

Item: 19

Policy and Resources Committee: 20 April 2021.

Scottish Government's COVID-19 Local Authority Discretionary Grant Funding.

Report by Executive Director of Development and Infrastructure.

1. Purpose of Report

To consider delegated authority to determine suitable terms and conditions for the disbursement of the Scottish Government's COVID-19 Local Authority Discretionary Grant funding.

2. Recommendations

The Committee is invited to note:

2.1.

That, on 3 March 2021, the Scottish Government wrote to the Council to confirm £688,792 as the Orkney allocation of its COVID-19 Local Authority Discretionary Grant funding.

2.2.

That, unlike previous funds which have been targeted towards specific groups or sectors impacted by COVID-19, the COVID-19 Local Authority Discretionary Grant funding seeks to empower local authorities to direct additional financial support to specific groups or sectors within the business community where they consider this to be necessary or justified based on the distinct characteristics of their local economies.

2.3.

That, since April 2020, the Council has been administering the following Coronavirus support grant schemes on behalf of the Scottish Government:

- Coronavirus Small Business Grant Fund and Retail, Hospitality and Leisure Grant Fund.
- Newly Self-Employed Hardship Fund.
- B&B Hardship Fund (B&Bs with personal bank accounts).
- SG Business Hardship Fund.
- SG COVID-19: Business Contingency Fund.
- SG COVID-19: Strategic Framework Business Fund.
- SG Island Equivalent Payment.

- SG Taxi and Private Hire Driver Support Fund.
- SG COVID 19 Business Support: Contingency Plus Fund.
- SG COVID-19: Business Support – Large Self-Catering.
- SG COVID-19: Business Support Small Accommodation Providers Paying Council Tax (Waves 1-3).

2.4.

That, as a result of the continuing emergence of Scottish Government COVID-19 support and the establishment of the Council's Coronavirus Response Fund, it remains to be determined where the allocation of discretionary funding would be most effectively deployed in supporting the Orkney economy.

2.5.

That, on 19 April 2021, the Scottish Government's Strategic Framework Business Fund and Island Equivalent Payment grant schemes will close and recipients will automatically receive a final payment, combining a 2-week transition payment and a one-off restart grant, to help them restock and reopen.

It is recommended:

2.6.

That, having regard to the Local Authority Discretionary Fund- Non-statutory guidance for Scottish Local Authorities, the Chief Executive, in consultation with the Chair and Vice Chair of the Development and Infrastructure Committee, the Executive Director of Development and Infrastructure and the Head of Finance, be authorised to finalise and approve suitable terms and conditions to facilitate the launch and assessment of applications to a new Scottish Government COVID-19 Orkney Discretionary Fund.

3. Background

3.1.

Since the start of the pandemic, the UK and Scottish Governments have provided a wide range of COVID-19 business support schemes. These have been delivered by local authorities along with other public bodies, including the following:

- HMRC:
 - Furlough.
 - Self-employed Income Support.
- Highlands and Islands Enterprise/Scottish Enterprise:
 - Pivotal Enterprise Recovery Fund.
 - Creative, Leisure, Hospitality Enterprise Hardship Fund.
 - Hotel Recovery Fund.

- VisitScotland – various tourism grants.

3.1.1.

Further details continue to emerge on Scottish Government (SG) support schemes.

3.2.

The Council has been administering the following Coronavirus support grant schemes on behalf of the Scottish Government:

- Coronavirus Small Business Grant Fund and Retail, Hospitality and Leisure Grant Fund.
- Newly Self-Employed Hardship Fund.
- B&B Hardship fund (B&Bs with personal bank accounts).
- SG Business Hardship Fund.
- SG COVID-19: Business Contingency Fund.
- SG COVID-19: Strategic Framework Business Fund.
- SG Island Equivalent Payment.
- SG Taxi and Private Hire Driver Support Fund.
- SG COVID 19 Business Support: Contingency Plus Fund.
- SG COVID-19: Business Support – Large Self-Catering.
- SG COVID-19: Business Support Small Accommodation Providers Paying Council Tax (Waves 1-3).

3.3.

On 19 April 2021, the Scottish Government's Strategic Framework Business Fund and Island Equivalent Payment grant schemes will close and recipients will automatically receive a final payment combining a 2-week transition payment and a one-off restart grant to help them restock and reopen.

4. Scottish Government's COVID-19 Local Authority Discretionary Grant funding

4.1.

In December 2020, the Scottish Government confirmed a COVID-19 Local Authority Discretionary Fund. Unlike the previous and more recent funds which have been targeted towards specific groups or sectors impacted by COVID-19, this fund seeks to empower local authorities to direct additional financial support to specific groups or sectors within the business community where they consider this to be necessary or justified based on the distinct characteristics of their local economies.

4.2.

