

REPORT TO:		Cabinet	
DATE:		15 July 2020	
PORTFOLIO:		Cllr Miles Parkinson, Leader	
REPORT AUTHOR:		Joe McIntyre Deputy Chief Executive	
TITLE OF REPORT:		Department of Business, Energy & Industrial Strategy (BEIS) Local Business Discretionary Grants June 2020	
EXEMPT REPORT (Local Government Act 1972, Schedule 12A)	No	Not applicable	
KEY DECISION:	Yes	If yes, date of publication:	3 rd June 2020

1. Purpose of Report

The report informs Cabinet of funding the Council has received from the Department of Business, Energy & Industrial Strategy (BEIS) to assist local businesses facing financial difficulties as a result of the COVID-19 pandemic and seeks approval of a policy to distribute that funding in accordance with the guidance issued by BEIS.

2. Recommendations

- 2.1. Cabinet approves the policy document "Local Business Discretionary Grants 2020" attached at Appendix 1 to this report.

3. Reasons for Recommendations and Background

Summary

- 3.1. The Department for Business, Energy & Industrial Strategy (BEIS) has made almost £1m available to the Council to provide grants to local businesses suffering as a result of COVID-19.

- 3.2. The Cabinet needs to approve a policy to distribute the funds available in an appropriate way and this policy is set out at Appendix 1. Appendix 2 is a copy of the latest BEIS guidance in relation to this scheme.
- 3.3. The Council is under time pressure to distribute these funds as quickly as possible to businesses and we intend to have the application process operating on our website during the first week of June and after evaluation of the applications received against the eligibility criteria and priorities of the grant scheme we would expect to be able to make payments before the end of July 2020.

Detail

- 3.4. The COVID-19 pandemic of early 2020 led to the Government taking a number of measures to protect the population from the health risk of the virus. A number of the measures introduced in March 2020, caused businesses across the country significant financial hardship and in response the Government introduced a wide range of support to the business sector to assist them during this period.
- 3.5. Most of the support to businesses was supplied direct from Government to businesses. However, the Department of Business, Energy & Industrial Strategy provided certain grant funding to businesses via local councils. Two initial grants, Small Business Rate Grant (SBRG) and the Retail, Hospitality and Leisure Grant (RHLG) were announced in March 2020 and funding was passed to councils on or around the 1st April 2020.
- 3.6. There was a further Government announcement on the 1st May 2020 of a new package of funding aimed at those businesses that had not received funding under the two earlier grants. This money has been entitled Local Business Discretionary Grant Fund.
- 3.7. Unlike the earlier 2 grants, BEIS has not been as prescriptive over the award criteria, though it has provided mandatory guidance that must be followed in awarding grants and provided clear guidance on what it believes are the primary priorities for this funding and which types of criteria should be used to determine which businesses receive funding. As such the Cabinet needs to approve a policy for the distribution of these grants and a proposed draft of this is set out in Appendix 1. The latest BEIS Guidance as at the 22nd May is attached at Appendix 2.
- 3.8. BEIS has notified the Council that it will receive around £975,000 to provide grants to businesses under the Discretionary Scheme. There is an expectation that the applications from the business community in Hyndburn will significantly outstrip the amount of funding available and that it will not be possible to make a payment to all applicants and that we will not be able to fund the amounts required by businesses in many cases. A system of prioritisation will therefore have to operate.
- 3.9. BEIS has indicated that because of the significant pressure businesses are facing due to COVID-19, councils should aim to pay these grants as quickly as possible. We are looking to have an application process established on our Website during the first week of June 2020 and to determine grant awards by the end of June with

payments to businesses occurring within 4 weeks of closure of the application process.

3.10. The Council's policy to determine who is eligible to receive a grant and to prioritise between the applications received, follows the BEIS mandatory guidance on eligibility for the grant and the priorities it sets out in its guidance document. The Council's policy therefore prioritises the following as Tier 1 applications,

- 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.
- Regular market stall traders with building costs, such as rent, who do not have their own business rates assessment.
- Bed & Breakfast businesses which pay Council Tax instead of business rates.
- Charity properties in receipt of charitable business rates relief which would otherwise have been eligible for Small Business Rates Relief or Rural Rate Relief.

