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CABINET Agenda

Date Monday 24 January 2022

Time 6.00 pm

Venue Crompton Suite, Civic Centre, Oldham, West Street, Oldham, OL1 1NL

Notes 1. DECLARATIONS OF INTEREST- If a Member requires any advice on any item involving a possible declaration of interest which could affect his/her ability to speak and/or vote he/she is advised to contact Paul Entwistle or Liz Drogan in advance of the meeting.

2. CONTACT OFFICER for this Agenda is Liz Drogan Tel. 0161 770 5151 or email elizabeth.drogan@oldham.gov.uk

Item No

10 Urgent Item -COVID-19 Additional Relief Fund (Pages 1 - 14)

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Report to CABINET

COVID-19 Additional Relief Fund

Portfolio Holder:

Cllr A Jabbar MBE, Deputy Leader and Portfolio Holder for Finance and Low Carbon

Officer Contact: Anne Ryans Director of Finance

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Ext. 4905

24 January 2022

Reason for Decision

This report seeks Cabinet approval on the proposed approach to the administration of the COVID-19 Additional Relief Fund (CARF).

Executive Summary

The Government has introduced a new temporary Business Rates Discretionary Relief Scheme, the COVID-19 Additional Relief Fund (CARF) and guidance for Local Authorities was issued on 15 December 2021.

Oldham's allocation of the fund is £4,203,655. The scheme has been established to support those businesses impacted by the COVID-19 pandemic and unable to adequately adapt to that impact. It is only available to reduce liability for Business Rates for the 2021/22 financial year and for those businesses who have not already received support via other relief schemes. This excludes businesses in the Retail, Leisure and Hospitality sectors and those who have received Nursery Discount.

Local Authorities are required to devise a local discretionary scheme to administer this relief using existing powers under section 47 of the Local Government Finance Act 1988. The Government will re-imburse Local Authorities through Section 31 grants for expenditure properly incurred up to the funding allocation. The Government has requested that Local Authorities prioritise delivery of this support to businesses as soon as possible.

Recommendations

It is recommended that Cabinet:

- Approve the proposed approach to the administration and delivery of the COVID- 19 Additional Relief Fund in Oldham.
- Delegate further decision making on the scheme, including the final allocation of the funding, to the Director of Finance in consultation with the Deputy Leader and Cabinet Member for Finance and Low Carbon.

Covid-19 Additional Relief Fund

1.0 Background

- 1.1 On 25 March 2021, the Government announced a new Covid -19 Additional Relief Fund (CARF) of £1.5 billion. This fund, which is a Business Rates discretionary relief fund, is available to support those businesses affected by the pandemic and unable to adequately adapt to that impact but that are ineligible for existing support linked to Business Rates.
- 1.2 A change to primary legislation, the Rating (Coronavirus) and Directors Disqualification (Dissolved Companies) Act 2021, was required to remove the legal right of businesses to appeal their rateable values to the Valuation Office Agency on Material Change of Circumstances grounds due to the impact of COVID-19. Following this change to the law, which came into force on 15 December 2021, the guidance for the COVID- 19 Additional Relief Fund and confirmation of funding allocations were released to Local Authorities.
- 1.3 The £1.5 billion has been allocated to Local Authorities based on the estimated rateable value in each Local Authority that falls within the scope of the fund, weighted for the Gross Value Added (GVA) impacts of COVID-19 per business sector. The funding allocation for Oldham Council is £4,203,655 and the funding can only be allocated in respect of the 2021/22 financial year. The relief will only be considered for businesses that had a Business Rates liability in that year.
- 1.4 Awards made under the CARF scheme will be granted under the discretionary powers available to the Local Authority under section 47 of the Local Government Finance Act 1988. The Government will reimburse Local Authorities for eligible payments made up the funding allocation limit of £4,203,655 via section 31 grants.

2.0 Current Position

- 2.1 The Council now needs to determine a discretionary scheme with some urgency. Billing authorities are responsible for designing the discretionary relief schemes in their areas. The Government has asked Local Authorities to process this relief as quickly as possible.
- 2.2 The relief cannot be awarded for periods prior to or post the 2021/22 financial year and cannot be awarded as a separate cash grant. The award of the relief may put some ratepayers into credit.
- 2.3 The assessment and award of the relief will be complex and technical, not least because it will be a retrospective award complicated by recovery activity, previous payments by the ratepayer and other allocations of Business Rates relief.

