

## Discretionary Business Grant Fund Guidance

### Purpose

The new Discretionary Business Grant Scheme has been developed following an announcement made on the 1<sup>st</sup> May 2020 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.

The awarding of this grant is at the total discretion of the Council. However, the Department for Business, Energy & Industrial Strategy (BEIS) set out criteria which **must** be met by each business applying for this grant. The Department has also indicated the types of business which should be given priority in all cases.

### Funding

Central Government have provided Lewes District Council £1.3m and Eastbourne Borough Council with £1.1m and we are not able to exceed this amount.

### Eligibility criteria of the fund

Whilst the Council is able to exercise their local knowledge and discretion, the Government have set out national criteria for the fund. Businesses will need to meet **all** of the Criteria.

Businesses will not be awarded a Discretionary Business Grant if they are unable to meet the criteria or if they cannot provide the Council with sufficient information.

Businesses will need to 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;
- Relatively high ongoing fixed property-related costs;
- Demonstrate that they have suffered a significant fall in income due to COVID-19 crisis;
- Occupy property or part of a property, with a rateable value, annual rent or annual mortgage payments below £51,000; and
- Businesses must have been trading on the 11<sup>th</sup> March 2020.

If the Business is eligible for any of the following they will not be eligible 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;

## Definitions – Eligibility Criteria

- **Small Business 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);
  - The payments must represent a high proportion of expenses in relation to the overall income of the businesses; and
  - The payments are unavoidable and are ongoing.

The Council has determined that each business will have to provide evidence of high on-going 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 business will need to provide confirmation that there has been a significant fall in income for the period of April and May 2020 compared with the same months in 2019. We must be sure that the fall in income is due to COVID-19 and not the general failure of the business.
- Businesses must be trading on the 11<sup>th</sup> March 2020 – The business must not be dormant, subject to a winding up order, in administration or subject to striking off;
- Eligible for SBGF or RHLG; No Discretionary Grant will be paid.
- The Fisheries Response Fund; No Discretionary Grant will be paid.
- Domestic Seafood Supply Scheme (DSSS); No Discretionary Grant will be paid.
- The Zoos Support Fund; No Discretionary Grant will be paid.
- The Dairy Hardship Fund; No Discretionary Grant will be paid.
- Properties or part of a property where RV, annual rent or annual Mortgage below £51,000 – The Council has decided that 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 Grant shall be awarded.

## **National Priority Businesses**

Councils have been asked by Government to prioritise the following types of businesses for this Discretionary fund:

- 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;
- Regular market traders who do not have their own business rates assessment;
- Bed and Breakfast premises which pay Council Tax instead of business rates; and
- Charity properties in receipt of charitable business rates relief which would otherwise have been eligible for Small Business Rates Relief or Rural Rate Relief.

## **Definitions – National Priority Businesses**

- **Small businesses in shared offices or other flexible workspaces which do not have their own business rates assessment**
  - Businesses who do not have a separate assessment for Non-Domestic Rating and on the 11<sup>th</sup> March 2020 were trading and shared the premises with other businesses
  - These businesses will not be assessed for Business Rates on the basis that the Landlord has paramount occupation of the premises.
- **Regular market traders who do not have their own business rates assessment**
  - Businesses who do not have a separate assessment for NNDR
  - The Council 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”
  - The Market trader would need to prove to the Council that as at the 11<sup>th</sup> March 2020, they had a regular pitch or stall within the Council’s area.
  - For the purpose of this scheme “regular” is defined as at least weekly. If the trader traded less frequently, the Council will not consider the business as priority for a grant.
  - If a market trader operates in more than one local authority area, the applicant needs to certify that they primarily trades 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.**
  - The Valuation Office Agency would deem to fall within the Council Tax Valuation List.
  - The Council will consider this as a priority if the bed and breakfast property is domestic and therefore subject to Council Tax rather than Business rates, provides short stay accommodation for no more than six persons at any one time within the past year; the property is the sole or main residence of the proprietor and the B&B is subsidiary to the private use; and The business was trading on the 11<sup>th</sup> March 2020.
  - When determining subsidiary use the Council shall take into account whether the majority of the premises are 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.

- If the Council has determined that the B&B premises should have been subject to Business rates, the business shall not be considered as a priority for a Discretionary Business Grant.
- If the B&B is found by the Council as “home sharing” the business 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.**
  - If a charity is in receipt of mandatory relief under Section 43 of the Local Government Finance Act 1988, SBRR or RRR would not be applied. As a result, it would not have qualified for the SBGF. The rateable value would need to be £15,000 or less and where the ratepayer occupies only one premise. 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.
  - Applications will be accepted from non-profit making organisations and social enterprises that help and assist vulnerable and disadvantaged people.

### **Local Fund Priorities**

- The Council has decided that it will accept applications from all local businesses meeting the criteria although it should be noted that, as the grant fund is limited, the Council will look to award businesses who meet the national priorities first and any residual funds awarded to businesses who meet the local priorities. Businesses **MUST** meet the eligibility criteria stated.
- The Council's have decided that the following business sectors (not included in national priorities) should be considered for national grants:
  - Lewes District Council – Social Enterprises, not for profit organisations, agricultural businesses (non-rateable with fixed property costs) and manufacturing.
  - Eastbourne Borough Council – Social Enterprises, not for profit organisations, construction and arts, entertainment and recreation.

### **How will grants be provided to businesses?**

- Applications for the Discretionary Grant fund must be made through our online portal, businesses should aim to provide any information required in support of their application as soon as possible.

### **How much grant will be payable**

- Central Government determined a cap on grants of £25,000 per business.
- The Council under Central Government guidance, has the following discretion:
  - Whether to award grants at £25,000 or £10,000 level; and
  - To determine whether grants of less than £10,000 should be awarded.
- The Council decided that the levels of grant to be allocated for each business sector will be determined and notified when all applications are received.
- 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 had the same proprietor (either sole traders or partnerships).

The Council will consider paying grants:

- B&B's up to £10k
- Market Traders up to £10k
- Charities up to £10k
- Businesses occupying shared floor space up to £10k
- Local priorities up to £10k

Consideration will be given to grant payments of £25k in exceptional circumstances. Given the limited funds that have been made available and the likely demand the Council's reserve the right to vary any amounts that are paid.

### **Limitation of funds and applications**

- The Discretionary Business Grant scheme is funded by Central Government.
- The funds are limited and the Council is not able to award a grant where funds are no longer available.
- There will be a 3 week period during which applications can be made starting on 29<sup>th</sup> May 2020.
- Once the application period is closed, all awards will be considered against the criteria laid down within this scheme, as soon as practicable.
- Depending on the number of applications and the amount left in the grant fund, the Council reserves the right to provide other application periods if appropriate.

### **EU State Aid requirements**

- Businesses receiving support under these provisions can receive up to €800,000 in aid over three years (being current and the previous two years)
- Any grant awarded is required to comply with the EU law on State Aid. The applicant will declare to the Council if they have received any other de minimis State aid or aid provided under the AU commission Covid-19 Temporary Framework.
- Applicants who have not received any other de minimis State aid will not be required to make that declaration to the Council.

### **Notification of decisions**

- Decisions on applications will be notified to the applicant in writing either by letter or email. A decision will be made as soon as practicable after the closure of the application period.

### **Other Scheme Conditions**

- 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.

### **Managing the risk of fraud**

- 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.
- Applicants should note that, where a grant is paid by the Council, details of each individual grant may be passed to Government.
- The Council reserves the right to reclaim any grant paid in error.