

# Local Authority Discretionary Grants Fund Policy

## Background

1. At the end of March 2020 Central Government announced two new grant funding schemes. These schemes were:
  - small business grant funding of £10,000 for all businesses in receipt of small business rate relief or rural rate relief;
  - grant funding of either £10,000 or £25,000 for retail, hospitality and leisure businesses with property where the rateable value is less than £51,000:
    - Eligible businesses in these sectors with a property that has a rateable value of up to and including £15,000 received a grant of £10,000;
    - Eligible businesses in these sectors with a property that has a rateable value of over £15,000 and less than £51,000 received a grant of £25,000.
2. Councils have been responsible for distributing these grants on behalf of Central Government and had limited discretion in administering the scheme.
3. It has become clear through the operation of the scheme that a number of businesses which, while in principle fit the criteria for support, were nevertheless excluded because of some of the qualification criteria established by government. Councils across the country identified a number of “hard cases” that appear to be unfairly excluded, and made representations to government for additional flexibilities to enable more businesses to be supported.
4. On 1 May 2020 Central Government announced an additional discretionary fund had been set up. This grant scheme will offer a lifeline to businesses unable to access other grant funding who are struggling to survive due to the COVID-19 measures implemented.
5. This additional fund is aimed at small businesses with ongoing fixed property-related costs who were not eligible for the Small Business Grant Fund or the Retail, Leisure and Hospitality Fund. Again, councils are responsible for distributing the fund which equates to an additional £617m nationally.
6. The allocation for Cheshire West and Chester Council has not yet been confirmed. Central Government will use the projected expenditure on business rates grants which was submitted on 4 May 2020 as the basis for allocation. It is assumed to be in the region of £3.7m for Cheshire West and Chester Council.

## Central Government Guidance

7. Government want Councils to exercise their local knowledge and discretion, recognising economic need will vary across the country. Therefore, although there is some national criteria for the funds, councils will be able to determine which cases to support within those criteria.

8. This grant funding is for organisations that are not eligible for other support schemes. Organisations which have received cash grants from any central Government scheme are ineligible for funding from the Discretionary Grants Fund. Such grant schemes include but are not limited to:
  - a. Small Business Grant Fund
  - b. Retail, Hospitality and Leisure Grant
  - c. The Fisheries Response Fund
  - d. Domestic Seafood Supply Scheme (DSSS).
  - e. The Zoos Support Fund
  - f. The Dairy Hardship Fund
9. Organisations who have applied for the Coronavirus Job Retention Scheme and/or Self-Employment Income Support Scheme are eligible to apply.
10. The Government has stated that grants are primarily and predominantly aimed at:
  - a. Small and micro businesses, as defined in Section 33 Part 2 of the Small Business, Enterprise and Employment Act 2015 and the Companies Act 2006.
  - b. Businesses with relatively high ongoing fixed property-related costs
  - c. Businesses which can demonstrate that they have suffered a significant fall in income due to the COVID-19 crisis
  - d. Businesses which occupy property, or part of a property, with a rateable value or annual rent or annual mortgage payments below £51,000.
11. To be a small business, under the Companies Act 2006, a business must satisfy two or more of the following requirements:
  1. Turnover: Not more than £10.2 million.
  2. Balance sheet total: Not more than 5.1 million.
  3. Number of employees: Not more than 50.
12. To be a micro business, under the Companies Act 2006, a business must satisfy two or more of the following requirements:
  1. Turnover: Not more than £632,000
  2. Balance sheet total: Not more than £316,000
  3. Number of employees: a headcount of staff of not more than 10
13. The discretionary grants can only be paid to:
  - Businesses with ongoing fixed property-related costs
  - Businesses which can demonstrate that they have suffered a significant fall in income due to the COVID-19 crisis
  - Business with fewer than 50 employees
  - Businesses that were trading on 11th March 2020.
14. Government is asking councils to prioritise the following types of organisations for grants from within this funding pot:

- a. Small businesses in shared offices or other flexible workspaces. Examples could include units in industrial parks, science parks and incubators which do not have their own business rates assessment;
  - b. Regular market traders who do not have their own business rate assessment
  - c. Bed and Breakfasts (excluding Airbnb) accommodation which pay Council Tax instead of business rates
  - d. Charity properties in receipt of charitable business rates relief which would otherwise have been eligible for Small Business Rates Relief or Rural Rate Relief.
15. The list set out above is not intended to be exhaustive, but to guide councils as to the types of business that the Government considers should be a priority for the scheme.
16. Councils should determine for themselves whether particular situations not listed are broadly similar in nature to those above and, if so, whether they should be eligible for grants from this discretionary fund.
17. Councils may disburse grants to the value of £25,000, £10,000 or any amount under £10,000. The value of the payment to be made to a business is at the discretion of the Council.
18. Grants under the Local Authority Discretionary Grants Fund are capped at £25,000.
19. The next level payment under the Local Authority Discretionary Grants Fund is £10,000.
20. Councils have discretion to make payments of any amount under £10,000. It will be for local authorities to adapt this approach to local circumstances, such as providing support for micro-businesses with fixed costs or support for businesses that are crucial for their local economies.
21. In taking decisions on the appropriate level of grant, government guidance states that councils may want to take into account the level of fixed costs faced by the business in question, the number of employees, whether businesses have had to close completely and are unable to trade online and the consequent scale of impact of COVID-19 losses.
22. Companies that are in administration, are insolvent or where a striking off notice has been made are not eligible for funding under this scheme.
23. The scheme is designed to help small businesses and not intended to be used to make grants to businesses/organisations which occupy properties with higher rateable values, annual rent or annual mortgage payments than £51,000.