3.0 COVID-19 Additional Relief Fund Government Eligibility Criteria

- 3.1 Although the Council can decide on a local scheme, the Government has set a broad framework, to which Local Authorities must adhere, to receive funding via the Section 31 grant.

Local Authorities must:

- a) Not award relief to ratepayers who for the same period of the relief either are or would have been eligible for the Expanded Retail Discount (covering retail, leisure and hospitality, the Nursery discount or the Airport and Ground Operations Support Scheme (AGOSS)

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- b) Not award relief to a hereditament for a period when it is unoccupied (other than hereditaments which have become closed temporarily due to the Government's advice on COVID-19, which should be treated as occupied for the purposes of this relief), and
 - c) Direct their support towards ratepayers who have been adversely affected by the pandemic and have been unable to adequately adapt to that impact.
- 3.2 In line with the legal restrictions in Section 47 of the Local Government Act 1988, billing authorities may not grant the relief to themselves, certain precepting authorities (e.g., a Parish or County Council) or a functional body within the meaning of the Greater London Authority Act 1999.
- 3.3 The relief should be awarded after mandatory reliefs and other discretionary reliefs funded by Section 31 grants have been applied, excluding those where billing authorities have provided relief using their wider discretionary relief powers introduced by the Localism Act 2011, (which are not funded by Section 31 grants).
- 3.4 Businesses receiving 100% Small Business Rates Relief (SBRR) will not be eligible for support under the CARF scheme. Businesses receiving partial SBRR (those with a rateable value of between £12,001 and £15,000) will be eligible for support in respect of the liability for Business Rates not covered by SBRR.
- 3.5 The amount of CARF awarded may need to be recalculated in the event of a change of circumstances. This could include, for example, a backdated change to the rateable value of the property. This change could happen during 2021/22 or during a later year.
- 3.6 Providing discretionary relief to ratepayers is likely to amount to a subsidy. Any relief provided by Local Authorities under the CARF scheme will need to comply with the United Kingdom's (UK) domestic and international subsidy control obligations. The allowances that can be applied to the CARF scheme are set out in Appendix A.

4.0 Oldham Council's Proposed CARF scheme

- 4.1 A proposed scheme is set out at Appendix B. In summary a business must:
- a) Have a Business Rates charge to pay in the 2021/22 financial year after other mandatory and discretionary reliefs have been applied,
 - b) Have not been awarded, or would have been eligible for, Expanded Retail Discount (covering Retail, Leisure and Hospitality), the Nursery Discount or the Airport and Ground Operations Support Scheme (AGOSS) for the same period i.e., in the 2021/22 financial year,
 - c) Be in occupation (other than hereditaments which have become closed temporarily due to the Government's advice on COVID-19, which should have been treated as occupied for the purposes of this relief),
 - d) Can provide evidence to demonstrate that they have been adversely impacted by the pandemic and have been unable to adequately adapt to that impact,
 - e) Have not exceeded maximum subsidy allowances.
- 4.2 It is proposed that an online application form is developed and that an application window of 28 January to 28 February 2022 is set. Supporting documentary evidence to support the

application should be submitted with the application form. If further clarification or evidence is sought by the Council, this must be received by 4 March 2022 or the application will be considered ineligible.

- 4.3 It is proposed that the amount of relief allocated to individual businesses should be determined once all applications and supporting evidence have been received and verified. The funding allocation method would then be delegated to the Director of Finance in consultation with the Deputy Leader and Cabinet member for Finance and Low Carbon.
- 4.4 This is a difficult scheme to estimate level of demand. The Council could receive high numbers of applications from businesses who have not received any rates relief through the pandemic and who in most cases will also not have received cash grants. Alternatively, businesses may be deterred from applying given the requirement to evidence the impact of the pandemic on their business for a retrospective Business Rates bill that may already have been settled. Until the scheme opens, the demand for CARF will not be clear. As the Council only has a cash limited pot of money to fund the relief, determining the funding allocation once all applications have been received will ensure allocations remain within the funding envelope and support for businesses is maximised. The Director of Finance, in consultation with the Deputy Leader and Cabinet Member for Finance and Low Carbon, would have the delegated authority to amend the scheme, which could include extending the application window if applications received are low, to ensure that the use of the funding is maximized for Oldham's businesses.
- 4.5 The Council will take the following into account when making decisions about the CARF scheme. Each case must have been severely impacted by pandemic (lost business revenue) and will then be considered on its own merits taking into account
- The impact on the business of the pandemic and the evidence provided
 - The business sector the business falls into and how this sector has been affected by the pandemic
 - The extent to which the business tried to adapt its business model to adjust to the impacts of the pandemic
 - The impact of the business in Oldham and its role as a good employer and provider of jobs and opportunities
 - The use of the business hereditament and the business activity conducted within it e.g., if employees work from the business premises
 - The length of time the business has been in operation
 - The government guidance and scheme intentions
 - The level of demand and the funding available

This list is not exclusive.

