



Department for
Business, Energy
& Industrial Strategy

Local Restrictions Support Grant (Sector)

Guidance for Local Authorities (updated 4
May 2021)

Withdrawn

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Contents

The guidance	4
Introduction	4
How will the grants be provided?	5
How much funding will be provided to businesses?	5
Exclusions to Local Restrictions Support Grant (Sector) funding for business rate payers	6
Who will receive this funding?	7
Will these grant schemes be subject to tax?	8
Managing the risk of fraud and payments in error	8
Pre- and post-event assurance	9
Monitoring and reporting requirements	10
Update to COVID-19 business grant subsidy allowance	11
Updated COVID-19 business grants subsidy allowances provided on the basis of the TCA	12
Small Amounts of Financial Assistance Allowance	12
COVID-19 Business Grant Allowance	12
COVID-19 Business Grant Special Allowance	13
Article 10 of the Northern Ireland Protocol	14
General	15
Annex A – Post-payment reporting	16
Background	16
Process	16
Definitions	16
Data collections for evaluation	17
Annex B – Undertaking in difficulty	19

The guidance

1. This guidance is intended to support Local Authorities in administering the strand of the Local Restrictions Support Grants (LRSG) for businesses that have been required to close nationally since 23 March 2020 in all 314 business rate billing Local Authorities. This guidance may also cover any new national closures of business property types in future.
2. This strand of LRSG support was announced on 9 October 2020. This guidance applies to England only from 1 November 2020. It is not retrospective.
3. This guidance is issued by the Secretary of State for Business, Energy and Industrial Strategy to Local Authorities and sets out the criteria for the Local Restrictions Support Grant (Sector).
4. Local Authority enquiries on this measure should be addressed to businessgrantfunds@beis.gov.uk. Businesses seeking information should refer to the Government's business support website: <https://www.businesssupport.gov.uk/>

Introduction

5. On Friday 9 October, the Government announced further funding to support businesses that have been required to close on a national basis since 23 March 2020 due to restrictions being put in place to manage coronavirus and save lives. See announcement: <https://www.gov.uk/government/news/job-support-scheme-expanded-to-firms-required-to-close-due-to-covid-restrictions>
6. This support will take the form of a grant funding scheme in Financial Year 2020-2021 called the Local Restrictions Support Grant (Sector).
7. This document provides guidance to Local Authorities about the operation and delivery of the Local Restrictions Support Grant (Sector).
8. Funding will be made available to all 314 billing authorities to provide grant funding to national businesses that have been mandated to close since 23 March 2020. Funding may also be made available should national closures be imposed on other business types in the future.
9. Grant funding for eligible businesses will be payable by Local Authorities in 14-day payment cycles with eligibility starting 1 November 2020.
10. In the event of renewed widespread national 'lockdown' restrictions being imposed, the Local Restrictions Support Grant (Sector) will cease to apply, as relevant businesses will receive funding from the LRSG (Closed).

How will the grants be provided?

11. National closures are legally binding restrictions imposed nationwide, 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.
12. The Government, in line with the eligibility criteria set out in this guidance, will provide funding to Local Authorities to pay grants to eligible businesses that have been subject to national closures since 23 March 2020, and for any other business property types which may be closed on a national basis in future (with normal reconciliation between grant allocation and actual eligible costs). Government will fully reimburse Local Authorities, in line with the following 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). Local Authorities will be responsible for delivering the funding to eligible businesses.
13. All 314 business rate billing Local Authorities in England will receive a grant in respect of eligible national business closures. This support will begin from 1 November 2020 and will not be retrospective.
14. Local Authorities will receive the full estimated grant funding from Government for every 14-day period of closures following 1 November. To ensure efficiency and a smooth funding delivery process, unnecessary underspend should be avoided where possible.
15. 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.
16. The application closure date for this scheme is 31 March 2021 and final payments must be made by 14 May 2021.
17. 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.

How much funding will be provided to businesses?

18. Businesses that have been required to close due to national restrictions imposed on 23 March 2020 and which have not been able to re-open as a result of regulations made under the Public Health (Control of Disease) Act 1984 will be eligible to receive grant funding.
19. Eligible businesses are:

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- a. Nightclubs, dance halls, and discotheques
 - b. Sexual entertainment venues and hostess bars
20. Payments will be made for each 14-day period of closure from 1 November 2020 and will not be backdated. In accordance with this timeline, Local Authorities are encouraged to make payments to eligible businesses every 14 days.
 21. It is possible that – as part of future efforts to control the spread of coronavirus – further business property types are closed on an England-wide basis. If so, these businesses will also be eligible for these grants once they have been closed for 14 days.
 22. All 314 business rate billing Local Authorities in England – regardless of additional local restrictions – will receive this funding to support national business closures.
 23. Businesses occupying hereditaments appearing on the local rating list with a rateable value of exactly £15,000 or under on the date of the commencement of the national restrictions will receive a payment of £667 per 14-day qualifying restriction period.
 24. Businesses occupying hereditaments appearing on the local rating list with a rateable value over £15,000 and less than £51,000 on the date of the commencement of the national restrictions will receive a payment of £1,000 per 14-day qualifying restriction period.
 25. Businesses occupying hereditaments appearing on the local rating list with a rateable value of exactly £51,000 or above on the commencement date of the national restrictions will receive a payment of £1,500 per 14-day qualifying restriction period.
 26. Subject to subsidy allowance conditions, businesses will be entitled to receive a grant for each eligible hereditament per 14-day period of national restrictions that require them to close from 1 November 2020. Some businesses may receive more than one grant where they have more than one eligible hereditament.

