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EMERGENCY DELEGATED EXECUTIVE DECISION

In accordance with the Leaders decision and noted by Cabinet on 25/03/2020 to delegate to the Chief Executive any executive decision in this COVID 19 Global pandemic emergency or that is urgent or that would be necessary or expedient, or which would otherwise protect the Council's interests, including key decisions.

South Lakeland District Council

Emergency Delegated Executive Decision

LOCAL AUTHORITY DISCRETIONARY BUSINESS GRANT FUND SCHEME

Date: 29/05/2020	Reference:
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Reason for emergency

Chief Executive received emergency delegated executive decision making powers on the 25th March 2020. It is considered that this decision is necessary or arises from the Covid-19 Global pandemic emergency. The matter is urgent, necessary and expedient and is needed to protect the Council's interests.

The decision is required to be taken due to the Government's recent announcement for a new package of discretionary financial support grants for businesses that will be administered by local authorities to pay the grants. Funding will be provided by the Government for the new grants. The Government have requested the grants are processed and paid as soon as possible, with the funding expected to be paid to the Council in early June 2020. It is expected that the payment of grants will ease financial pressures for eligible businesses.

Due to the timing of the receipt of the Government Guidance (updated on the 23rd May 2020) and the date of the next Cabinet meeting being on the 24th June 2020 we require an emergency decision.

This is a Key Decision: **Yes (A key decision means an executive decision which, in relation to an executive function, has a significant effect on communities in two or more Wards of the Council and / or is likely to result in the Authority incurring expenditure or making savings above £100,000)**

Portfolio:	Finance and Resources Portfolio Holder
Decision Maker:	Chief Executive
Report Author:	Gareth Candlin – Operational Lead (Specialist Services) Ruth Leahy – Specialist (Economy and Culture)
Wards:	All
Forward Plan:	Exemption from publication requirements / Forward Plan (key decision) requirements and call in obtained

1.0 Expected Outcome and Reasons for Proposed Decision

- 1.1 Many businesses remain closed or have seen a significant reduction in income as a result of Coronavirus pandemic and government restrictions.
- 1.2 South Lakeland District Council has been awarded an additional £3.75m from Government to distribute to eligible businesses under the Local Authority Discretionary Business Grant Fund. This will support property costs of small and micro businesses who have not been able to access financial support packages in the Government financial schemes announced since the pandemic situation.
- 1.3 The Discretionary Business Grant Fund follows the Small Business Grant Fund and Retail, Hospitality and Leisure Grant Fund. SLDC will grant funding to eligible businesses through an online application and validation process, used in the aforementioned grant schemes.
- 1.4 It is expected that the payment of grants will ease financial pressures for eligible businesses.
- 1.5 This decision will contribute significantly to assisting businesses during COVID 19 helping with job retention and business viability in difficult circumstances; avoiding economic collapse by giving additional resources to businesses with properties within the district.

2.0 Proposed Decision

2.1 It is recommended that the Chief Executive:-

- (1) Approve the Discretionary Business Grant Fund Scheme as Attached at Appendix 1 to the report and as announced by Government in May 2020 of up to £3.75million for South Lakeland; and**
- (2) That a non executive emergency decision is taken to confirm appropriate budgets be established outside the approved budget and policy framework to receive the monies and distribute funds as per Government guidance; and**
- (3) Agree to delegate the identification, determination and payment of the grants in accordance with the scheme at Appendix 1 to qualifying businesses to the Director of Customer and Commercial Services.**
- (4) Delegate to the Director of Customer and Commercial services in consultation with the Portfolio Holder for Finance and Resources to make any amends to Discretionary Business Grant policy to reflect changes in Government guidance.**

Review Date:	01/09/2020
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3.0 Background and Proposals

- 3.1 The government has announced a Discretionary Business Grant Fund Scheme to be targeted at small businesses that have high fixed property related costs but are not eligible for the current Small Business Grant Fund or Retail, Hospitality and Leisure Grant Fund.
- 3.2 South Lakeland District Council has been awarded £3.75m to distribute to eligible businesses. The government has set some national criteria which the Council must

follow in terms of which businesses it can support but has given discretion to local authorities to determine which businesses to support within those criteria. In determining this policy, the Council has sought to balance the amount of overall money it has received to distribute, with the number of businesses it can support. For the avoidance of doubt, the council does not have the discretion to assist businesses that fall outside the criteria set out below.