## **Cheshire West and Chester Policy**

### **Eligibility**

24. Cheshire West and Chester Council aims to be as inclusive as possible in making decisions on the awarding of discretionary grants. However, it is bound by the guidance published by central government.
25. Only organisations within Cheshire West and Chester Council's boundary will be able to apply for a discretionary grant under this policy.
26. Cheshire West and Chester Council will, where possible, acknowledge the importance of individual organisation's contribution to social value, unique characteristics and geographical reach when determining a grant award.
27. Only businesses which were trading on 11 March 2020 are eligible for this scheme.
28. In line with government guidance the following organisations, that meet the criteria in paragraphs 8-13, will be prioritised:

#### **Priority 1**

- a. Local charities that specifically support residents of Cheshire and meet the guidance criteria;
- b. Bed and Breakfast (excluding Airbnb) accommodation identified as paying council tax not business rates;
- c. Shared spaces (e.g. multiple workshops with one rateable value assessment) that have been turned down under the normal grant scheme but meet the small business criteria;
- d. Regular market traders who do not have their own business rate assessment;

#### **Priority 2**

- e. Small businesses/organisations who have been specifically supporting the COVID-19 response e.g. nurseries, organisation supporting vulnerable people
- f. Small businesses/organisations in deprived and/or rural areas who serve our communities and whose loss could diminish quality of life for residents.

#### **Priority 3**

- Small business/organisations not listed in priority 1 or 2 that the council determine meet the criteria in paragraph 8-13 and are broadly similar in nature to those priority 1 and 2 above

29. The list set out above is not intended to be exhaustive, but acts as a guide to the types of business that the council considers, in line with government guidance, will be a priority for the scheme.
30. To ensure the discretionary grants are awarded to those small businesses/organisations most impacted by COVID-19 an assessment will be undertaken against the criteria below

- . Did the business/organisation:
  - Close fully due to COVID-19 measures
  - Close partially due to COVID-19 measures
  - Remain open during the COVID-19 measures
- Scale of the business fixed on-going property costs
- Number of employees affected
- Scale of the financial impact of COVID-19 had on income
  - 75% - 100% reduction in income
  - 50% - 74.99% reduction in income
  - 25% - 49.99% reduction in income
  - 0% - 24.99% reduction in income

31. Grants to those businesses that fall into Priority 1 and Priority 2, set out above, will be ranked based on the percentage reduction in income. Awards will be made to these priority businesses first within the available funding.

32. Any remaining funding will be available for Priority 3 businesses. These will also be ranked based on the percentage reduction in income, with those worst affected considered first.

33. Payments of £25,000 will be made to those businesses/organisations assessed with the highest impact from the COVID-19 measures in the Retail, Hospitality and Leisure sectors e.g. that the building related fixed costs such as rent are commensurate with those borne by a business with a property rateable value of over £15,000 and below £51,000.

34. Payments of £10,000 will be made to those businesses/organisations assessed with the highest impact from the COVID-19 measures to small businesses or businesses within the Retail, Leisure and Hospitality sectors e.g. that the fixed costs such as rent are commensurate with those borne by a business with a property rateable value up to £15,000.

35. Payments of up to £10,000 will be made to those micro businesses crucial to the local economy and meeting the eligibility criteria outlined above. Businesses will be ranked in line with the impact of COVID-19 on income set out in paragraph 30 above and the value of the grant will be proportionate to this income loss.

### **Grant Application Process**

36. The Council will set out the scope of the discretionary grant scheme on its website, providing clear guidance on which types of business are being prioritised.

37. All organisations who wish to apply for a discretionary grant will need to complete the online form. The form will ask businesses to confirm they meet the criteria, will not exceed State Aid rules and have not received support through other schemes.

38. Applications from bodies listed in priority 1 and 2, provided they can demonstrate that they have been adversely affected by COVID-19 and meet the criteria in

paragraphs 8-13, will have first call on the discretionary fund. Applications from organisations/businesses in priority 3 will only be considered should there be funding remaining.