3.11. All other businesses that apply for the Discretionary Grant will be considered Tier 2 applicants. Those businesses that meet the criteria to be considered Tier 1 applications will receive priority for funding and only if there is sufficient Government funding remaining after the award to Tier 1 applicants will distribution begin to Tier 2 applicants.

3.12. There are a number of key requirements for applicants to the scheme and these are detailed in the policy document and will be contained in the application form. To protect the Council from fraudulent applications there will be requirements for applicants to sign declarations to allow the Council to cross match and verify any data supplied with internal and external organisations including but not limited to, other Government Departments and HMRC. Applicants will be required to sign an undertaking to return the grant funding if the Council deems the funding was awarded incorrectly due to their false or misleading statements and applicants will be required to sign to state they have not received any other direct grant funding from Government in relation to COVID-19 and the payment of this grant will not contravene EU State Aid rules.

4. Alternative Options considered and Reasons for Rejection

4.1. The Council could decline the funding from BEIS and return the funding to BEIS. This is not recommended because local businesses are undergoing hardship as a result of COVID-19 and this funding will assist those businesses financially and help them survive and recover, thereby protecting the local economy and jobs.

- 4.2. The Council could design a wide range of approaches to awarding this grant funding. It has however chosen to follow the Guidance issued by BEIS which emphasises that priority should be given to 4 types of businesses excluded from the initial BEIS SBRG and RHLG funding and that businesses that incur high levels of fixed property costs, businesses that have suffered significant loss of income due to COVID-19 and those businesses that occupy property or part of a property with a Rateable Value of less than £51,000 or annual rent or annual mortgage payments of less than £51,000, or meet the definition of a small or micro business as defined in legislation or those with a significant local economic impact will be prioritised.

5. Consultations

- 5.1. Due to the urgent need to make these grant payments the Council has not consulted on the detail within the policy but followed the Government guidance in producing it.

6. Implications

Financial implications (including any future financial commitments for the Council)	BEIS has provided funding to the Council to meet the cost of the grants paid under the Small Business Discretionary Grant and there should be no direct financial impact on the Council, so long as spending is contained within the BEIS figure.
Legal and human rights implications	<p>The grants are being made under the Council's general power of competence in section 1 Localism Act 2011.</p> <p>Applicants will be required to make a legally binding declaration when they submit their application which would enable the Council to take action to recover the grant in the event of fraud or misrepresentation.</p>
Assessment of risk	There is a small risk of overspend in this area. This should be reduced by the measures proposed around a window for applications and assessing applications against a set of criteria and the funding available.
Equality and diversity implications <i>A Customer First Analysis should be completed in relation to policy decisions and should be attached as an appendix to the report.</i>	The Council is subject to the public sector equality duty introduced by the Equality Act 2010. When making a decision in respect of the recommendations in this report Cabinet must have regard to the need to:

	<ul style="list-style-type: none">> eliminate unlawful discrimination, harassment and victimisation; and> advance equality of opportunity between those who share a relevant protected characteristic and those who don't; and> foster good relations between those who share a relevant protected characteristic and those who don't. <p>For these purposes the relevant protected characteristics are: age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.</p> <p>The Head of Regeneration and Housing has confirmed that the Council does not have access to any data in respect of the representation of the equality target groups within local businesses. It would be a long and difficult process to obtain this information and doing so would frustrate the key objective of getting critical financial support to local business quickly at a time of pressing financial need. Moreover, there is nothing to suggest that the proposed policy would have an unfair or disproportionate effect on those within the protected groups.</p>
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7. Local Government (Access to Information) Act 1985: List of Background Papers