- 4.6 Applications will not normally be considered for the following hereditaments

- Advertising Rights/Boards
- Land used for advertising
- Car Parking Spaces
- Car Parks
- Sponsorship signs
- Automated teller machines (ATM) or cash machines.
- Premises/land used for personal storage
- Cemeteries
- Pipeline & appurtenances
- Central and Local Government and NHS infrastructure
 - Utilities and Communications Infrastructure
 - Premises and land used for personal use or storage

5.0 Options/Alternatives

5.1 Option 1

- To approve the proposed approach to the administration and delivery of the COVID- 19 Additional Relief Fund in Oldham
- To delegate further decision making on the scheme, including the final allocation of the funding to the Director of Finance in consultation with the Deputy Leader and Cabinet Member for Finance and Low Carbon.

5.2 Option 2 This option would entail not utilising the Government funding available to support Oldham businesses impacted by COVID-19.

6.0 Preferred Option

6.1 Option 1 is the preferred approach.

- To approve the proposed approach to the administration and delivery of the COVID- 19 Additional Relief Fund in Oldham
- To delegate further decision making on the scheme, including the final allocation of the funding, to the Director of Finance in consultation with the Deputy Leader and Cabinet Member for Finance and Low Carbon

7.0 Consultation

7.1 No public consultation is required to devise a local discretionary Business Rates relief scheme. Informal consultation has been carried out with Revenues and Benefits Managers across Greater Manchester to ensure some consistency of approach across the region.

8.0 Financial Implications

8.1 The Council has been awarded a maximum of £4,203,655 to establish a scheme to provide discretionary business rates relief using powers available to the Local Authority under Section 47 of the Local Government Finance Act 1988. The Government will reimburse the Council for eligible business rates reliefs made up the funding allocation limit.

8.2 The proposed terms for the awarding of the reliefs are contained in Appendix B. These have been drawn up having regard to the guidance that the Government has issued around eligibility to ensure that any risk to the Council with regard to the administration of the scheme is minimized.

8.3 It is proposed that the amount of relief allocated to individual businesses should be determined once all applications and supporting evidence have been received and verified. The funding allocation method would then be delegated to the Director of Finance in consultation with the Deputy Leader and Cabinet member for Finance and Low Carbon. This will ensure the use of the resource can be maximised for the benefit of businesses in Oldham. Anne Ryans (Director of Finance)

9.0 Legal Services Comments

9.1 Option 1 is supported, the funding for this scheme is from Government grant money and will have a positive impact on local business. Failure to administer will certainly have a negative reputational impact on the Council and likely lead to a legal challenge around the decision. It is however important that the scheme is administered correctly in line with the advised procedures [Alex Bougatef – Legal Services]

10.0. Co-operative Agenda

10.1 The development of a local discretionary Business Rates relief scheme is consistent with the Council's co-operative values.

11.0 Human Resources Comments

11.1 Not applicable

12.0 Risk Assessments

12.1 The timescale for devising a scheme from the detailed grant notification to be spent in the timescale is very challenging. As such there is a risk the full allocation of grant will not be utilised (Mark Stenson)

13.0 IT Implications

13.1 Not applicable

14.0 Property Implications

14.1 Not applicable

15.0 Procurement Implications

15.1 Not applicable

16.0 Environmental and Health & Safety Implications

16.1 Not applicable

17.0 Equality, community cohesion and crime implications

17.1 No negative impacts.

18.0 Implications for Children and Young People

18.1 Not applicable

19.0 Equality Impact Assessment Completed?

19.1 No

20.0 Key Decision

20.1 Yes

21.0 Key Decision Reference

21.1 This item has not been published on the forward plan for the required 28 clear days and therefore, the Chairman of the Overview and Scrutiny Committee has agreed an exemption in accordance with Rule 14. The Chair of the Policy Overview and Scrutiny Committee has also agreed to this item being exempt from call in because of the importance of quickly issuing discretionary rate relief funding to affected businesses.