39. The purpose of the form is to enable the council to undertake pre-payment checks to confirm eligibility and to determine how to use discretion in relation to the appropriate level of grant.
40. A deadline for receipt of applications will be set for no less than two weeks after the online application form is available. Any applications received after the deadline will only be considered if funds remain.
41. The council will, as advised by government, use its discretion in identifying the right person to receive this funding on behalf of the business/organisation, based on the application.
42. Financial evidence will be required to demonstrate that the business/organisation has been significantly impacted by COVID-19 e.g. bank statements, income/expense accounts dated before and after the COVID-19 measures were implemented.
43. The business will need to provide the following to support their application:-
  - Business name
  - Business address
  - Details of applicant including email address and telephone number
  - Business bank details for payment
  - VAT registration number (if applicable)
  - Company registration number (if applicable)
  - Charity number (if applicable)
  - Business Rate account number (if available)
  - A brief description of what good/services the business provides including:
    - contribution to social value,
    - unique characteristics
    - geographical reach
  - A brief explanation of the impact on the business from the COVID-19 measures
  - Details and evidence of monthly income/expenditure before COVID-19 measures
  - Details and evidence of current monthly income/expenditure reflecting impact of COVID-19 measures
  - Confirmation they have not received funding from another source
  - Confirmation they do not exceed State Aid levels
44. Due to the limited funds available only one discretionary grant per business/organisation will be awarded.
45. If funding remains, once applications to businesses/organisations on the priority list have been assessed and ranked, the Council will consider applications from

those who are not listed but meet the criteria in paragraphs 8 – 13 and have been most impacted by the COVID-19 measures.

46. The council will adopt a consistent approach in assessing and ranking applications from businesses/organisations using the criteria in paragraph 30 and will make awards based on the impact of the COVID-19 measures
47. Awards will be made in line with government guidance until all funds have been utilised.

### **Notification and Payment**

48. All organisations will be contacted by the council by phone or in writing to advise of the outcome of their application stating that by accepting the grant payment, the business confirms that they are eligible for the grant scheme, including that any payments accepted will be in compliance with State aid requirements.
49. The Council will make all successful grant awards by BACs and it is important that organisations/businesses supply their account details as part of the application process

### **Protecting the Public Purse**

50. The Council will not accept deliberate manipulation and fraud and any business caught falsifying their records to gain grant money will face prosecution and any funding issued will be subject to claw back, as may any grants paid in error.
51. The Government Grants Management Function and Counter Fraud Function have made their digital assurance tool, Spotlight, available to Councils and will offer support in using the tool and interpreting results. Alongside other checks conducted by councils, the tool can help with pre-payment and post payment assurance. Cheshire West and Chester Council will utilise this tool to help to validate applications.
52. We will work with government and other councils in identifying and sharing good practice, including protecting eligible businesses which may be targeted by fraudsters pretending to be central or local government or acting on their behalf.
53. We will use the information provided to assess applications for financial support. We may share the information provided with other Organisations/ Agencies to confirm information account validity and identity.

### **Appeal**

54. If a business is unsuccessful in their application for a discretionary grant and appeal can be made to the Council. Representations must be made in writing, within 14 days of a decision notice, provide additional supporting evidence and details of why the business disagrees with the decision made.

55. The appeal will be considered by the Senior Manager for Transactional Services who will respond, in writing, within 14 days. The decision made by the Senior Manager for Transactional Services will be final and no further appeals rights will be offered.

## **State Aid**

56. The United Kingdom left the EU on 31 January 2020, nonetheless under the Withdrawal Agreement the State aid rules continue to apply during a transition period, subject to regulation by the EU Commission. The council must be satisfied that all State aid requirements have been fully met and complied with when making grant payments, including, where required, compliance with all relevant conditions of the EU State aid De-Minimis Regulation, the EU Commission Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak, the approved Covid-19 Temporary Framework for UK Authorities, and any relevant reporting requirements to the EU Commission.

57. Councils have discretion to make payments to eligible recipients under either the De Minimis rules or the COVID-19 Temporary Framework for UK Authorities (provided all the relevant conditions are met).

58. Payments of up to and including £10,000 can be provided under the De Minimis rules, meaning applicants can receive up to €200,000 of aid within a three year period

59. Payments of up to and including £25,000 (or where the De Minimis threshold has been reached) should be paid under the Covid-19 Temporary Framework for UK Authorities. Councils should note the conditions attached to the Temporary Framework, including the €800,000 threshold per undertaking (€120 000 per undertaking active in the fishery and aquaculture sector or €100 000 per undertaking active in the primary production of agricultural products), and requirement for recipients to declare they were not an undertaking in difficulty on 31 December 2019. An 'undertaking in difficulty' is defined by GBER (2014) as an undertaking in which at least one of the following circumstances occurs:

- a. In the case 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.
- 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 under its domestic law 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:
  - i. The undertaking's book debt to equity ratio has been greater than 7.5 and
  - ii. The undertaking's EBITDA interest coverage ratio has been below 1.0.