Exclusions to Local Restrictions Support Grant (Sector) funding for business rate payers

27. Businesses that have already received grant payments that equal the maximum permitted levels of subsidy will not be eligible to receive funding.

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28. For the avoidance of doubt, businesses that were in administration, are insolvent or where a striking-off notice has been made are not eligible for funding under this scheme.
29. Business in the categories listed in paragraph 19 will not be eligible if they have re-purposed their business and as a result are no longer subject to 23 March regulations, for example changing their business from a nightclub to a bar.

Who will receive this funding?

30. The person who, according to the billing authority's records, was the ratepayer in respect of the hereditament on the 1 November 2020 is eligible for the grant. Where the Local Authority has reason to believe that the information that they hold about the ratepayer on the first full day of the national restrictions 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.
31. Businesses must have been trading on 23 March 2020 to be eligible to receive a grant payment. If new national closures of business property types are announced, then the business must have been trading on the date of the announced closure in order to be eligible.
32. 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 scheme. 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.
- 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.

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33. 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.
 34. 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 schemes. 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.
 35. Businesses will need to notify their Local Authority if they no longer meet the eligibility criteria for additional grants.

Will these grant schemes be subject to tax?

36. Grant income received by a business is taxable. The Local Restrictions Support Grant will need to be included as income in the tax return of the business.
37. Only businesses which make an overall profit once grant income is included will be subject to tax.

Managing the risk of fraud and payments in error

38. 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.
39. 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 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.
40. 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.
41. Spotlight complements existing pre-award due-diligence checks and highlights areas of risk to inform grant-making decisions, through fundamental 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.

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42. 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

Pre- and post-event assurance

43. 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.
44. 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 of these grants.
45. 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.
46. 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.
47. 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.
48. Consequently, Fraud Risk Assessments should also be undertaken for each grant scheme and comprise part of the assurance plan. To support Local Authorities in developing their risk assessments the Department will provide risk assessment templates tailored to the relevant funds.

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49. 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.
50. 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

51. Local Authorities must retain necessary data and BEIS will undertake regular data collection exercises. The data will include:
- number of businesses eligible for the scheme,
 - number of payments being processed,
 - number of actual payments, and
 - value of payments made.
52. Local Authorities may be required to provide data in order to allow reporting by Parliamentary constituency. BEIS will work with Local Authorities to facilitate such reporting.
53. Annex A contains information on Post Payment Monitoring requirements.
54. 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.
55. If Local Authorities detect fraud (successful rather than attempted), or if they suspect fraud (attempted as well as actual) that is organised, large scale or systematic, or which crosses Local Authority boundaries, they must report it in real time. We recommend that Local Authorities report it simultaneously to the dedicated inboxes at the National Anti-Fraud Network (intel@nafn.gov.uk) and the National Investigation Service (report@natis.pnn.police.uk). Local Authorities may be contacted for further information to assist with lines of

enquiry being pursued.

56. 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.
57. 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
58. This monitoring and reporting is in addition to any relevant reporting requirements under subsidy control rules.

Update to COVID-19 business grant subsidy allowance

59. 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>
60. 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.
61. From Thursday 4 March Local Authorities must apply the updated scheme rules set out in this guidance document.
62. 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.

63. 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

64. 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).
65. 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.
66. 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

67. 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 2021¹. 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

68. 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 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

¹ 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

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

69. 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.

70. 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.

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71. 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.
72. 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/>.
73. If a grant is awarded under the Small Amounts of Financial Assistance Allowance, Local Authorities must ask the recipient whether, when cumulated with any De Minimis State Aid or Small Amounts of Financial Assistance that the business has received in the last three years, the grant will mean that the recipient has received more than 325,000 Special Drawing Rights (approximately £335,000 at the time of writing). If it has, then the grant must be declared on the BEIS transparency database within six months of it being made.
74. If the grant is awarded under the COVID-19 Business Grant Allowance or the COVID-19 Business Grant Special Allowance, Local Authorities must ask the recipient whether, when cumulated with any other grant under the allowances, the recipient has received more than £500,000. If it has, then the grant must be declared on the BEIS transparency database within six months of it being made.
75. For access to and any further questions on the database, please contact the BEIS subsidy control team at 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 rules², 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

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

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 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 9 onwards. 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 eligible businesses	This reflects the number of eligible businesses identified by the Local Authorities to receive funding under the scheme.
Total number of grants provided under each element of the scheme (£667, £1k, £1.5k).	Number of grants paid (in that restriction period) to the eligible businesses identified by the Local Authorities.

Total value of payment made under each element of the scheme (£667, £1k, £1.5k)	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.

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 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:

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- 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

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.