

Middlesbrough Council Discretionary Business Grant Scheme 2020/21

Version Control

Version	Version date	Revised by	Description
1	May 2020	DA	Scheme
2	May 2020	DA	Amendments MB
3	May 2020	DA	Amendments MB
4	May 2020	DA	Amendments MB
5	May 2020	DA	Amendments MB

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1.0 Purpose of the Scheme

- 1.1 The purpose of this document is to determine eligibility for a payment under the Council's Discretionary Business Grants Scheme.
- 1.2 The new Discretionary Business Grant Scheme has been developed in response to an announcement made by the Secretary of State for Business, Energy & Industrial Strategy made on 1st May 2020 which sets out circumstances whereby a grant payment **may** be made by the Council to a business who has not previously qualified for a direct business grant and is suffering a significant fall in income due to the COVID-19 crisis.
- 1.3 Whilst the awarding of grants will be at the total discretion of the Council, the Department for Business, Energy & Industrial Strategy (BEIS) has set down criteria which **must** be met by each business making an application for a discretionary grant. The Department has also indicated the types of business which should be given priority in all cases.
- 1.4 This document sets out the criteria which BEIS have provided to the Council to determine eligibility for the Discretionary Business Grant. It also outlines the approach the Council will take in determining whether an award should be paid or not.

2.0 Funding

- 2.1 Central Government has provided the Council with a sum of approximately £1.1m, which represents 5% of the original allocation for the Direct Business Grants. The funding level is finite and therefore the Council, although keen to ensure that grants are given to the maximum number of businesses, is conscious that its expenditure cannot exceed that amount.
- 2.2 The Council will limit the total awards to the level of funding available from Central Government.

3.0 Eligibility Criteria of the fund

- 3.1 Central Government, whilst wanting Council's to exercise their local knowledge and discretion, have set national criteria for the funds. In all cases, the Council will only consider businesses for Discretionary Business Grant where **all** of the criteria are met.
- 3.2 Any business failing to meet the criteria or failing to provide the Council with sufficient information to determine whether they meet the criteria, will not be awarded a Discretionary Business Grant.
- 3.3 Government has stated that the intention of the scheme is to provide assistance to businesses that meet the following criteria:
 - 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;
 - 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;
 - Businesses which occupy property, or part of a property, with a rateable value or annual rent or annual mortgage payments below £51,000; and
 - Businesses must have been trading on 11th March 2020.

- 3.4 In addition, businesses which are **eligible** for any of the following are **ineligible for any Discretionary Business Grant**:
- Small Business Grant Fund;
 - Retail, Hospitality and Leisure Grant;
 - The Fisheries Response Fund;
 - Domestic Seafood Supply Scheme (DSSS);
 - The Zoos Support Fund;
 - The Dairy Hardship Fund;

4.0 Definitions – Eligibility Criteria

4.1 For the sake of clarity the following definitions are provided in respect of the criteria set out in paragraphs 3.3 and 3.4:

- **Small Businesses under the Companies Act 2006** must meet two of the following requirements in a year:
 - Turnover must not be more than £10.2 million per annum;
 - The Balance sheet total should not be more than 5.1 million; and
 - The number of employees should be less than 50.
- **Micro Businesses under the Companies Act 2006** must meet two of the following requirements in a year:
 - Turnover must not be more than £632,000 per annum
 - The Balance sheet total should not be more than £316,000; and
 - The number of employees should be less than 10.
- **Businesses must have relatively high ongoing fixed building-related costs** – for the purpose of this scheme, the Council determines fixed building-related costs to be:
 - Payments of mortgage, lease, rent or licence for business premises and **not** domestic premises (apart from the exception of Bed and Breakfast premises as defined in part 6 of this scheme);
 - The payments must represent a high proportion of expenses in relation to the overall income of the business; and
 - The payments are unavoidable and are ongoing.

The Council has determined that each business will have to provide evidence of high ongoing fixed building-related costs. The Council may require the business to provide evidence of liabilities including mortgage, lease, tenancy, service charges or licence documentation.

