



Department for  
Business, Energy  
& Industrial Strategy

# Christmas Support Payment for wet-led pubs

Guidance for Local Authorities (updated 4  
March 2021)

Withdrawn

The Christmas Support Payment scheme is now closed and all grant funding has been allocated.

March 2021

Withdrawn



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# The guidance

1. This guidance is intended to support Local Authorities in administering the Christmas Support Payment for wet-led pubs (CSP) to support businesses in their local economies and to provide additional support to grant funding under the Local Restrictions Support Grant.
2. This support was announced on 1 December 2020. This guidance applies to England only from 2 December 2020 to 29 December 2020. It is not retrospective.
3. This guidance is issued by the Secretary of State for Business, Energy and Industrial Strategy 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 1 December 2020, the Government announced the introduction of additional support over the festive period for wet-led pubs in areas under Tier 2 or 3 restrictions. See announcement: <https://www.gov.uk/government/news/prime-minister-announces-1000-christmas-grant-for-wet-led-pubs>
6. This support will take the form of a grant funding scheme in Financial Year 2020-2021. The scheme is called the Christmas Support Payment for wet-led pubs (CSP) and is administered by business rate billing authorities in England.
7. This document provides guidance to Local Authorities about the operation and delivery of the CSP grant scheme.
8. Funding will be made available to eligible Local Authorities upon entry to Tier 2 or Tier 3 restrictions following the scheduled Tier review dates of 2 December and 16 December.
9. Under the CSP scheme, Local Authorities will receive a one-off payment amounting to £1,000 per wet-led pub in each eligible Local Authority where Tier 2 or Tier 3 restrictions are imposed following the scheduled Tier review dates of 2 December and 16 December. Local Authorities should distribute this funding to eligible wet-led pubs.

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## How will the grant be provided?

10. Local restrictions are legally binding restrictions imposed where the Secretary of State for Health and Social Care requires the closure of businesses 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.
11. In line with the eligibility criteria set out in this guidance, Government will provide grant funding to Local Authorities under Tier 2 or Tier 3 restrictions to pay grants to eligible businesses. This funding will be a one-off lump sum payment when Local Authorities enter Tier 2 or Tier 3 following the scheduled Tier review dates of 2 December and 16 December, in line with the grant offer letter sent to Local Authorities (using a grant under section 31 of the Local Government Act 2003). Local Authorities will be responsible for delivering the funding.
12. Local Authorities will receive 80% 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.
13. 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.
14. Local Authorities that will be responsible for making payments to businesses, and which will receive funding from Government, are business rate billing authorities in England.
15. Eligible wet-led pubs will be invited to apply to receive the grant through their Local Authority.
16. As part of their application process for the scheme, all pubs will be required to self-certify that they meet all eligibility criteria.
17. Local Authorities may request that pubs provide accounting evidence that they derive under 50% of their income from food sales to determine that the pub is wet-led. These accounts should be dated no later than 11 March 2020 (covering a period when trade was not affected by COVID-19).
18. Businesses established after 11 March 2020 and before 1 December will still be eligible for this grant and may be asked to supply accounting evidence that they derive under 50% of their income from food sales covering the period that they have been trading.
19. 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.

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20. This scheme will close on 29 December 2020. Final applications must be received by Local Authorities by 28 February 2021.
  21. It is expected that Local Authorities will provide local businesses with grant funding as soon as possible and no later than 31 March 2021.

## How much funding will be provided to businesses?

22. Local Authorities under Tier 2 or Tier 3 restrictions for all or part of the period between 2 and 29 December 2020 will pay a £1,000 flat-rate grant to wet-led pubs.
23. Any changes to the rating list (rateable value or to the hereditament) after 1 December 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 the date that local restrictions began. In cases where it was factually clear to the Local Authority on the local restriction date 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.
24. Subject to subsidy allowance conditions, businesses will be entitled to receive a grant for each eligible hereditament within the restriction area. So, some businesses may receive more than one grant where they have more than one eligible hereditament.

