

Report to Leader of the Council

Subject: Business Rates | Covid-19 Additional Relief Fund

Date: 8th September 2022

Author: Revenues Manager

Wards Affected

All

Purpose

The purpose of this report is:

- 1) To seek approval to implement, in accordance with the latest Government guidance, the Covid-19 Additional Relief Fund (CARF).
- 2) To adopt the Council's guidance, at appendix 2 to this report, for determining the allocation of the Covid-19 Additional Relief Fund (CARF).
- 3) To delegate, to the Director of Corporate Resources, the authority to determine discretionary relief award, in accordance with the Government's and the Council's guidance.
- 4) To establish a budget for the administration of the Covid-19 Additional Relief Fund, to the value of £1,189,282.

Key Decision

This is a key decision because it is possible it will result in the Council incurring expenditure which is in excess of £500,000 and is likely to be significant in terms of its effect on communities living or working in an area comprising two or more wards of the Borough.

Recommendation(s)

THAT:

- 1) the Covid-19 Additional Relief Fund detailed in appendix 1 to this report is implemented in accordance with the latest Government guidance;
- 2) the Council's Covid-19 Additional Relief Fund guidance, detailed in appendix 2 to this report, is adopted as the Council's guidance for the distribution of the Covid-19 Additional Relief Fund;
- 3) a delegation is provided to the Director of Corporate Resources, for the determination of the discretionary relief award of the Covid-19 Additional Relief Fund, in accordance with the Government's and the Council's guidance.
- 4) a budget is established for the administration of the Council's Covid-19 Additional Relief Fund, to the value of £1,189,282.

1 Background

- 1.1 On 25th March 2021, the [Government announced](#) a new Covid-19 Additional Relief Fund (CARF) of £1.5 billion across the UK. The fund is intended to support those businesses affected by the Covid-19 pandemic, that are ineligible for existing support linked to business rates.
- 1.2 The £1.5 billion has been allocated to local authorities based upon the estimated rateable value in each local authority rating list which falls within the scope of the fund, weighted for the Gross Value Added (GVA) impacts of Covid-19 per sector. Gedling Borough Council's allocation is £1,189,282.
- 1.3 On 15th December 2021, the Department for Levelling Up, Housing and Communities (DLUHC) issued guidance to all Councils to assist in the administration and application of this relief. A copy of this guidance is attached at appendix 1 to this report.
- 1.4 In recent years, the Government has chosen not to make amendments to legislation in the administration of business rates reliefs, rather it encourages Councils to use their existing powers of discretion to grant reliefs in line with its guidance.

- 1.5 Section 47 of the Local Government Finance Act 1988 (as amended by s69 Localism Act 2011) gives local authorities the power to grant discretionary relief of any amount to non-domestic rate payers for any reason.
- 1.6 The Government intends that Gedling Borough Council should grant CARF relief to businesses under its existing powers to grant discretionary relief, after taking account of its guidance.
- 1.7 Gedling Borough Council's Constitution currently provides for initial applications for discretionary relief to be submitted to the Portfolio Holder for determination. This requirement can be found under the heading "Scheme of Delegation to Officers – Executive Functions" in the Council's Constitution. This paragraph is set out in paragraph 1.8 of this report below.
- 1.8 *Power to grant applications for other discretionary rate relief to be submitted to the Portfolio Holder for determination in the first instance and thereafter renewals to be delegated and any new application to be referred to the Portfolio Holder if they are clearly not subject to precedent.*

2 Proposal

- 2.1 It is proposed that the Covid-19 Additional Relief Fund detailed in appendix 1 to this report is implemented in accordance with the latest Government guidance.
- 2.2 It is proposed that the Council's Covid-19 Additional Relief Fund guidance, detailed in appendix 2 to this report, is adopted as the Council's guidance for the distribution of the Covid-19 Additional Relief Fund;
- 2.3 It is proposed that a delegation is provided to the Director of Corporate Resources, for the determination of discretionary relief award of the Covid-19 Additional Relief Fund, in accordance with the Government's and the Council's guidance.
- 2.4 It is proposed that a budget is established for the administration of the Council's Covid-19 Additional Relief Fund, to the value of £1,189,282.

3 Alternative Options

- 3.1 An alternative to the proposal to implement the CARF scheme in accordance with the latest Government guidance would be to decline the Government's offer of funding and not award business rates relief of this nature in the Borough of Gedling. To do so however, would be to deny

businesses in the Borough a significant amount of relief from their business rates which is likely to assist in business recovery and continuity following the Covid-19 coronavirus pandemic.