- **Businesses must demonstrate that they have suffered a significant fall in income due to the COVID-19 crisis** – the Council will look for businesses to demonstrate a reduction in income between February 2020 and the end of April 2020. The Council must be sure that the fall in income is due to the COVID-19 crisis and not a general failure of business. The Council will require applicants to provide 3 months bank statements to verify the reduction and will require applicants to declare that the information is true and correct. The Council may request additional information to verify the application and reserves the right to decline applications if information does not appear to be correct.
- **Businesses must be trading on 11th March 2020** – the Council will require proof that the business was trading on 11th March 2020 and was not dormant, subject to a winding up order, in administration or subject to striking off;

- **Eligible to a grant under the Small Business Grant Scheme or the Retail Hospitality or Leisure Scheme¹** – where the business is either eligible to receive or has received a grant under either of the two schemes administered by the Council, no Discretionary Business Grant shall be awarded;
- **Eligible to assistance under the Fisheries Response Fund** – as administered by the Marine Management Organisation (MMO) and funded by HM Treasury and the Department for Environment, Food and Rural Affairs. Where the business or person is eligible to assistance under this fund, no Discretionary Business Grant shall be awarded;
- **Eligible to assistance under the Domestic Seafood Supply Scheme (DSSS)** as administered by the Marine Management Organisation (MMO) and funded by HM Treasury and the Maritime and Fisheries Fund. Where the business or person is eligible to assistance under this fund, no Discretionary Business Grant shall be awarded;
- **Eligible to assistance under the Zoos Support Fund** as administered by the Department for Environment, Food and Rural Affairs. Where the business or person is eligible to assistance under this fund, no Discretionary Business Grant shall be awarded;
- **Eligible to assistance under the Dairy Hardship Fund** as administered by the Department for Environment, Food and Rural Affairs. Where the business or person is eligible to assistance under this fund, no Discretionary Business Grant shall be awarded;
- **Businesses which occupy property, or part of a property, with a rateable value or annual rent or annual mortgage payments below £51,000** – The Council has decided that this shall be a key determinant of priority under the scheme and, as such, where businesses have rateable values of £51,000 or more or make payments of mortgage, lease, rent or licence of £51,000 or more per annum, no Discretionary Business Grant shall be awarded. For the avoidance of doubt, the Council has decided that in calculating the figure of £51,000, **all** buildings occupied by the business (or the responsibility of the business) shall be taken into account.

5.0 National Priority Businesses (Phase 1)

- 5.1 Government are asking Councils to prioritise the following types of businesses for grants from within this discretionary fund:
- (a) **Small businesses in shared offices or other flexible workspaces** e.g. industrial parks, science parks, incubators etc., which do not have their own business rates assessment;
 - (b) **Regular market traders who do not have their own business rates assessment;**
 - (c) **Bed and Breakfast premises which pay Council Tax instead of business rates;** and
 - (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.**
- 5.2 The list set out above is not intended to be exhaustive, but it is intended to guide Councils as to the types of uses that the Government considers should be a priority for the scheme. The Council will decide whether particular situations not listed are broadly similar in nature to those above and, if so, whether they may be eligible for grants from this discretionary fund.
- 5.3 The Council has decided that initial applications will **only** be accepted from the National Priority list (Phase 1).

¹ **Eligibility Criteria for either the Small Business Grant or Retail Hospitality and Leisure Grant** as determined by the Department for Business, Energy & Industrial Strategy and administered by the Council;

6.0 Definitions - National Priority Businesses

- 6.1 In line with Government's priorities for the fund, the following definitions have been used to determine whether any particular business should be treated as a priority for the funding:

Small businesses in shared offices or other flexible workspaces which do not have their own business rates assessment

- 6.2 These are defined by the Council as businesses which do not have to a separate assessment for Non-Domestic Rating (i.e. those businesses who do not occupy a separate hereditament within the 2017 Rating List) and who, on the 11th March 2020 were trading and shared the premises with other businesses.
- 6.3 Primarily, these businesses will not be assessed individually for Non-Domestic Rating on the basis that the landlord has paramount occupation of the premises.