3.3 The government has set the following criteria that a business must meet in order to be eligible to apply (not necessarily be granted) for the Discretionary Business Grant Fund:

- Must be a Small or Micro businesses, as defined in Section 33 Part 2 of the Small Business, Enterprise and Employment Act 2015 and the Companies Act 2006 (see points 3.4 and 3.5 below);
- 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, annual mortgage payments below £51,000 (where a rateable value exists this will be the figure used);
- The business must have been trading on the 11th March 2020;
- The business must not have been eligible or received a grant from the existing grant scheme or other support schemes - please check with the Business Grants team prior to applying if you are unsure which grant scheme you might be eligible for.

3.4 Under the Companies Act 2006, a **Small business** must satisfy two or more of the following requirements in a year:

- Turnover: Not more than £10.2 million
- Balance sheet total: Not more than £5.1 million
- Number of employees: a staff headcount of less than 50.

3.5 Under the Companies Act 2006, a Micro business must satisfy two or more of the following requirements:

- Turnover: Not more than £632,000;
- Balance sheet total: Not more than £316,000;
- Number of employees: a staff headcount of not more than 10.

3.6 The government criteria can be seen in full here:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/885011/local-authority-discretionary-grants-fund-guidance-local-government.pdf

3.7 Please see Appendix 1 for the full details of the SLDC scheme, including the local criteria.

4.0 Consultation

4.1 A common and consistent approach has been agreed by all District Councils in Cumbria, allowing for specific references to business areas within districts to support their own economic make up.

4.2 A working group of officers including specialists and case managers have agreed the

process for collecting information for payment of grants.

- 4.3 The Portfolio Holder for Finance and Resources, the Leader of the Council and Cabinet have been consulted on the detail of the policy.

5.0 Alternative Options

- 5.1 SLDC do not accept this funding: this would not comply with the request from Government and would not give assistance to businesses operating within South Lakeland District, and therefore this is not a recommended option.
- 5.2 SLDC administer grants beyond the scheme set out by Government: this is not affordable for the Council, and therefore is not the recommended option.

6.0 Links to Council Priorities

- 6.1 Supporting our Economy: To aid job retention and business viability in difficult circumstances; avoiding economic collapse and enhancing the culture of the district by giving additional resources to businesses, including eligible cultural organisations, with properties within the district.

7.0 Implications

Financial, Resources and Procurement

- 7.1 The Government has made it clear that Councils can recover the additional cost incurred by the Council in administering this scheme.
- 7.2 The Government are funding the entirety of the scheme up to the value of £3.75m.

Human Resources

- 7.2 There are no direct human resources implications of this report. Staff from around the Council will assist in the processing of grant claims.

Legal

- 7.3 The Council has powers under the Localism Act 2011 to make these payments. Legal advice has been provided on the grants application form and the state aid implications. A separate non executive decision will be taken to address the changes to the Budget and Policy Framework.

Health, Social, Economic and Environmental

- 7.4 Have you completed a Health, Social, Economic and Environmental Impact Assessment? No
- 7.5 If you have not completed an Impact Assessment, please explain your reasons: This has not been deemed as necessary in this instance. The impact of the scheme applies to businesses which are eligible within the district and is vital to prevent many small businesses becoming insolvent following Government required closure.
- 7.6 Summary of health, social, economic and environmental impacts: n/a

Equality and Diversity

- 7.7 Have you completed an Equality Impact Analysis? No
- 7.8 If you have not completed an Impact Assessment, please explain your reasons: This has not been deemed as necessary in this instance, this applies to all those with businesses which are entitled within the district.
- 7.9 Summary of equality and diversity impacts: n/a

