

Cherwell District Council

Executive

1st June 2020

Discretionary Business Grant Fund

Report of the Executive Director Finance

This report is public

Purpose of report

To update members on the recently announced Discretionary Business Grant fund, the work that has been undertaken so far and the options for a scheme for Cherwell District Council.

For members to consider the options for a scheme and to approve the draft Discretionary Business Grant policy

1.0 Recommendations

The meeting is recommended:

- 1.1 To note the contents of the report and the financial implications for the Council.
- 1.2 To consider the recommended option (option 3) for a scheme and to approve the adoption of a Discretionary Business Grant Policy.
- 1.3 To grant delegated authority to the Section 151 Officer in conjunction with the Lead Member for Finance to make amendments to the draft policy as required.

2.0 Introduction

- 2.1 In response to the Coronavirus, the Government has announced a Discretionary Business Grant Fund to support small businesses who were not eligible for the original Small Business Grant Fund or the Retail, Leisure and Hospitality Fund.
- 2.2 Cherwell District Council has been awarded funding of just under £1.2m which is around 5% of the original Grants funding allocation. The guidance makes it clear that the Council cannot exceed the funding allocation.
- 2.3 In the latest guidance the Government has set out some national criteria which the Council must follow in terms of which businesses it can support but has given

limited discretion to local authorities to determine which businesses can get support within the criteria. The Council does not have the discretion to assist businesses that fall outside the criteria set out in this report.

3.0 Report Details

National Criteria

3.1 The Government has set the following criteria that a business must meet in order to be eligible to apply for the Discretionary Business Grant Fund:

- Must be a small or micro business, as defined in Section 33 part 2 of the Small Business, Enterprise and Employment Act 2015 and the Companies Act 2006 and as explained below.
- Under the Companies Act 2006, a Small business must satisfy two or more of the following requirements in a year: turnover of not more than £10.2m, balance sheet total of not more than £5.1m, number of employees of less than 50.
- Under the Companies Act 2006, a micro business must satisfy two or more of the following: turnover of not more than £632k, balance sheet total of not more than £316k and number of employees of not more than 10.
- Businesses with relatively high ongoing fixed property-related costs.
- Businesses which can demonstrate that they have suffered a significant fall in income due to COVID-19.
- Businesses that occupy property, or part of a property with a rateable value or annual rent or annual mortgage payments below £51,000
- The business must have been trading on 11th March 2020
- The business must not have been eligible or received a grant from the existing grant scheme or other support schemes such as self-employed support.

Eligibility

3.2 This grant funding is for businesses that are not eligible for other support schemes. Businesses which have received cash grants from any central government COVID related scheme are not eligible for funding from the Discretionary Business Grants Fund. Some examples of the government schemes include:

- Small Business Grant Fund
- Retail, Hospitality and Leisure Grant
- The Fisheries Response Fund
- Domestic Seafood Supply Scheme
- The Zoos Support Fund and the Dairy Hardship Fund.

3.3 Businesses who have applied for the Coronavirus Job Retention Scheme and the Self-Employed Income Support Scheme are eligible to apply for this funding.

3.4 Companies that are in administration, are insolvent or where a striking-off notice has made are not eligible for funding under this scheme

Scheme options

- 3.5 Our initial modelling has shown that the demand for the Discretionary Grants will be far greater than the funding allocation. In addition to the criteria set out by Government we recognise through our experience of the local economy and evidence supplied by our Growth and Economy team that certain businesses within the Cherwell district (who have not been eligible for support under the existing grant scheme) would benefit from this discretionary funding.
- 3.6 We have also been liaising with our colleagues across other Oxfordshire Councils and, whilst a harmonised scheme would be helpful, it is recognised that local economies and strategic priorities differ and therefore one size does not fit all. We have, however, agreed some guiding principles such as application processes.
- 3.7 Based on some initial modelling that has been carried out a number of options have been considered for our local scheme. The options are outlined below but it is recognised that further modelling may be required.