On 1 March 2021, the Scottish Government, in conjunction with CoSLA, issued Non-statutory guidance for local authorities for the COVID-19 discretionary fund, attached as Appendix 1 to this report, which sets out parameters which councils should take into account when distributing this funding.

4.3.

On 3 March 2021, the Scottish Government wrote to the Council to confirm the Orkney allocation of the COVID-19 Local Authority Discretionary Fund as £688,792.

4.4.

The purpose of the fund is to reach those groups and sectors that have received limited direct financial support thus far and mitigate the short-term financial challenges being experienced by businesses adversely impacted by restrictions and regulations introduced since October 2020 to control the spread of COVID-19.

4.5.

The fund enables local authorities to take into account insights from the business community and identify where funding will be most effectively deployed in support of the Orkney economy and to help address gaps in funding that the Council identifies.

4.6.

The guidance empowers the Council to use the funding to provide direct financial support to businesses in Orkney so long as it is specifically for the purposes of mitigating immediate financial challenges arising from COVID-19 restrictions and regulations. The only stated requests are that the Council specifically excludes businesses that are:

- In administration, insolvent or where a striking-off notice has been made.
- In receipt of an enforcement notice as a result of breaching COVID-19 Regulations.

4.7.

It is expected that an accessible and transparent application process is implemented to give businesses certainty of the funding that is available to them. The Council is also required to be assured of the validity of an application and any supporting information requested in determining eligibility for a grant. The Council will also conduct prepayment checks that should include confirming that, by accepting payments, recipients are in compliance with State Aid rules. The Council will be required to provide high level proposals as to how it intends to utilise this funding with outcome reports illustrating final usage once individual schemes are closed.

4.8.

The design and delivery of schemes for the discretionary fund in other local authority areas varies considerably but it should be noted that very few other councils approved significant additional local grant funding similar to that which has been available in Orkney since April 2020. This means that, along with the continuing emergence of government support grants, clear funding gaps within the local business community are yet to be established. A summary paper of COVID-19 Grant funding was noted by the Economic Recovery Strategy Group and, although no specific gaps were highlighted, there remains the opportunity to seek views from the group and other sources.

4.9.

A few examples of gaps in funding have however been captured that will inform the design of an appropriate local scheme. These include various niche businesses that have been impacted but not included as eligible for any existing schemes and a range of circumstances where businesses have failed to secure sufficient grant assistance.

4.10.

With the increasing expectation of a progressive relaxation of restriction measures in the coming weeks, it is expected that financial pressures will be increased for some businesses as they prepare to return to normal trading and that more specific funding gaps are likely to be revealed in the coming weeks. It is therefore considered prudent to seek delegated authority in order to provide an agile response of support when it becomes clearer how best to focus the discretionary funding.

5. Resources

The Council's Finance, Internal Audit and Economic Development services have responded to accommodate the various Scottish Government COVID-19 grant schemes, as well as developing and delivering Council COVID-19 grant schemes whilst regular service activities also require to be delivered. Although the unforeseen complications of assessment and navigating new and evolving Government schemes remains challenging, additional temporary staff resource has been approved to help accommodate the additional pressure of grant administration and delivery.

6. Corporate Governance

This report relates to the Scottish Government and the Council's response to the economic challenges arising from the COVID-19 pandemic. Efforts to support the Orkney Economy through the pandemic are considered in line with the Council Plan priorities.

7. Financial Implications

7.1.

The financial implications are largely contained in the body of the report.

7.2.

The Scottish Government has confirmed the Orkney allocation of the COVID-19 Local Authority Discretionary Fund as £688,792 which was paid to the Council via a redetermination of the General Revenue Grant in March 2021. While the funding is being provided as General Revenue Grant, the allocation remains subject to the terms and conditions as set out in a grant award letter issued to the Council on 7 December 2020.

7.3.

This redetermination will be carried forward into financial year 2021/22 as a prepaid grant in 2020/21.

8. Legal Aspects

8.1.

Section 95 of the Local Government (Scotland) Act 1973, as amended, obliges the Council to make arrangements for the proper administration of its financial affairs.

8.2.

In terms of Section 20 of the Local Government in Scotland Act 2003, the Council has power to do anything which it considers is likely to promote or improve the well-being of its area and persons within it, or either of these. This includes power to give financial assistance.

9. Contact Officers

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10. Appendix

Appendix 1: Local Authority Discretionary Fund – Non-statutory guidance for Scottish Local Authorities.