7.1. Not applicable.

Hyndburn Borough Council

Local Business Discretionary Grant Policy June 2020

Local Business Discretionary Grants Fund Policy

June 2020

1. Introduction

- 1.1. This document sets out Hyndburn Borough Council's policy for the distribution of grant funding to businesses under the Department of Business, Energy & Industrial Strategy (BEIS) Discretionary Grant Fund.
- 1.2. This additional fund is aimed at businesses who were not eligible for the Small Business Grant Fund or the Retail, Leisure and Hospitality Fund.
- 1.3. This grant scheme widens access to support to businesses who are struggling to survive due to the Coronavirus shutdown but are unable to access other grant funding.
- 1.4. The value of the discretionary grants available are:
 - £25,000
 - £10,000
 - Any amount up to £10,000
- 1.5. Eligible businesses will only be entitled to one payment under this scheme, even if they occupy more than one premises.
- 1.6. The Government has provided around £1m in grant funding to support local businesses in Hyndburn under this scheme. The scheme for distributing this funding has been framed in the light of Government priorities and guidance. It is possible that demand for funding may exceed the funds available. Please note that we cannot therefore guarantee that applicants will receive a grant under this scheme.

- 1.7. Businesses will be required to submit an on-line application from and supporting documentation and fulfil a variety of criteria in making an application. A window of at least 2 calendar weeks will be set in which applications can be made and the deadline for the submissions will be publicised by the Council widely and contained within the Electronic Application Form.
- 1.8. The Council aims to make payments to businesses within 4 weeks of the deadline for submission of applications.

2. Eligibility

- 2.1. The Discretionary Grant scheme is meant to assist those businesses that have not received financial support from the Government by other means and all such businesses are able to apply for a grant under this scheme. The Government has asked local authorities to prioritise the following types of businesses for grants within this funding pot,
 - 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.
 - Regular market stall traders with building costs, such as rent, who do not have their own business rates assessment.
 - Bed & Breakfast businesses which pay Council Tax instead of business rates.
 - Charity properties in receipt of charitable business rates relief which would otherwise have been eligible for Small Business Rates Relief or Rural Rate Relief.
- 2.2. In line with this directive from Government, all applications from businesses of the type prioritised by the Government will be classified as Tier 1 applications and will be given first priority for grants within the funding pot.
- 2.3. Applications from Businesses that do not meet the criteria set out in paragraph 2.1 will be classified as Tier 2 applications. Tier 2 applications will only be considered if there is surplus Government funding remaining following the distribution of grants to businesses that qualify under Tier 1.
- 2.4. In determining the amount of grant to be paid the Council will have regard to the Government's statement that Discretionary Grant Scheme is primarily and predominately aimed at Small Businesses with the following characteristic :

- Businesses which occupy property, or part of a property, with a rateable value or annual rent or annual mortgage payments below £51,000
- Meet the definition of a small or micro business under the Section 33 Part 2 of the Small Business Enterprise and Employment Act 2015 and the Company Act 2006
- Businesses with relatively high ongoing fixed property-related costs.
- Businesses which can demonstrate that they have suffered a significant fall in income due to the COVID-19 crisis.

And those with significant local economic importance.

- 2.5. The list set out above is not intended to be exhaustive and businesses which do not have the above characteristics or fit the priorities listed are still welcome to apply and may be considered for the award of a grant.
- 2.6. Where limits to the funding available for this scheme require the Council to prioritise which types of businesses will receive funding from all those applications that have met the criteria, the Council will use a point based system to identify those businesses that meet its criteria most fully. Using this approach, the Council will determine how many and which business will receive a grant and the value of the grant to each individual business.
- 2.7. Only premises which were occupied and trading on 11 March 2020 are eligible for this scheme.
- 2.8. Businesses that are in administration, are insolvent or where a striking-off notice has been made are not eligible for funding under this scheme.
- 2.9. Where there is a business rates assessment, the eligible business must be the ratepayer registered with the Council on 11 March 2020.
- 2.10. Where there is a business rates assessment, the eligible business must not be in arrears with their business rates liability on 11 March 2020.
- 2.11. Where there is not a business rates assessment, the eligible business must be liable for rent / mortgage for the premises which they occupy and trade from on 11 March 2020.
- 2.12. Where there is not a business rates assessment, the eligible business must not be in arrears with their rent liability, or mortgage liability on 11 March 2020.
- 2.13. The Discretionary Fund payment will be made to the person, organisation or company that are the named liable party for business rates, or rent or mortgage for the premises. If there

is no property associated with the business making an application the grant payment will be made to the official business account of the applicant.

