recover a debt related to actual or suspected fraud, then this can be referred to BEIS if the Local Authority follows the minimum recovery process set out in this Guidance. The Local Authority will have to complete Annex B for any debt referred and set out clearly in that document why the referral sits under Fraud, the outcome of its own investigation, and confirm that a referral has been made to NAFN.

BEIS will not accept a referral related to Fraud without all these criteria being met.

13. A Local Authority must attempt recovery on any grant identified as being ineligible regardless of the reason.

Referring Outstanding Debts to BEIS

14. The Secretary of State confirmed (on 23 July 2020) that the Department will stand behind any erroneous payments, subject to Local Authorities taking all reasonable and practicable measures to avoid making payments to ineligible businesses, and then having exhausted all reasonable and practicable steps to recover any ineligible or over-payments. The Department will be accountable for any sums not recovered.
15. Where a Local Authority can demonstrate that a grant was awarded in a reasonable and practicable manner and has undertaken the minimum recovery options outlined within this Guidance, the Department will stand behind any erroneous payments.
16. If a Local Authority fails to award grants in a reasonable and practicable manner or does not undertake reasonable and practicable recovery action, the Local Authority will be held financially accountable and may need to repay the relevant grant amount to the Department.

Reasonable and Practicable Processes in Awarding Grants

17. Local Authorities are required to retain appropriate evidence to demonstrate that all reasonable and practicable steps were followed in the award of a Covid-19 Business Support Grant.
18. BEIS has issued Assurance Guidance³ to support Local Authorities to determine what actions are reasonable and practicable in reviewing the allocation and payment of grant awards.
19. This Assurance Guidance sets out the minimum level of checks that Local Authorities should complete to provide assurance to both themselves and BEIS that they have addressed the risk of error, non-compliance and/or fraud. BEIS has confirmed that for all schemes except Restart, the Omicron Hospitality and Leisure Grant and the ARG top-up

³ Assurance Guidance Version 5 issued 12/01/2022 ([Assurance Guidance for local authorities](#))

announced in December 2021, these checks can be completed pre- or post-payment of the grant. For Restart, the Omicron Hospitality and Leisure Grant and the ARG top -up announced December 2021 Grant checks must be completed pre-payment.

20. The Assurance Guidance requires Local Authorities to retain evidence for a minimum of 10 years from the date of award of grant, to demonstrate that the minimum checks have been followed.

Reasonable and Practicable steps regarding obtaining repayments

21. Local Authorities are required to demonstrate they have undertaken all reasonable and practicable steps to reclaim incorrectly paid grant funds.
22. To meet this requirement, Local Authorities will need to undertake a minimum three-step approach to try and recover any erroneous / ineligible business grants. This consists of:
 - (i) Raising an invoice with the Grant Recipient where an overpayment has been identified, to create the debt. The invoice should clearly set out the reason why the grant is to be repaid, referring to the relevant grant scheme(s) and which scheme eligibility criteria it failed, and giving a deadline for repayment.
 - (ii) Sending a reminder letter to the Grant Recipient if the invoice remains unpaid. The letter should be sent within 28 days of the elapsed deadline originally set. This letter should provide a further deadline date for payment or response and should include a copy of the original invoice. For best practice it should also include signposting to a source of free independent debt advice services, such as the Citizens Advice, Stepchange the National Debtline, and Business Debtline.
 - (iii) Sending a final reminder letter. This should be within 28 days of the elapsed deadline given in the reminder letter and include another copy of the original invoice. This letter should include alternative repayment solutions, such as repayment by instalments or ability to request a deferred date within a defined timescale, and details of the escalation route that might be taken (e.g., local civil recovery, passing recovery back to Central Government for debt recovery action to be considered). A response deadline date and point of contact details for discussion should also be detailed in the letter.
23. Local Authorities are recommended to send the reminder and final reminder letter via a 'signed for' or other traceable delivery mechanism.
24. The 3 steps above are the minimum BEIS would expect a Local Authority to follow to meet the reasonable and practicable criteria. Local Authorities are welcome to take additional steps such as telephone calls and emails; it is acceptable for Local Authorities to undertake Civil recovery action locally. This would not prejudice later referral to BEIS if the debt could not be recovered.
25. Local Authorities are required to keep a record of all these communications in relation to the debt recovery, including any responses (e.g., a written record of the date, content of the communication, method of contact), together with evidence which validates the reasons why the Local Authority deemed the Grant Recipient was not entitled to the grant.
26. Local Authorities should be flexible and have a repayment system which would offer Grant Recipients the opportunity to pay back in instalments if required. Repayment should be secured as soon as possible, and where possible within one year of the original invoice being raised, but a period of up to 3 years or no later than the 31 December 2025 (which ever date is soonest) can be agreed without reference back to BEIS. Any proposed repayment term outside of this will have to be agreed in

writing⁴ with BEIS before it can be finalised with a business.