Risk

Risk	Consequence	Controls required
Grants are not given in accordance with Government guidance	Government will not reimburse the Council for payments made outside the Government schemes	Policy reviewed to be compliant with Government Policy
Grants are given to fraudulent claimants	Grants are not given to the businesses requiring support	Verification has been built into the grant process including requesting evidence and using Government tools
Grants are not issued promptly	Businesses will not receive financial assistance as set out by Government	Online portal developed for efficient application of grants, resource trained and in place to review and approve.
Online application and verification processes to manage a multi-million pound scheme in just a few days in order to get grants paid to businesses with minimal delay	Reputational impact to the Council and delays to the processing of payments	Learning from previous scheme will significantly reduce risk. Robust process in place to expediate payments.

Contact Officers

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Appendices Attached to this Report

Appendix No.	Name of Appendix
1	Discretionary Business Grant Fund Scheme

Background Documents Available

Name of Background document	Where it is available
Department for Business, Energy & Industrial Strategy: Grant Funding Schemes Local Authority Discretionary Grant Fund – guidance for local authorities	https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/885011/local-authority-discretionary-grants-fund-guidance-local-government.pdf
Approved by:	Signature and Date (or email confirmation)
Chief Executive	28/05/2020
Or such person as delegated by the Chief Executive in writing	n/a
In consultation with	
The Leader of the Council	29/05/2020
And Relevant Portfolio Holder	29/05/2020
CMT Directors	29/05/2020
The following interests were declared – disclosable pecuniary interest or other or none	n/a

<p><i>Due to COVID 19 and Government announcements, it has not been possible for this Key decision to be included in a Forward Plan at least 28 clear days before the decision was to be made. It is not possible to comply with the General Exemption procedure.</i></p> <p><i>In accordance with Part 4 of the Constitution - Rules of Procedure – Access to Information Rules – Paragraph 16, the Chairman of the Overview and Scrutiny Committee (Cllr Hughes) has agreed that the taking of the decision is urgent and could not reasonably be deferred because for the reasons outlined in this report and the timescales required to protect the public/business interest and to comply with Government advice.</i></p> <p><i>This being “special urgency”</i></p>	<p>29/05/2020</p>
<p><i>In accordance with Part 4 of the Constitution – Rules of Procedure – Overview and Scrutiny Procedure Rules - paragraph 16(j), the Chairman of the Council (Cllr Coleman) agrees that this decision is reasonable in all the circumstances and that it is treated as urgent for the reasons outlined above and, therefore, the decision is exempt from call-in.</i></p>	<p>28/05/2020</p>

Appendix 1

Discretionary Business Grant Fund Scheme

Background

1. The Government has announced a Discretionary Business Grant Fund to be targeted at small businesses that have high fixed property related costs but are not eligible for the current Small Business Grant Fund or Expanded Retail Discount Grant Fund.
2. South Lakeland District Council has been awarded £3.75m to distribute to eligible businesses. The government has set some national criteria which the Council must follow in terms of which businesses it can support but has given discretion to local authorities to determine which businesses to support within those criteria. In determining this policy, the Council has sought to balance the amount of overall money it has received to distribute, with the number of businesses it can support. For the avoidance of doubt, the council does not have the discretion to assist businesses that fall outside the criteria set out below under point 3.