APPENDIX 1: LOCAL AUTHORITY DISCRETIONARY FUND – NON-STATUTORY GUIDANCE FOR SCOTTISH LOCAL AUTHORITIES

Introduction

1. Information in this document is provided by the Scottish Government, in conjunction with the Convention of Scottish Local Authorities (CoSLA), to Scottish local authorities.
2. On 17 November 2020, the Scottish Government announced further support for businesses and self-employed people in Scotland impacted by restrictions introduced to control the spread of coronavirus (COVID-19) to operate alongside and complement the [Strategic Framework Business Fund](#) as set out in the First Minister's Statement to Parliament. Included in this announcement was a commitment to establish a £30 million Discretionary Fund to enable local authorities to provide additional support for businesses in their area. Further announcements by the Cabinet Secretary for Finance on 7 February and the 9 February respectively increased the level of funding available to local authorities by a further £90 million taking the total allocation to £120 million.
3. Through this fund, the Scottish Government will provide a one-off grant to each local authority in Scotland for the purposes of providing support to businesses impacted by Coronavirus restrictions. Further detail on the allocations for individual councils and the broad parameters for distributing this funding are set out below.
4. This grant funding will be made available through powers conferred by Section 126 of the Housing Grants, Construction and Regeneration Act 1996.
5. This document has no statutory basis, is offered without prejudice to relevant legislation and legal decisions, and does not constitute legal advice.
6. This document was developed by the Scottish Government in conjunction with CoSLA.
7. The document sets out guidance to local authorities regarding the basis on which allocations from the Discretionary Fund are made to local authorities and sets out parameters which councils should take into account when distributing this funding.
8. Given their responsibilities for managing public funds, it is up to local authorities to ensure that procedures for administering the grants are suitably robust, including due diligence to mitigate fraud and for audit purposes. This should include giving due regard to the principles for effective fraud control¹ and having appropriate control mechanisms in place. We will **not hold councils financially liable for payments associated with fraud and error**. The exception to this would be circumstances where a council is found to be materially not compliant with the relevant UK Government fraud control guidance

¹ <https://www.gov.uk/government/publications/fraud-control-in-emergency-management-covid-19-uk-government-guide>

What is the Purpose this Funding?

9. The purpose of this fund is to mitigate the short term financial challenges being experienced by businesses adversely impacted by restrictions and regulations introduced since October to control the spread of COVID-19.

10. Unlike previous funds which have been targeted towards specific groups or sectors impacted by COVID-19, this fund seeks to empower local authorities to direct additional financial support to specific groups or sectors within the business community where they consider this to be necessary or justified based on the distinct characteristics of their local economies. This recognises the insight that councils have on the business community in their area and where funding would be most effectively deployed in supporting local economies.

11. This non-statutory guidance seeks to support local authorities in making decisions on how they should distribute this funding while recognising that the variability within and across local economies will demand differing approaches. It does not specify sectors or business types for support but rather draws on the Scottish Government's experience of developing financial support packages for businesses over recent months to identify gaps in support that local authorities may wish to address.

How will the grants be provided?

12. Local authorities will be responsible for delivering grants to businesses based on the allocation that they receive from the £120 million discretionary funding pot.

Allocation of funds to local authorities

13. We have worked closely with CoSLA to agree a methodology for determining individual allocations to local authorities. For the initial allocation of £30 million announced by the Scottish Government in November CoSLA Leaders' Group agreed that the allocation of the initial £30 million to local authorities through the Discretionary Fund was paid on the following basis:

- £25 million to be distributed among all 32 councils, calculated based on the proportion of VAT/PAYE registered companies in Scotland that are registered in each local authority area according to the Inter-Departmental Business Register as at 13 March 2020.
- £5 million to be distributed among the 11 local authority areas subject to Tier 4 restrictions on 20 November 2020 calculated based on the proportion of VAT/PAYE registered companies that comprise the business base across these 11 council areas according to the Inter-Departmental Business Register as at 13 March 2020.

14. For ease of administration local authority allocations from the £90 million top up has been directed through the 2020/21 General Revenue Grant and should be retained for you to use flexibly to support businesses in your local authority. This approach has been agreed by CoSLA Leaders' Group.

15. Your allocation from the original £30 million of the Local Authority Discretionary Fund was provided via grant offer issued on 9 December and we ask that councils continue to adhere to the conditions of the grant as set out in the offer letter, in particular this funding should be used specifically for the purposes of providing financial support to businesses in the form of direct grant payments. For ease of administration your allocation from the £90 million top up has been directed through the 2020/21 General Revenue Grant and should be retained for you to use flexibly to support businesses in your local authority. In order to reduce the administrative burden on local authorities and in light of this funding being provided to support local businesses, local authorities are asked to provide high level proposals as to how they will utilise the funding with outcome reports to follow illustrating final usage.

Who is eligible for this funding?

16. Local authorities can use this funding to provide direct financial support to businesses in their area so long as it is specifically for the purposes of mitigating immediate financial challenges arising from COVID-19 restrictions and regulations. We only request that local authorities specifically exclude businesses that are:

- in administration, insolvent or where a striking-off notice has been made; and
- in receipt of an enforcement notice as a result of breaching COVID-19 Regulations should not be considered eligible for funding by local authorities;

What should local authorities take into account when determining who to fund?