Based on government guidelines and the available modelling, officers recommend option 3 and, in view of the challenging timelines, the draft policy (copy at Appendix 1) has been based on this option. This policy can, of course, be amended based on feedback from Executive.

Option 1

To assist all the businesses highlighted in the government guidelines. Our initial modelling (highlighted in table below) shows that this would result in expenditure far exceeding our grant funding and therefore is not considered as a viable option to move forward

Business type	Numbers as at 18.5.20	Estimated cost of grant award
Properties with a RV of less than £15k	544	Based on £10k grant - £5.4m
Properties with RV of £15k to £51k	78	Based on £25k grant - £1.9m
Charities with RV up to £15k	40	Based on £10k grant - £400k
Charities with RV of £15k up to £51k	11	Based on £25k grant - £275k
Market traders	12	Based a discretionary grant of £2k - £24k
Bed and Breakfasts	30	Based on a discretionary grant of £2k - £60k
Total	715	£8,059,000

Option 2

To prioritise certain types of businesses and to conduct further financial modelling.
The following list is not exhaustive but could include:

- Small businesses in shared office or flexible workspaces. Example could include units in industrial parks, science parks which do not have their own rating assessment
- Regular Market traders with fixed building costs, such as rent, who do not have business rates assessments
- Bed and breakfasts 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.

Option 3

To introduce 3 categories which may be eligible for support and to:

- allocate an element of the grant funding to each of the categories up to the limit of the funding allocation (and to retain the ability to move funds from one category to another) or

This decision as to the level of funding for each category can be made when we receive the applications and can see the level of demand in each category.

Category A

Priority businesses as outlined in the guidance including small micro businesses in shared offices or other flexible workspaces who do not have their own business rates assessment, regular market traders, bed and breakfast which pay Council tax instead of business rates, charity properties

Category B

Small businesses with a RV of under £51,000 whose business relates to retail, hospitality or leisure, and not eligible for SBRR or expanded retail relief.

Category C

Businesses that do not fall into the above categories but have been identified as suffering exceptional hardship due to ongoing fixed property related costs and which support the wider business strategic priorities for Cherwell. This category will be at the discretion of the Council and can only be considered if there is adequate funding remaining. Members may wish to make provision for category C from the funding pot from the outset to ensure that we have the ability to help local businesses who do not fall into Categories A and B.

Summary of options

Option	Risks	Opportunities
Option 1: to assist all businesses outlined in guidelines	<ul style="list-style-type: none">• <u>Financial</u> the scheme is not affordable (based on just current modelling) within the funding envelope• <u>Resources</u> this invites applications from	<ul style="list-style-type: none">• Maximises help to more local businesses

	<p>businesses that we will not be able to help due to funding</p> <ul style="list-style-type: none"> • <u>Business expectations</u>: doesn't allow the opportunity to manage expectations • <u>Customer dissatisfaction</u>: high number of complaints expected and reputational damage 	
Option 2: to help certain types of businesses	<ul style="list-style-type: none"> • <u>Financial</u>: further modelling required to establish if this scheme is viable • May not capture priorities outlined by government • Unclear guidelines for businesses • Administratively more burdensome 	
Option 3: to introduce 4 categories of businesses to assist and to allocate funding envelope to each category to be allocated at officer discretion	<ul style="list-style-type: none"> • There will be businesses who will be disappointed 	<ul style="list-style-type: none"> • Captures all the businesses prioritised in guidelines • Clear, simple scheme • Financial envelope clear • Supports businesses highlighted in government guidance • Offers the opportunity to use discretion to support local businesses

Application process

- 3.8 It is very difficult for the Council to quantify how many businesses are in the Cherwell district which will potentially meet the criteria set out in the policy. This is because we do not hold data on all the businesses that may fall into these categories. Therefore a first come first served basis does not seem a fair approach. It is important that the money is allocated on the basis of need not those who make the first applications.
- 3.9 We are therefore suggesting a 13-day window starting from 2s June 2020 until 14th June for businesses to submit an online application with relevant supporting documentation. Once the 13-day window closes the Council will review the

applications against our agreed criteria. If the number of valid applications exceeds the amount of funding available, applications will be determined based on need.