These requests will only be considered on an exceptional basis and Local Authorities must provide:

- The amount to be recovered and the proposed term.
- The reason why the Local Authority believes the term is required/appropriate for the business, including an argued reason as to why the business cannot manage a shorter repayment plan.
- A view on affordability and whether it recommends the repayment plan.

BEIS will make a final decision based on the above.

Returning Funding to BEIS

27. Where a Local Authority has reclaimed grants in full after the reconciliation has been completed, the funds will need to be returned to BEIS. If reconciliation has not been completed, then any recovered funds should be included in the reconciliation.
28. Where a payment plan has been set up with a business, the Local Authority should follow the instruction at paragraph 29 below to return all payments received to BEIS.
29. To return funds, the Local Authority should complete the template at Annex A and return to BusinessGrantsAssurance@beis.gov.uk. The Department will provide a formal request for the funds, along with details of where to send payment allowing 20 working days for repayment.
30. Local Authorities only need to complete and return the template when they are in a position to return funding; nil responses are not required.

Referral of Debts to BEIS

31. Where a Local Authority has taken all reasonable and practicable steps as outlined above but has been unable to reclaim funding, the Grant should be referred to BEIS for agreement on liability and further recovery activity.
32. Local Authorities should email BusinessGrantsAssurance@beis.gov.uk with details of the Grants that have not been reclaimed using the template found at Annex B and providing all appropriate additional documentation as stated in Annex B.
33. Failure to provide the full detail requested at Annex B will delay BEIS confirming liability and next steps for the debt and could result in a Local Authority being considered liable for a debt.

Assignment of Debts

34. For BEIS to accept and act on a debt referral, a Precedent Assignment Agreement is required between BEIS and the Local Authority, which assigns all causes of action in relation to incorrectly paid Covid-19 Business Support Grants to BEIS. This is required as funds were allocated to Local Authorities under Section 31 of the Local Government Act 2003 and it was the Local Authority who then administered the Grants to end Grant Recipients, meaning any legal cause of action (in contract or otherwise) sits at the level of Local Authority to Grant Recipient.
35. A Precedent Assignment Agreement will be signed once by each Local Authority to cover all Covid-19 Business Support Grant schemes, setting out a framework for BEIS taking formal responsibility for a debt.

⁴ Email confirmation from BEIS to the LA is acceptable

Triage

36. BEIS will complete an initial triage on all Annex B Debt Referrals received where a Precedent Assignment Agreement has been signed by the Local Authority, and confirm to the Local Authority the next steps – this will be one of the following:
- (i) BEIS accepts a referral and the associated liability for the debt and will agree internally the appropriate next steps. This can include further recovery through a debt collection agency, litigation or write off.
BEIS will pursue recovery in all cases of fraud or suspected fraud.
 - (ii) BEIS refuses a referral on the basis that the Local Authority has not acted in a “reasonable and practicable” manner in either the award or attempted recovery of the Grant.
Where BEIS refuses a referral, it will formally write to the Local Authority to confirm, and detail the reason(s) why, confirming the process for challenge of the decision and a 10-working day deadline to lodge any appeal.
When a decision to refuse a referral is confirmed as final BEIS may seek recovery of a debt from the Local Authority.
37. The triage will be based on details provided by the Local Authority through Annex B and on the supporting documents requested at Annex B. If further information on a referral is required from a Local Authority, BEIS will request this in writing.

Referring Debts to Third Party Debt Recovery Agency

38. Grants that are referred to BEIS for further recovery action, and where BEIS accepts that referral, will be assessed to determine the possibility of recovery - for example, if a business has gone into administration since receiving the Grant, then recovery will be unlikely.
39. Where the business continues to trade, the Department will instruct a Third-Party Debt Recovery Agency to undertake further recovery action.
40. BEIS will pursue recovery in all cases of fraud or suspected fraud.
41. Where the Debt Recovery Agency reclaims the funding from a business, they will directly return the funding to BEIS.

