



Pendle Borough Council Discretionary Business Grant Scheme Phase 2 2020/21

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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 Phase 2 of 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 ¹and is suffering a significant fall in income due to the COVID-19 crisis.
- 1.3 The Council has decided to allow applications for grants in a number of application periods or 'phases'.
- 1.4 Within Phase 1, the Council accepted applications from all businesses who met the eligibility criteria, and in particular applications in Phase 1 were limited to businesses that had a rateable value of less than £51k or who paid rent or mortgage payments of less than £51k per annum. Applicants should note the change in criteria for Phase 2.
- 1.5 The Council stated that if sufficient funds remained available after the completion of Phase 1, further application phases may be allowed, and other types of business would be allowed to apply for a Discretionary Business Grant subject to meeting the eligibility criteria within the scheme.
- 1.6 This scheme documents the Council's approach to Phase 2 and outlines:
 - the businesses which will be allowed to apply in this phase;
 - the key criteria that have to be met;
 - the application process and period; and
 - the amount of Discretionary Business Grant available.
- 1.7 It should be noted that, for Phase 2, the Council has decided that all businesses making an application for the grant **must** meet the eligibility criteria defined within section 3 and 4 of this scheme, however applicants should note the changes to both the rateable value and business costs criteria.

2.0 Funding

- 2.1 Central Government originally provided the Council with a sum of £1,248,500, which represented 5% of the projected allocation for the Direct Business Grants. Approximately £500k is still available

¹ Direct Business Grants are those provided under **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;

for the Council to utilise for other local businesses and the Council is keen to support more businesses that have been affected by the crisis.

- 2.2 Irrespective of the number of phases or the number of applications made, the Council is required to limit the total awards to the level of funding available from Central Government.

3.0 Eligibility Criteria of the fund (Phase2)

- 3.1 For Phase 2 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 an annual business rates payable or annual rent or annual mortgage payments of less than £51k; 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 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 Council has determined that businesses certify that there has been a significant fall in income for the period March to May 2020 compared with the same months in 2019.

The Council must be sure that the fall in income is due to the COVID-19 crisis and not a general failure of business. Where necessary businesses may need to provide evidence to the Council to support their application;
- **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 Scheme** – 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 business rates payable (before any reliefs) 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 phase 2.
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 & Phase 2)

- 5.1 The Council has decided that for Phase 2, applications will continue to be accepted from businesses who meet the National Priorities as defined below (that were originally in Phase 1), plus other businesses defined within section 7.
- 5.2 The National Priority Businesses are:
- (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.**
- 5.3 In deciding whether businesses meet the criteria, specific references should be made to the definitions in section 6. below.

- 5.4 **Businesses who are in this category and who applied in Phase 1 but were refused a Discretionary Business Grant by the Council, should not re-apply in Phase 2.**

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 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). It should be noted that 'stores' used by traders shall not be eligible for a Discretionary Business Grant.
- 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". Where the business is street trading, the business or person must hold a valid street market licence issued by the Council.
- 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' and where advertising is wholly undertaken through 'home sharing' websites 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, have 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 In addition to the national 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.
- 7.2 A qualifying business will have to
(a) meet the criteria laid down within sections 3 and 4 of this scheme; and
(b) be ineligible for any grant specified within paragraph 3.4.
- 7.3 Phase 2 has been designed to make grants available as widely as possible and to ensure that businesses are supported to the maximum extent achievable. **Businesses who are in this category and who applied in Phase 1 but were refused a Discretionary Business Grant by the Council, should not re-apply in Phase 2.**

8.0 How will grants be provided to Businesses?

- 8.1 The Council is fully aware of the importance of grants to assist businesses and support the local community and economy. The 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, an application form **is** required, and this can be completed on-line at the Council's website www.pendle.gov.uk/covidsupport
Supplementary information may also be required, and all businesses should look to provide this, where requested to the Council as soon as possible.
- 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 Council has set a local maximum award of £10,000 for any application. Whilst the maximum grant award is capped at £10,000 the Council has the discretion to pay any amount in grant up to and including £10,000. As funding is limited and a high volume of applications is expected the Council reserves the right to scale down grant awards and anticipates many will be for amounts less than £10,000. This should ensure more businesses receive some level of support.
- 9.3 The Council will determine the amount of the grant awarded for each business on a case by case basis.
- 9.4 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). However, should funding be available, the Council reserves the right to review this part of the scheme.

10.0 Limitation of funds and applications in Phase 2

- 10.1 As with the previous phase of applications, all monies paid through the Discretionary Business Grant scheme will be funded by Central Government and repaid to the Council under S31 of the Local Government Act 2003. However, as funds are limited, the Council is not able to award a grant where funds are no longer available.
- 10.2 In order to fairly administer the scheme, the Council has decided that awards will be determined as follows:
- (a) There will be a fixed period during which applications can be made. This will be between Monday 27th July 2020 to midnight Sunday 9th August 2020;
 - (b) 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;
 - (c) All claims will be made online and **must** be made by the business owner, manager or director. No applications will be accepted from an agent or similar person;

- (d) Once the application period is closed, all awards will be considered against the criteria laid down within this scheme, as soon as practicable;
- (e) 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 or to adjust the levels of grants paid.

11.0 EU State Aid requirements

- 11.1 Local Authorities have a discretion to make payments to eligible recipients under the De Minimis rules or under the COVID-19 Temporary Framework for UK authorities (as long as the conditions are met).
- 11.2 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.
- 11.3 All applicants will be required to sign a declaration of state aid compliance as part of the application process.

12.0 Scheme of Delegation

- 12.1 This scheme has been approved under the Council's Urgency Powers by the Chief Executive in consultation with Group Leaders
- 12.2 Officers of the Council will administer the scheme and the Chief Finance 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 All decisions made by the Council shall be notified to the applicant either in writing or by email. A decision shall be made as soon as practicable after the closure of the application period.
- 13.2 Applications will be considered by the Council's Finance Team together with colleagues from the Council's Business Rates Team.

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.

- 14.2 All such requests must be made in writing to the Chief Finance Officer, within 10 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 Councils 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.
- 17.3 The Council reserves the right to reclaim any grant paid in error.