Regular market traders who do not have their own business rates assessment

- 6.4 As with the other priority businesses for this fund, these will be businesses who do not have a separate assessment for Non-Domestic Rating (i.e. those businesses who do not occupy a separate hereditament within the 2017 Rating List).
- 6.5 The Council has decided that for the purpose of this scheme, market traders shall be defined as: “a business or person who sells goods wholly or mainly to visiting members of the public from a stall, pitch or similar, from a place or market recognised by the Council as a market”.
- 6.6 All market traders must prove to the Council that as at 11th March 2020, they had a regular pitch or stall within the Council’s area from which they sold goods to visiting members of the public.
- 6.7 For the purposes of this scheme, ‘regular’ is defined as at least weekly. Where the market trader traded less frequently, the Council will not consider the business as priority for a grant.
- 6.8 Where a market trader operates in more than one local authority area, the applicant will need to certify that they trade primarily in the Council’s area or have fixed business base within the Council’s area. Where a grant is claimed from another authority, no grant will be awarded by the Council.

Bed and Breakfast premises which pay Council Tax instead of business rates

- 6.9 For the purpose of this scheme, these businesses are those who do not occupy a separate hereditament within the 2017 Rating List and who the Valuation Office Agency would deem to fall within the Council Tax Valuation List.
- 6.10 For the avoidance of doubt, the Council will consider this as a priority business if:
- (a) the Bed and Breakfast property is domestic and therefore subject to council tax rather than business rates;
 - (b) It provides short stay accommodation for no more than six persons at any one time within the past year;
 - (c) The property is the sole or main residence of the proprietor(s) and the bed and breakfast use is subsidiary to the private use; and
 - (d) The business was trading on 11th March 2020.
- 6.11 In determining subsidiary use the Council shall take into account:
- Whether the majority of the premises is being used for business purposes: and
 - If the premises have been adapted to alter the character of the property beyond that of a private house.
- 6.12 Where the Council has determined that the Bed and Breakfast premises should have been subject to Non-Domestic Rating, the business shall not be considered as a priority for a Discretionary Business Grant.
- 6.13 The Council has determined that any premises where it considers that the Bed and Breakfast business is basically ‘home sharing’ will not take priority for the fund.

Charity properties in receipt of charitable business rates relief which would otherwise have been eligible for Small Business Rates Relief or Rural Rate Relief

- 6.14 In certain cases, where a charity was in receipt of mandatory relief under Section 43 of the Local Government Finance Act 1988, it would not have been entitled to either Small Business Rates Relief or Rural Rate Relief. As such it would not have been able to receive a grant under the Small Business Grant Fund.
- 6.15 The Council will give priority to charities who, were it not for the receipt of mandatory relief, would have met the qualifying criteria for the Small Business Grants (see the Council's policy for Direct Business Grants). It should be noted that this only relates to premises that would, but for the receipt of mandatory rate relief received a percentage reduction under the Small Business Rates Criteria. In the main this will be premises with a Rateable Value of £15,000 or less and where the ratepayer occupies only one premises (excluding any premises which would be disregarded under the Small Business Rates Relief scheme).
- 6.16 The Council has decided that any charitable business receiving other help from public funds (i.e. from Government, Local Authorities etc.) shall not be priority for a Discretionary Business Grant.

7.0 Local Fund Priorities (Phase 2)

- 7.1 As the grant fund is limited, the Council will look to award businesses who meet the national priorities first (Phase 1). This will be part of the initial application process.
- 7.2 If there are residual funds available after meeting the national priorities, the Council may provide an opportunity for applications to be made by other businesses that contribute significantly to the local economy (Phase 2).

8.0 How will grants be provided to Businesses?

- 8.1 The Council is fully aware of the importance of these grants to assist businesses and support the local community and economy. These Discretionary Business Grant scheme will offer a lifeline to businesses who are struggling to survive due to the COVID-19 crisis.
- 8.2 In all cases, a simple application form **is** required, and this can be completed on-line at the Council's website;
<https://www.middlesbrough.gov.uk/community-support-and-safety/coronavirus-covid-19/coronavirus-business-support#govsupport>
Additional Information will be required, and all businesses should look to upload this as part of the application process together with a completed application form.
- 8.3 An application for a Discretionary Business Grant is deemed to have been made when a duly completed application form is received via the Council's online procedure.

9.0 How much grant will be payable

- 9.1 Central Government has determined that there shall be a 'cap' on grants of £25,000 per business and that the next level of grant shall be £10,000. However, the Council under Central Government guidance, has the following discretion:
- (a) Whether to award grants at the £25,000 or £10,000 level; and
 - (b) To determine whether grants of less than £10,000 should be awarded.