If the Debt Recovery Agency is unable to reclaim the funds from a business, this will be referred to BEIS to agree appropriate next steps.

42. BEIS will not automatically update a Local Authority on progress with debt recovery, following confirmation of assignment of that debt.

Data Protection

43. Local Authorities are required to collect information from businesses relating to debt recovery activity, and this data will be shared with a third-party debt collection agency via BEIS to enable collection activity to be undertaken. Local Authorities will need to ensure they have appropriate data protection arrangements in line with the UK General Data Protection Regulation (UK GDPR) and the Data Protection Act 2018. Further details can be found in the Covid -19 Business Grants Privacy Notice, available at: <https://www.gov.uk/government/publications/covid-19-grant-schemes-privacy-notice>.

Annex A

Funds to be Returned to BEIS

Where a Local Authority has reclaimed funds to be returned to BEIS, this template should be completed and returned to BusinessGrants Assurance@beis.gov.uk
Please add a separate line for each individual grant recovered and ready for repayment:

LOCAL AUTHORITY:						DATE:			
Covid-19 Grant Scheme	Date of Scheme Reconciliation Letter <i>(Annex A should <u>only</u> be used after a Scheme reconciliation is finalised)</i>	Business Name	Business Post Code	Reason for Recovery	Total Expected Repayment	Amount Available to be Repaid to BEIS in this Return	Outstanding Amount <i>(total expected repayment minus what has been paid to BEIS to date)</i>	Value of Repayment Plan <i>(if applicable)</i>	Final Date of Repayment Plan <i>(if applicable)</i>
TOTAL					£0.00	£0.00			

Annex B

Local Authority Debt to be Referred to BEIS

Please complete a new form for each debt to be referred
All fields require an answer, even if N/A

1	LOCAL AUTHORITY	
2	DATE OF REFERRAL	
3	Covid-19 Grant Scheme (see list of grant schemes on next page)	
4	Reason for Recovery (delete as appropriate)	Error / Non-Compliance / Fraud
5	Brief explanation of Recovery Reason (including confirmation why grant is ineligible)	
6	Date of Referral to NAFN (if Fraud)	
7	Business Name	
8	Primary Contact	
9	Primary Business Address	
10	Primary Business Town	
11	Primary Business County	
12	Primary Business Post Code	
13	Primary Email Address	
14	Primary Telephone Number	
15	Secondary Contact	
16	Secondary Business Address	
17	Secondary Business Town	
18	Secondary Business County	
19	Secondary Business Post Code	
20	Secondary Email Address	
21	Secondary Telephone Number	
22	Business Website	
23	Date of Grant Application	
24	Date Grant was Paid to Business	
25	Total Grant Awarded	
26	Total Grant to be Recovered	
27	Date of Invoice	
28	Date of Reminder Letter	
29	Date of Final Opportunities Letter	
30	Summary of any other recovery action taken	
31	Is business still trading / solvent	
32	LA view on why recovery action failed	

Please forward to BusinessGrantsAssurance@beis.gov.uk along with:

- Copy of the application form and grant award letter/terms of offer
- Copy of the invoice, reminder letter and final reminder letter
- Evidence of the pre and post assurance checks undertaken
- Record of any other recovery action undertaken
- Copy of any correspondence received from the grant recipient

If any of the above cannot be provided, please explain in covering email.

Covid-19 Business Grant Funding Schemes:

Small Business Grant Fund (SBGF)

Retail, Hospitality and Leisure Grant Fund (RHLGF)

Local Authority Discretionary Grant Fund (LADGF)

Local Restrictions Support Grant (LRSB) – Open

Local Restrictions Support Grant (LRSB) – Sector

Local Restrictions Support Grant (LRSB) – Closed Addendum (November)

Local Restrictions Support Grant (LRSB) – Closed Addendum: Tier 4

Local Restrictions Support Grant (LRSB) – Closed Addendum: 5 January onwards (1st 6 weeks)

Local Restrictions Support Grant (LRSB) – Closed Addendum: 5 January onwards (2nd 6 weeks)

Closed Businesses Lockdown Payment (CBLP)

Christmas Support Payment for Wet Led Pubs (CSP)

Restart Grants

Additional Restrictions Grant Fund (ARG)

Omicron Hospitality and Leisure Grant (OHLG)