National Criteria

3. The government has set the following criteria that a business must meet in order to be eligible to apply (not necessarily be granted) for the Discretionary Business Grant Fund:
 - Must be a Small or Micro businesses, as defined in Section 33 Part 2 of the Small Business, Enterprise and Employment Act 2015 and the Companies Act 2006 (see points 4 and 5 below);
 - 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, annual mortgage payments below £51,000 (where a rateable value exists this will be the figure used);
 - The business must have been trading on the 11th March 2020;
 - The business must not have been eligible or received a grant from the existing grant scheme or other support schemes - please check with the Business Grants team prior to applying if you are unsure which grant scheme you might be eligible for.
4. Under the Companies Act 2006, a **Small business** must satisfy two or more of the following requirements in a year:
 - Turnover: Not more than £10.2 million;
 - Balance sheet total: Not more than £5.1 million;

- Number of employees: a staff headcount of less than 50.
5. Under the Companies Act 2006, a Micro business must satisfy two or more of the following requirements:
- Turnover: Not more than £632,000;
 - Balance sheet total: Not more than £316,000;
 - Number of employees: a staff headcount of not more than 10.
6. The government criteria can be seen in full here:
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/885011/local-authority-discretionary-grants-fund-guidance-local-government.pdf

Eligibility

7. This grant funding is for businesses that are not eligible for other support schemes. Businesses which are eligible and have received cash grants from any central government COVID-related scheme are **not eligible** for funding from the Discretionary Business Grants Fund. Such grant schemes include but are not limited to:
- 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.
8. Businesses who have applied for the Coronavirus Job Retention Scheme and Self Employment Income Support Scheme **are** eligible to apply for this scheme.
9. Companies that are in administration, are insolvent or where a striking-off notice has been made are not eligible for funding under this scheme.
10. Only businesses which were trading on 11 March 2020 are eligible for this Scheme.

Priority Businesses

11. In addition to the criteria above the government has also asked the Council to prioritise the following types of business.
- Small businesses in shared offices or other flexible workspaces. Examples could include units in industrial parks, science parks and incubators which do not have their own business rates assessment;
 - Regular market traders with fixed building costs, such as rent, who do not have their own business rates assessment;

- Bed & Breakfasts which pay Council Tax instead of business rates; (please see definition)
 - Charity properties in receipt of charitable rates relief which would otherwise have been eligible for Small Business Rates Relief or Rural Rate Relief, and are not eligible for a grant through the Expanded Retail Discount Relief scheme.
12. Government has made it clear that this list is not exhaustive but is intended to guide local authorities and that the Council has the discretion to issue grants to businesses not covered by the above list but that we **do not** have discretion to help businesses that don't meet the criteria set out under the national criteria or eligibility criteria list.

Guiding Principals

13. It is recognised that each local authority area will have its own specific economic make up and that need will be different in each area. The council anticipates that the demand for the discretionary grants will be greater than the amount of money we have received from government and as such it is important that we clearly set out the principals that will guide the council in determining which businesses it is able to help and which it will not.
14. The goal is to try and support as many businesses as possible with the money received from government while keeping the individual grant amounts high enough that they will provide meaningful support to those businesses.
15. In addition to the criteria set out by government above, the council recognises through its experience in administering the current grants scheme and through its knowledge of the local economy that certain business types that are particularly prevalent in South Lakeland have not been eligible for support under the existing grant scheme. As such the Council has made the decision to include them within the discretionary element of this scheme. These are as follows:

Category A

Small manufacturing businesses with an RV of under £51,000 and not eligible for Small Business Rate Relief or Expanded Retail Discount Relief.

Category B

Local wholesalers and supply chain/services businesses whereby the majority of their business relates to the hospitality or leisure sector, with a Rateable Value of under £51,000. The definition of 'majority' in this case is over 60%.

Category C

Businesses that do not fall into the above categories but in the view of the Council can demonstrate exceptional hardship relating to ongoing fixed property related costs. This category will only be considered if there are adequate remaining funds once the other categories have been assessed.

16. It is important to note that this grant scheme is per business not per hereditament (property). Businesses with more than one property will only be eligible for one grant. If a business has received a grant under the Small Business Rate Relief, Expanded Retail Discount Relief or other schemes (see point 7) for other properties, they **will not** be eligible for this grant, as per the government guidelines.

How much is available?