3.10 The Council has created an online application form, which is the preferred method by which applications can be made. For those who do not have internet access hard copy forms can be provided.

3.11 In line with other Oxfordshire Councils there will be no right of appeal and the decision made by the Council is final.

4.0 Conclusion and Reasons for Recommendations

4.1 In response to the Coronavirus, the Government has announced a Discretionary Business Grant Fund to support small businesses who were not eligible for the original Small Business Grant Fund or the Retail, Leisure and Hospitality Fund

4.2 Members are asked to note the content of this report and the recommendation to adopt a scheme based on option 3 and to approve the Discretionary Business Grant Policy.

4.3 Members are asked to grant delegated authority to the Section 151 Officer in conjunction with the Lead Member for Financial Management to make amendments to the draft policy as required.

5.0 Consultation

5.1 Consultation has taken place with Oxfordshire Councils and OxLEP

6.0 Alternative Option and Reasons for Rejection

6.1 The following alternative option has been identified and rejected for the reasons given below.

Option 1: Members could choose not to approve the proposed scheme, but this would mean the Council is not complying with Central Government guidance and this would be to the detriment of local businesses and economy

7.0 Implications

Financial and Resource Implications

7.1 . The Department for Business, Energy & Industrial Strategy (BEIS) issued guidance on the new Local Authority Discretionary Grant Fund on 13 May 2020. In relation to the funding available, the guidance set out that where local authorities, having taken all reasonable steps to pay grants to eligible businesses for the Small Business Grants Fund and/or Retail, Hospitality and Leisure Grants Fund, still have unspent initial grant allocation, this will be used to fund the new Discretionary Grant Fund. The fund is set at 5% of the original grant allocation adjusted for the amount

expected to be required based on eligibility. This position applies for Cherwell District Council.

- 7.2 On 20 May 2020, BEIS confirmed the fixed allocation for the Local Authority Discretionary Grant Fund. Cherwell District Council's allocation is £1,187,750.
- 7.3 As outlined in the body of this report it is highly likely that demand will exceed the funding allocation. However, Government guidance makes it clear that Councils cannot allocate awards above their allocation. The application process set out above will ensure that grant expenditure does not exceed the funding allocated.

Comments checked by:

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Legal Implications

- 7.4 As the Government guidance makes clear, section 1 of the Localism Act 2011 provides all local authorities with the vires to make grant payments outlined in this report.
- 7.5 As always with support schemes of this nature, there is the potential for the support to amount to State Aid. In this instance, given the level of funding which will be offered to each business, it is likely that the support will be *de minimis* and therefore exempt from the State Aid legislation. To provide an audit trail and to comply with the *de minimis* regulations, the Council will therefore require that any recipient of the grant completes a declaration to confirm that they have not received assistance from any other public bodies within the past 3 financial years with a cumulative value of €200k.
- 7.6 Whilst there is no right of appeal against a decision being proposed by the Council under this scheme, there is the potential for any business which is aggrieved by the management of the scheme to apply for Judicial Review of the Council's actions or policy. It is for this reason that it is essential that the Council has a clear and robust policy in place and a defined basis on which it will identify those businesses who will receive support and those who will not. It is considered that the policy and guidelines proposed by this report provide a reasonable basis for the Council to operate the scheme and thereby minimise any risk that an application for Judicial Review would be successful.

Comments checked by:

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8.0 Decision Information

Key Decision

Financial Threshold Met: No

Community Impact Threshold Met: No

Wards Affected

All

Links to Corporate Plan and Policy Framework

Corporate Priorities: Sound budgets and customer focused council.

Lead Councillor

Councillor Tony Illott, Lead Member for Financial Management.

Document Information

Appendix No	Title
1	Draft Discretionary Grant policy
Background Papers	
None	
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