- 2.14. Businesses who have applied for the Coronavirus Job Retention Scheme are eligible to apply for this scheme. Please note that if your business has furloughed staff, then it may still be eligible for the Local Discretionary Grant Fund. Applicants for the Self-employed Income Support Grant are also eligible to apply for a Discretionary Grant. Businesses which have taken advantage of Government support in the form of loans, the deferral of VAT payments and other support which is not in the form of a grant, are eligible to apply for this grant.
- 2.15. This grant funding is for businesses that are not eligible for other grant support schemes. Businesses which have received cash grants or funding from any central Government COVID-19 related schemes are not eligible for funding from the Discretionary Grants Fund. Such grant and funding scheme include but are not limited to:

- Small Business Grant Fund
- Retail, Hospitality and Leisure Grant
- The Dairy Hardship Fund
- Domestic Abuse Safe Accommodation Fund
- The Fisheries Response Fund
- Domestic Seafood Supply Scheme
- The Zoo Support Fund

- 2.16. Hyndburn Borough Council will not consider a discretionary grant for premises that are operating without the correct licenses in relation to that property, have not paid the required license, are in breach of any planning restrictions, limits or requirements, contravene environmental requirements or other breaches of national or local statutory requirements.

3. Applying for Discretionary Grant Fund

- 3.1. There will be a mandatory application process for this scheme.
- 3.2. Applications for discretionary awards should be made using the Local Business Discretionary Grant Application Form provided by the Council on its website. Application

forms, together with all relevant supporting evidence must be submitted to the Council by the deadline announced and contained within the Application Form.

3.3. A person or business claiming a grant under this policy is required to:

- Submit an application form, completing all sections of the application form
- Provide the Council with such information and supporting evidence as it may require to determine eligibility for an award under this scheme. Failure to provide all the relevant information requested will reduce the likelihood of the award of a grant.
- The business must agree that the Council can use the information provided to verify the validity of any claim and the information presented in support of that application, with third parties including other local authorities and Government Departments including HMRC and that the Council can seek information from other sources as it deems necessary to validate the application and information provided as it determines.
- Businesses applying for the grant will be required to provide legal assurances that the information they have provided is truthful and accurate and acknowledge the Council's right to recover all of the grant if the Council believes the grant was paid in error due to any inaccuracies or misleading information within the application for whatever reason.

4. Decisions and awards

4.1. The Council's decision on whether to award a grant, or the level of grant funding awarded, is final.

4.2. As this is a discretionary scheme there is no formal right of appeal against any determination made.

5. Managing the risk of fraud

5.1. The Government, and the Council, will not accept deliberate manipulation and fraud and any business caught falsifying their records or submitting incorrect information to gain grant money will face prosecution and any funding issued will be subject to claw back, as may any grants paid in error.

5.2. The Council will undertake a variety of checks to determine that applications and information provided in support of those applications is truthful and correct. Further checks will be carried out subsequently to validate all grants paid and the Council will make use of Central Government's Counter Fraud Function and audit tools such as Spotlight, for identifying inappropriate applications or misleading information in support of applications.

6. State Aid

- 6.1. 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 local authority 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.
- 6.2. Local authorities have a 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).
- 6.3. 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.
- 6.4. 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. Local authorities should note the conditions attached to the Temporary Framework, including the €800,000 threshold per undertaking.
- 6.5. The Council will not make payments under the discretionary fund scheme without the undertaking completing a signed State Aid declaration.

7. Complaints

- 7.1. Complaints about the handling of any account will be dealt with in accordance with the Council's general complaints policy which can be found at www.hyndburnbc.gov.uk/complaints

8. Review/approval

- 8.1. This policy will be reviewed and updated if required.

Department of Business, Energy and
Industrial Strategy

Grant Funding Schemes
Local Authority Discretionary Grants Fund
– guidance for local authorities

May 2020