17. The Council has received £3.75m in additional funding from the government to facilitate this Discretionary Business Grant Fund scheme. It is the intention of the Council to facilitate this scheme within that total amount without additional local top up which would be unaffordable for a small District Council.
18. How much a business receives will depend on their specific circumstances with a maximum cap of £10,000 for any one business. The main factor considered in the determination of the grant payable will be ongoing property related costs and the impact of the COVID-19 crisis and the number of employees. While the maximum cap is £10,000 grants will range from £2,500 up to £10,000.

Application process

19. It is not possible for the Council to quantify how many businesses are in our area which will potentially meet the criteria set out in the policy. The reason for this is that the council does not hold enough data on how many businesses may fall into these categories. Therefore to process applications on a first come first served basis may lead to some businesses with greater need missing out on a grant because the money allocated by government becomes fully committed. The Council believes this is unfair and that it is important that the money is allocated on the basis of need not those quickest to make an application.
20. To overcome this issue the Council will launch a 14 day window for businesses that think they may be eligible for the grants under this scheme to lodge an application with relevant supporting documents. Once the 14 day window has expired the Council will review the applications against the criteria set out above. If the number of grants applied for does not exceed the amount of funding available then all eligible grants will be paid. If the number of valid applications exceeds the amount of funding available, applications will be determined based on need. The definition of 'need' in this case will be businesses with a higher % of turnover that is used for property related costs and the businesses with a higher % of dropped revenue based on income, such as April 2020 income, compared to April 2019 (see point 34).
21. The businesses defined by government as priority businesses (see point 10) will be reviewed first. Once the Council are able to establish the outstanding amount of funding remaining, the businesses that meet the eligibility criteria in **Categories A and B and C** (see point 15) will then be reviewed.
22. The Council has created an online form for applications, this is the only mechanism through which the Council will accept applications. For businesses who do not have access to the internet, the Council will be able to assist you in completing the form by taking your information over the phone and complete the form on your behalf. You will need to provide documentary evidence to support your application, so please ensure you have collated relevant documentation prior to seeking support from the Council.
23. It will be important that you provide all the information accurately and truthfully, and provide all the supporting documents that are requested. Failure to do so could lead to your application being declined or significantly delayed.
24. Once the 14 day application window has closed, the Council will seek to reach a decision within 10 working days, payments usual take 3 working days to arrive in accounts.

25. If there is additional funding remaining after the first round, the Council will open up additional funding rounds.
26. You must answer all of the questions honestly when completing your application, if the Council suspects any business is trying to fraudulently claim the grant, it will investigate accordingly. Where evidence of fraud is present, we will prosecute the offending business.

Appeals Process

27. There is no right to appeal and the decision of the Council is final.
28. The Council's interpretation of this document is at its own discretion and it will be the final arbiter of the definitions contained within this policy.
29. This scheme is not intended to cover all businesses that have not been included in the initial government grant scheme. There are other avenues of support that businesses have available through the other government schemes.

State Aid

30. The United Kingdom left the EU on 31 January 2020, nonetheless under the Withdrawal Agreement the State aid rules continue to apply during a transition period, subject to regulation by the EU Commission. The local authority must be satisfied that all State aid requirements have been fully met and complied with when making grant payments, including, where required, compliance with all relevant conditions of the EU State aid De Minimis Regulation, the EU Commission Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak, the approved COVID-19 Temporary Framework for UK Authorities, and any relevant reporting requirements to the EU Commission.
31. The Council will require each business receiving grant funding under the Discretionary Business Grant Funding scheme to confirm that it is receiving the grant funding under either the De Minimis rules or the COVID-19 Temporary Framework for UK Authorities (and that all relevant conditions are met). Grant recipients will be asked to sign a declaration provided by the Council as part of the application process to confirm the State Aid position.