17. First and foremost, local authority decisions on where they should direct their funding allocations must be **based on their knowledge of the local economy and understanding of the impacts of COVID-19 regulations and restrictions on businesses within their area**. Limits to the funding available through this scheme will inevitably require councils to prioritise which types of business should receive support and so local knowledge will be vital in determining where the funding will be most effectively deployed. Local authorities may wish to draw on the experience of Regional Enterprise Partnerships (where relevant) and/or the enterprise agencies in determining where funding should be directed.

18. The Scottish Government is content for local authorities to use this funding in order to provide direct financial support to Limited Companies (including Scottish Charitable Incorporated Organisations and social enterprises), Sole Traders, Trusts, Partnerships, Community Interest Companies, freelancers or the self-employed in their area. We do not consider that ALEOs are eligible for this fund.

19. A key priority of Ministers' for this funding is to reach those groups and sectors that have received limited direct financial support from the Scottish Government despite experiencing disruption due to COVID-19 regulations and restrictions introduced since October. **In determining where to target this funding, local authorities should therefore prioritise specific sectors and businesses that have received limited or insufficient direct financial support from the Scottish Government since October to enable them to continue trading**. This may include groups such as businesses whose trade relies on entering domestic premises or

offices, businesses in the supply chain of restricted sectors and businesses that rely on access to facilities or premises that have been closed due to restrictions and regulations. Their connections with the business community in their area mean that local authorities are well-placed to identify and deliver funding towards this particular cohort of businesses. The Scottish Government considers that businesses should not be precluded from support on the basis that they are in receipt of the Self-Employed Income Support Scheme (SEISS) and/or the Coronavirus Job Retention Scheme (CJRS) which do not take account of business overheads. A full list of Scottish Government grant funds is set out at **Appendix 1**.

20. **Precedence should also be given to businesses that have been adversely impacted without having been specifically required to close or adapt their operations as a result of regulations.** This may, for example, include businesses in the supply chain of or that derive a significant portion of their trade from closed or restricted sectors such as hospitality and tourism as well as companies impacted by travel restrictions

21. **Where appropriate, local authorities should also consider how financial support awarded through the Discretionary Fund interacts with eligibility for and access to other types of financial support.** This encapsulates the proposed upcoming funds set out at Appendix 1 to this guidance.

22. **We also ask that local authorities prioritise micro, small and medium-sized enterprises (250 employees or fewer) and the self-employed** as the intended recipients of this funding. The original guidance for this funding suggested that local authorities specifically target their support towards small and micro businesses given the lower levels of financial resilience that typically exist within this group but it is felt necessary to broaden this guidance to incorporate medium-sized businesses in response to the ongoing impact of national restrictions.

23. Local authorities are actively encouraged to consider the experience of businesses across their area that meet some or all of the criteria set out above and, in doing so, to support as many businesses as possible to address the immediate financial challenges that they face with the confines of the funding available.

How much funding will be provided to business?

24. We recognise that the appropriate level of grant will vary depending on the type and size of business as well as the sector that it operates in and so this guidance does not mandate the scale of funding that individual businesses should receive and in fact the Scottish Government considers it important that local authorities exercise flexibility in the level of grant awards that they issue particularly in the context of the broader scope of this guidance to incorporate medium-sized enterprises which are likely to have higher fixed costs. In determining levels of financial support councils may wish to have regard to the following considerations:

- a. This funding is to mitigate the short term financial challenges being experienced by businesses and not to replace lost income
- b. It is the view of Ministers' that precedence should be given to MSME.

- c. There are likely to be a number of businesses impacted in some way by restrictions that may not be in receipt direct support from the Scottish Government

25. In taking decisions on the appropriate level of grant, local authorities may wish to factor in the level of fixed costs faced by the business in question, the number of employees, whether they are unable to trade online and the consequent scale of coronavirus losses.

How will businesses apply for this funding?

26. The application process will vary based on the specific sectors or business types that individual local authorities choose to support. It is the Scottish Government's view that it is vitally important that local authority application processes are accessible and transparent to give businesses greater certainty of the funding that is available to them. Local authorities are required to be assured of the validity of an application and any supporting information requested in determining eligibility for a grant. Local authorities should also conduct prepayment checks that should include confirming that, by accepting payments, recipients are in compliance with State Aid rules.

Monitoring and reporting requirements

27. As this funding is made available by the Scottish Government through the General Revenue Grant there are no specific and regularised monitoring requirements associated with this funding. Local authorities are, however, asked to provide high level proposals as to how they intend to utilise this funding with outcome reports to follow illustrating final usage once individual schemes are closed. This replaces the monitoring requirements set out in the grant offer letter issued to local authorities on 9 December. Local authorities may, however wish to record and retain case level detail for the purposes of fraud detection and prevention.