## Exclusions to CSP funding

25. Pubs that derive over 50% of their income from food sales will not be eligible to receive funding through this grant scheme.
26. Businesses in areas moving from Tier 1 to Tier 2 or Tier 3 after 29 December will not be eligible to receive funding.
27. Businesses that have already received grant payments that equal the maximum permitted subsidy allowances will not be eligible to receive funding.
28. Businesses that are in administration, insolvent or where a striking-off notice has been made, are not eligible for funding under this scheme.

## Who will receive this funding?

29. There is no definitive description of a traditional pub or public house in law that could be readily used by Local Authorities to determine eligibility. However, for the purposes of this grant, pubs should under normal

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circumstances (without local or national restrictions) be described as: open to the general public, allow free entry other than when occasional entertainment is provided, allow drinking without requiring food to be consumed and permit drinks to be purchased at a bar.

30. For these purposes, the definition of a pub should exclude: restaurants, cafes, nightclubs, hotels, snack bars, guesthouses, boarding houses, sporting venues, music venues, festival sites, theatres, museums, exhibition halls, cinemas, concert halls and casinos.
31. The proposed exclusions in the list at paragraph 30 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 licensed premises in their areas and will be readily able to form a view on eligibility in the majority of cases.
32. For the purposes of this grant, a wet-led pub is defined as a pub that derives less than 50% of its income from sales of food.
33. Where a grant is issued, the business that according to the billing authority's records was the ratepayer in respect of the hereditament on 1 December 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.
34. Businesses that are also in receipt of other Local Restrictions Support Grants – for example LRSG (Closed) or Additional Restrictions Grant – can also receive this grant.
35. Businesses must have been trading on 30 November (the day before this scheme was announced) to be eligible to receive funding under this scheme.
36. 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 has staff on furlough
- The business continues to trade online, via click and collect services etc.

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- 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.

37. Where Local Authorities have previously rejected applications from businesses that were not open, but can be considered to have been trading, Local Authorities are asked to revisit these applications and pay these businesses retrospectively.
38. The Local Authority must call or write to the business, stating that by accepting the grant payment, the business confirms that they are eligible for the grant scheme. This includes where Local Authorities already have bank details for businesses and are in a position to send out funding immediately, or where the Local Authority is sending a cheque to a business.

## Will grants be subject to tax?

39. Grant income received by a business is taxable. The CSP grant will need to be included as income in the tax return of the business.
40. Only businesses that make an overall profit once grant income is included will be subject to tax.

## Managing the risk of fraud and payments in error

41. The Government will not accept deliberate manipulation and fraud – and 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.
42. 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 consider supplementing existing controls with digital tools to support efficient, appropriate and accurate grants awards.
43. 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 emergency grants until 31 March 2021. Use of Spotlight to support pre-award due diligence is strongly recommended.

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44. 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.
  45. 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: [spotlightlocalauthority@cabinetoffice.gov.uk](mailto:spotlightlocalauthority@cabinetoffice.gov.uk)

## Pre- and post-event assurance

46. All Local Authorities are required to follow this guidance and conduct activity to provide assurance that the grants have been paid out in line with the eligibility and subsidy allowance conditions for these schemes.
47. 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.
48. Local Authorities must be satisfied that all subsidy allowance conditions have been fully complied with when making grant payments. Full details, including sample declaration forms, are contained in in this guidance.
49. To deliver this assurance requirement, Local Authorities should develop pre- and post-payment assurance plans for each grant scheme. There should be an eligibility check and a recipient check on all payments, whether pre- or post-payment. The plans should set out the actions and checks Local Authorities will undertake to ascertain regularity of payments. They should cover the pre-payment checks for grants still to be paid, but also the post-payment assurance checking regime that the Local Authority will introduce to identify irregular payments.
50. The volume and depth of checks that a Local Authority undertakes as detailed in these plans should be proportionate to the grant value versus the cost of the check, and informed by a Fraud Risk Assessment of the likelihood of error and/or fraud in the payments they have made.
51. Consequently, Fraud Risk Assessments should also be undertaken for the grant scheme and comprise part of the assurance plan. To support Local

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Authorities in developing their risk assessments the Department will provide risk assessment templates tailored to the relevant funds.