Businesses should note the conditions attached to the Temporary Framework, including the €800,000 threshold per undertaking (€120 000 per undertaking active in the fishery and aquaculture sector or €100,000 per undertaking active in the primary production of agricultural products), and requirement for recipients to declare they were not an undertaking in difficulty on 31 December 2019. An 'undertaking in difficulty' is defined by GBER (2014) as an undertaking in which at least one of the following circumstances occurs:

- a) In the case of a limited liability company (other than an SME that has been in existence for less than three years), where more than half of its subscribed share capital has disappeared as a result of accumulated losses. This is the case when deduction of accumulated losses from reserves (and all other elements generally considered as part of the own funds of the company) leads to a negative cumulative amount that exceeds half of the subscribed share capital.

b) In the case of a company where at least some members have unlimited liability for the debt of the company (other than an SME that has been in existence for less than three years), where more than half of its capital as shown in the company accounts has disappeared as a result of accumulated losses.

c) Where the undertaking is subject to collective insolvency proceedings or fulfils the criteria under its domestic law for being placed in collective insolvency proceedings at the request of its creditors.

d) Where the undertaking has received rescue aid and has not yet reimbursed the loan or terminated the guarantee, or has received restructuring aid and is still subject to a restructuring plan.

e) In the case of an undertaking that is not an SME, where, for the past two years:

i) The undertaking's book debt to equity ratio has been greater than 7.5; and

ii) The undertaking's EBITDA interest coverage ratio has been below 1.0.

Tax

32. Grant income received by a business is taxable therefore funding paid under the Discretionary Business Grants Fund will be subject to tax. Only businesses which make an overall profit once grant income is included will be subject to tax.

What evidence will I need to provide?

33. The Council is relying on businesses to be honest and open with the Council and present to us their evidence of need and eligibility for the Discretionary Business Grant Fund.

34. As part of your application you will need to provide the following information:

Information	Evidence Required	Comment
Payment details	Copy of bank statement clearly showing bank account name, business address, sort code and account number and a utility bill clearly showing your business address	This must match the name of the business or individual listed on the business rates bill or lease/mortgage agreement
Evidence of ongoing Rental or Mortgage costs or other fixed property related costs	You will need to provide a copy of your current lease agreement or mortgage agreement	This must clearly show the financial contribution you are required to make as part of the agreement
Evidence you are a small or micro business	This will be done by way of self-declaration on the online application form	Please see points 4 and 5 for definitions
Evidence of a significant fall in	You will need to provide evidence of loss of income, this might include a variety of documentary evidence including comparative bank statements	Where a company was not trading in April 2019 we will accept another month's turnover. It is at the

income due to COVID-19	or turnover such as for April 2019 and April 2020; proof of loss of contracts/bookings/demand for services; proof of loss of ongoing income	businesses discretion what form this evidence takes but it must clearly show the turnover of the businesses for these periods
Evidence of trading on 11 March 2020	Where you have a business rates account this will be sufficient as the date liable will be used. For businesses that are not rated you will need to provide evidence.	This could be in the form of stock orders (pre dating 11 March 2020), lease agreements etc.
Evidence of eligibility under State aid rules	This will be done by way of self-declaration on the online application form	If you are unsure whether State aid applies to your business, you will need to seek independent legal advice.

Definitions

35. “Relatively high fixed property related costs” – this relates to your mortgage or rental cost associated (including bills) with your property.
36. “Significant fall in income” – you must be able to demonstrate the fall in income is related to COVID-19, “significant” for the purpose of this scheme will mean a drop of 25% or more when comparing turnover for April 2019 to April 2020. Where income has dropped less than 25% but you are able to demonstrate a significant increase in costs due to COVID-19, then this will also be considered.
37. “Bed and Breakfast” - you will need to be registered as a food businesses with the Council to be eligible as a Bed and Breakfast. Accommodation that does not serve breakfast and is not registered with the Council as a food business are specifically excluded from this scheme.

Data Protection

38. The Council treats all its information that it holds on file with the upmost care and confidentiality. For more on our Privacy Policies and to see how we use and share your data, please see here: www.southlakeland.gov.uk/your-council/council-business/data-protection-and-privacy-policy/privacy-policies/

Right to Update this Policy

39. The Council reserves the right to update and change this policy without notification or prior warning in the event that the government updates or changes its guidance to us or in the event of an error or omission.