- 9.2 The Council has decided that, for the purposes of this scheme, it would like to maximise the number of businesses that can receive a grant and therefore the following grants are to be capped at £10k and the following grant structure has been agreed:
- Where the business has between 1 and 10 employees: £5,000
 - Where the business has between 11 and 49 employees: £10,000
- 9.3 Only one Discretionary Business Grant will be awarded to any business. This will also apply if more than one Limited Company has the same director (s) or where more than one business has the same proprietor (either sole traders or partnerships).

10.0 Limitation of funds and applications

- 10.1 All monies paid through the Discretionary Business Grant scheme will be funded by Central Government and paid to the Council under S31 of the Local Government Act 2003. However, as mentioned in paragraph 2, the funds are limited and, as such, the Council is not able to award a grant where funds are no longer available.

Phase 1 applications (National Business Priorities)

- 10.2 In order to fairly administer the scheme, the Council has decided that awards will be determined as follows
- (a) There will be three-week period during which applications can be made. This will be confirmed in the application process;
 - (b) **This initial application period (Phase 1) will be for businesses which meet the National Priority list only** (see Sections 5 and 6 of this scheme).
 - (c) Any businesses wishing to claim should complete the necessary form on the Council's website as shown in paragraph 8.2. This will also include the provision of such evidence as required by the Council;
 - (d) All claims will be made online on a 'first come first serve basis';
 - (e) Any applications received after the closing date will not be accepted;
 - (f) Applicants should note that claims will only be accepted which have been fully completed and supporting evidence provided in its entirety;
 - (g) After the Council has processed and decided on grant allocations for all applications from the first phase, there will be an assessment of whether there is any Government funding left. The Council *may* then offer future phases of grant funding and further information about this will be made available at the appropriate time, should it be required.

Phase 2 applications (Local Priorities)

- 10.3 The Council will decide whether further applications will be accepted, and an announcement will be made at a later date.

11.0 EU State Aid requirements

- 11.1 Any Discretionary Business Grant is given as aid under the Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak published on 19 March 2020. This means that businesses receiving support under these provisions can receive up to €800,000 in aid over three years (being the current and the previous two years).

- 11.2 Any grant awarded is required to comply with the EU law on State Aid. This will involve the applicant declaring to the Council if they have received any other de minimis State aid or aid provided under the EU Commission Covid-19 Temporary Framework.
- 11.3 If the applicant has not received any other de minimis State aid, they are not required to make that declaration to the Council or to complete any declaration statement.

12.0 Scheme of Delegation

- 12.1 The Council has approved this scheme for the awarding of Discretionary Business Grants.
- 12.1 Officers of the Council will administer the scheme and the Section 151 Officer is authorised to make technical scheme amendments to ensure it meets the criteria set by the Council and, in line with Central Government guidance.

13.0 Notification of Decisions

- 13.1 Applications will be considered by officers of the Council.
- 13.2 All decisions made by the Council shall be notified to the applicant either in writing or by email.

14.0 Reviews of Decisions

- 14.1 The Council will operate an internal review process and will accept an applicant's request for an appeal of its decision by a senior officer.
- 14.2 All such requests must be made in writing to the Council, within 5 days of the Council's decision, and should state the reasons why the applicant is aggrieved with the decision of the Council. New information may be submitted at this stage to support the applicant's appeal. The application will be reconsidered as soon as practicable and the applicant informed in writing or by email of the decision.

15.0 Complaints

- 15.1 The Council's 'Complaints Procedure' (available on the Council's website) will be applied in the event of any complaint received about this scheme.

16.0 Other grant conditions

- 16.1 The Council has been informed by Treasury that all grants are taxable. Applicants should make their own enquiries to establish any tax position or liability.

17.0 Managing the risk of fraud

- 17.1 Neither the Council, nor the Government will accept deliberate manipulation of the scheme and fraud. Any applicant caught falsifying information to gain grant money or failing to declare entitlement to any of the specified grants will face prosecution and any funding issued will be recovered from them.
- 17.2 Applicants should note that, where a grant is paid by the Council, details of each individual grant may be passed to Government. Applicants should note that the Council utilises the Spotlight facility which is nationally available to verify information in connection with applications submitted.
- 17.3 The Council reserves the right to reclaim any grant paid in error.