52. The Government Grants Management Function and Counter Fraud Function will support Local Authorities to carry out post-event assurance work to identify high risk payments and to estimate and measure the likely incidence of fraud and error that has occurred in the scheme. This requires statistically significant sample testing of key residual risks to assess the level of fraud / error that has arisen from the residual aspect of identified fraud risks. Post-event assurance is therefore dependent upon a detailed fraud risk assessment being undertaken for the scheme. Guidance will be made available to Local Authorities to support the development of Post Event Assurance Action Plans.

53. 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.

## Monitoring and reporting requirements

54. Local Authorities must retain necessary data and BEIS will undertake regular data collection exercises. The data will include:

- number of applications received for the scheme,
- number of payments being processed,
- number of actual payments, and
- value of payments made.

55. Local Authorities will be required to provide data in order to allow reporting by Parliamentary constituency. BEIS will work with Local Authorities to facilitate such reporting.

56. Annex A contains information on Post Payment Monitoring requirements.

57. Local Authorities will be asked to provide a monthly report to the Department comprising an update on their Fraud Risk Assessments and pre- and post-payment assurance activities as they are delivered over the lifetime of each of these grants separately. The Department will provide a reporting template in due course.

58. If Local Authorities detect fraud (successful rather than attempted), or if they suspect fraud (attempted as well as actual) that is organised, large scale systematic, or which crosses Local Authority boundaries, they must report it in real time. We recommend Local Authorities report it simultaneously to the

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dedicated inboxes at the National Anti Fraud Network ([intel@nafn.gov.uk](mailto:intel@nafn.gov.uk)) and the National Investigation Service ([report@natis.pnn.police.uk](mailto:report@natis.pnn.police.uk)). Local Authorities may be contacted for further information to assist with lines of enquiry being pursued.

59. 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.

60. 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)

61. This monitoring and reporting is in addition to any relevant reporting requirements under subsidy control rules.

## Update to COVID-19 business grant subsidy allowance

62. 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. 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>

63. On Thursday 4 March new subsidy allowances were established for the COVID-19 business grants schemes, on the basis of the principles set out in Article 3.4 of the TCA.

64. From Thursday 4 March Local Authorities must apply the updated scheme rules set out in this guidance document.

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65. The updated scheme rules set out in this guidance document do not apply retrospectively. Therefore, where a Local Authority has previously rejected an applicant's application before Thursday 4 March on the grounds that the applicant had reached previous scheme limits, the Local Authority must not revisit this decision. The applicant may however submit a new application if still within a current payment cycle.

66. If an applicant, that has previously reached the subsidy allowance limit, applies for past payment cycles, Local Authorities should not accept applications or make retrospective payments to those businesses where the payment cycle has passed. For example, Local Authorities should not accept applications for the LRSG (Closed) Addendum scheme, where the eligibility period was 5 November 2020 to 2 December 2020, as the payment cycle has passed for businesses that had reached the subsidy allowance limit during that period.

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

67. The following scheme rules are to be applied to COVID-19 business grants on the basis of the EU-UK Trade and Co-operation Agreement (TCA).

68. 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.

69. There are three subsidy allowances for this scheme set out below: Small Amounts of Financial Assistance Allowance, the COVID-19 Business Grant Allowance and the COVID-19 Business Grant Special Allowance.