- 3.2 The Council's guidance attached at appendix 2 is the result of detailed modelling based on the Gross Value Added by sector data provided by the Government in its guidance compared against the number of eligible hereditaments in the Borough of Gedling and the value of grant funding provided by the Government. An alternative to the proposal to adopt the Council's guidance for the distribution of the Covid-19 Additional Relief Fund would be to invite applications and consider them on a case by case basis. This however, would create a very large administrative burden which the Council may not be able to resource as well as creating either a risk of allocating CARF payments above the value of funding provided by Government, or creating an unequitable "first-come-first-served" system which closes when the funding limit is reached. Neither alternative is favoured due to the risk of overpayment and/or the risk of creating a scheme without defined parameters leading to bias or unfairness in the award criteria.
- 3.3 An alternative to the proposal to delegate the authority to exercise the Council's discretion would be to report each grant case to the Portfolio Holder for Resources and Reputation for his determination in accordance with the Government's and the Council's guidance. This would mean that the Portfolio Holder would have to consider multiple applications. This would place an unnecessary burden on the Executive and may prevent the timely granting of the relief.
- 3.4 An alternative to the proposal to establish a budget for the administration of the Council's Covid-19 Additional Relief Fund would be to not establish a budget. This would however be contrary to the Council's obligation to establish a budget and reflect the transactions in its financial statements.

4 Financial Implications

- 4.1 The Government will provide funding to the Council, to a limited value, for the provision of the CARF scheme. The CARF scheme is a discretionary scheme where, in line with eligibility criteria, the Council is able to grant relief to businesses at its discretion.
- 4.2 For this scheme the Council will be acting as principal in the distribution of relief monies because it is the Council which has control over the amount of relief granted and the eligibility criteria to determine its award.
- 4.3 In accordance with the Code of Practice on Local Authority Accounting, where a local authority acts as principal, the transactions are required to

be reflected in authority's financial statements and therefore in this circumstance, a budget must be established.

- 4.4 The funding due to be received from Government for this relief scheme is £1,189,282.

5 Legal Implications

- 5.1 Section 47 of the Local Government Finance Act 1988 permits the billing authority to grant discretionary rate relief. Regard has been given to relevant government guidance in relation to discretionary relief when coming to this recommendation.
- 5.2 Guidance issued by the Office of the Deputy Prime Minister in December 2002 warns of the possibility of discretionary rate reliefs contravening European state aid rules. European Union competition rules generally prohibit Government subsidies to businesses. Relief from taxes, including National Non-Domestic Rates, can constitute state aid.
- 5.3 In practice, aid to village shops, most local "commercial" charities and other small-scale local service organisations (B&Bs, small retailers, child care facilities etc) will not be caught by the state aid rules as long as they are independent businesses because they are deemed incapable of affecting intra-community trade. On the other hand, any manufacturing operation, however small, is normally deemed capable of affecting intra-community trade. This means that rate relief for butchers, or farmers producing cheese, sausages, cider and other foodstuffs for example, would constitute state aid.
- 5.4 Following the United Kingdom's exit from the European Union, former European state aid is now referred to as "subsidy". The retail, hospitality and leisure relief scheme is likely to amount to subsidy. Any relief provided by Local Authorities under this scheme will need to comply with the UK's domestic and international subsidy control obligations (See the [BEIS guidance for public authorities](#) which explains the subsidies chapter of the UK-EU Trade and Cooperation Agreement (TCA), World Trade Organisation rules on subsidies, and other international subsidy control commitments).
- 5.5 To the extent that a Local Authority is seeking to provide relief that falls within the Small Amounts of Financial Assistance Allowance, Article 364 of the TCA allows an economic actor (e.g. a holding company and its subsidiaries) to receive up to 325,000 Special Drawing Rights (£343,000 as at 9th December 2021) in a three-year period (consisting of the 2022/23 financial year and the two previous financial years). Expanded Retail Discount granted in either 2020/21 or 2021/22 does not count towards the

£343,000 allowance but BEIS business grants (throughout the 3 years) and any other subsidies claimed under the Small Amounts of Financial Assistance limit, should be counted.

- 5.6 In those cases where it is clear to the Council that the ratepayer is likely to breach the Small Amounts of Financial Assistance Allowance then the Council will automatically withhold the relief.

6 Equalities Implications

- 6.1 The proposed eligibility criteria for the scheme provides the transparent basis for the assessment of all applications for the CARF which will be applied equally to all relief recipients.
- 6.2 No application for this relief will be required which will, as a consequence, ensure equal accessibility for all.

7 Carbon Reduction/Environmental Sustainability Implications

- 7.1 There are no carbon reduction/sustainability implications arising from this report.

8 Appendices

- 8.1 Appendix 1 – Covid-19 Additional Relief Fund - Government Guidance – 15.12.21.
- 8.2 Appendix 2 - Gedling Borough Council CARF Guidance

9 Background Papers

- 9.1 Code of Practice on Local Authority Accounting

10 Reasons for Recommendations

- 10.1 The Council is expected by Government to grant relief in line with the guidance it has published.
- 10.2 The Government's guidance is limited and encourages local authorities to exercise their discretion when administering CARF relief. Extensive modelling has been undertaken in order to formulate the Council's own guidance for the administration of the CARF scheme.

- 10.3 The delegation is requested to ensure the timely award of the relief, efficient decision making and to avoid the Executive from becoming overwhelmed by applications. It is appropriate that this function is delegated to Officers for determination in line with established guidance.
- 10.4 The establishment of a budget is required as the Council will be acting as principal in the distribution of relief monies because it is the Council which has control over the amount of relief granted and the eligibility criteria to determine its award.

Statutory Officer approval

Approved by:
Date:

Chief Financial Officer

Approved by:
Date:

Monitoring Officer