### Small Amounts of Financial Assistance Allowance

70. Grants may be paid in accordance with Article 3.2(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 325,000 Special Drawing Rights, to a single economic actor over any period of three fiscal years, which is the equivalent of £335,000 as at 2 March 2021<sup>1</sup>. 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

71. Where the Small Amounts of Financial Assistance Allowance has been reached, grants may be paid in compliance with the Principles set out in Article 3.4 of the TCA and in compliance with Article 3.2(3) of the TCA under

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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)

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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 these scheme rules, this allowance is £1,600,000 per single economic actor. This allowance includes any grants previously received under the COVID-19 business grant schemes 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 £1,935,000 (subject to the exact amount applicable under the Small Amounts of Financial Assistance Allowance using the Special Drawing Right calculator).

## COVID-19 Business Grant Special Allowance

72. 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 these scheme rules of up to £9,000,000 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 31 March 2022, 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 £9,000,000 per single economic actor. This allowance includes any grants previously received in accordance with Section 3.12 of the European Commission's Temporary Framework; all figures used must be gross, that is, before any deduction of tax or other charge;
  - g. Grants provided under this allowance shall not be cumulated with other subsidies for the same costs.
73. 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

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meet all the criteria set out under this allowance before providing further funding under this allowance.

74. 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 B 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.
75. 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 3.7. 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).
76. Local Authorities still need to comply with reporting requirements to the European Commission in respect of grants previously granted under the European Commission's Temporary Framework before the Transition Period ended on 31 December 2020.

## Article 10 of the Northern Ireland Protocol

77. 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.
78. 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.

## General

79. BEIS may vary the terms of these schemes or suspend or close the schemes with immediate effect, without notice and at any time.
80. 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

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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.

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potential total allowance of £10,935,000 (subject to the exact amount applicable under the Small Amounts of Financial Assistance Allowance using the Special Drawing Right calculator).

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## Annex A – Post-payment reporting

### Background

1. Local Authorities will be required to report to the department on the grant fund.
2. Weekly reports will cover:
  - Numbers of businesses eligible for the scheme
  - Number of actual payments per restriction period
  - Total amount of actual payments
  - Issues encountered in implementing the scheme to allow BEIS to support development of solutions with Local Authorities
3. These returns should be completed using the DELTA Reporting system.
4. In addition to weekly performance monitoring reports, we may ask Local Authorities to provide data in order to allow reporting by Parliamentary constituency.

### Process

5. Local Authorities will report on progress in making payments to eligible rate paying businesses, for each period of restrictions.
6. Each report will only cover grants provided by Local Authorities to eligible business during the period as per paragraph 2. The Cities and Local Growth Unit will consolidate the reports to create an accumulative total and monitor progress against the initial allocation of funding per Local Authority.

### Definitions

Total number of applications received	Number of applications received in the restriction period
Total number of grants provided	Number of grants paid (in that restriction period) to the eligible businesses identified by the Local Authorities.
Total value of payment made	Value of grants paid (in that restriction period) to the eligible businesses identified by the Local Authorities.

Comments	Highlight in this box issues that Local Authorities are encountering while implementing the scheme.
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## Data collections for evaluation

7. Local Authorities are also required to collect information from businesses receiving these grant payments, and will be expected 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.
8. It is vitally important that we have this information centrally to allow us to understand and evaluate how the provision is working. 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
9. We are continuing to develop the mechanism by which Local Authorities can frequently generate and share this information with BEIS, including working with system providers, which is the most cost-effective way of collecting a wide data set. 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. We will fully support Local Authorities through this data collection. Please do contact [lagrants.data@beis.gov.uk](mailto:lagrants.data@beis.gov.uk) if you have any queries.
10. The list below sets out the minimum information we require Local Authorities to collect for Local Restrictions Support Grants, Additional Restrictions Grant, Christmas Support Payment for wet-led pubs, and the Closed Businesses Lockdown Payment:
  - 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)

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- g. Grant awarded
  - h. Amount of grant paid
  - i. Date grant paid
  - j. Grant name

11. This provides important information that will support evaluation and further our understanding of the impact of the grants. Further details including the definitions of the terms above and an example spreadsheet will be circulated with each monthly data collection.

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## Annex B – 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.