22.0 Background Papers

22.1 The following is a list of background papers on which this report is based in accordance with the requirements of Section 100(1) of the Local Government Act 1972. It does not include documents which would disclose exempt or confidential information as defined by the Act

File Ref: Background papers are available online at:

<https://www.gov.uk/government/publications/covid-19-additional-relief-fund-carf-local-authority-guidance>

Name of File: Local Authority Guidance COVID19 Additional Relief Fund

Records held: Online

Officer Name: Caroline Lee

Contact No: 4905

23.0 Appendices

23.1 Appendix A Subsidy Allowances

Appendix B Proposed COVID- 19 Additional Relief Fund (CARF) Scheme

Appendix A – Subsidy Allowances

1.0 Trade and Co-Operation Agreement

- 1.1 Providing discretionary relief to ratepayers is likely to amount to a subsidy. Any relief provided by Local Authorities under the CARF 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).

2.0 Small Amounts of Financial Assistance Allowance

- 2.1 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 9 December 2021) in a three-year period (consisting of the current financial year and the two previous financial years). To administer a subsidy under the Small Amounts of Financial Assistance Allowance it is necessary for the Local Authority to establish that the award of subsidy will not result in the economic actor having received more than £343,000 of subsidy under the Small Amounts of Financial Assistance Allowance.

3.0 The COVID-19 Additional Relief Fund Allowance

- 3.1 Where the Small Amounts of Financial Assistance Allowance has been reached, additional relief may be awarded in compliance with the principles set out in Article 366 of the TCA and in compliance with Article 364.3 of the TCA. For the purposes of this scheme, the COVID-19 Additional Relief Fund Allowance, permits an economic actor to receive additional relief of up to a further £1,900,000 for COVID-19 related losses.
- 3.2 This may be combined with the Small Amounts of Financial Assistance Allowance to permit an economic actor to receive up to £2,243,000 from the CARF Scheme (or less if they have already used some of their Small Amounts of Financial Assistance limit or claimed other COVID-19 related

subsidies). It should be noted that Extended Retail Discount granted in either 2020/21 or 2021/22 does not count towards these allowances, but BEIS business grants (throughout the 3 years) and any other subsidies claimed under the Small Amounts of Financial Assistance limit (such as the Retail Relief in 2019/20), or under the EU State aid de minimis limit, in the last three years, should be counted.

4.0 COVID-19 Additional Relief Fund Further Allowance

4.1 If an economic actor has reached the £2,243,000 limit set out above, then it may still be able to receive up to a further £10 million as a COVID-19 Additional Relief Fund Further Allowance under the CARF Scheme if it satisfies the following conditions:

- a. the relief relates to uncovered fixed costs (i.e. costs not covered by profits or insurance etc) during the period of COVID-19 (commencing 1 March 2020). An economic actor may benefit from relief up to 70% of their uncovered costs (although this 70% limit does not apply to small businesses with fewer than 50 employees and less than £9 million turnover where the limit is instead 90%), and
- b. the enterprise has shown a decline in turnover during the eligible period of at least 30% compared to the same period in 2019.

Appendix B – Proposed COVID-19 Additional Relief Fund (CARF) scheme

1.0 Introduction

- 1.1 Section 47 of the Local Government Finance Act 1988 (as amended) allows the Council to use its discretionary powers to grant COVID-19 Additional Relief Fund (CARF)
- 1.2 The fund is available to support those businesses affected by the pandemic but that are ineligible for existing support linked to Business Rates.
- 1.3 Central Government will reimburse Oldham via a Section 31 grant up to the maximum allocation. The maximum allocation level for Oldham is £4,203,655. Combined CARF awards will therefore not exceed this amount.
- 1.4 This relief is only available to reduce amounts in respect of the 2021/22 financial year.

2.0 Eligibility Criteria

- 2.1 Each application will be considered on its own merits, having regard to the Government guidance and Section 31 grant conditionality.
- 2.2 An Oldham based business will be able to apply for CARF Business Rate relief in respect of the 2021/22 financial year on a per hereditament basis subject to the following criteria.

The business:

- Has a continuing Business Rates liability and a charge to pay in the 2021/22 financial year after mandatory and other discretionary reliefs have been applied.
 - Has not been awarded, or would have been eligible for, the Expanded Retail Discount (covering Retail, Leisure and Hospitality), the Nursery Discount, or the Airport and Ground Operations Support Scheme (AGOSS) for the same period, i.e., the 2021/22 financial year.
 - The hereditament is occupied in the 2021/22 financial year (other than hereditaments which have become closed temporarily due to the Government's advice on COVID -19 which should be treated as occupied for the purposes of this relief).
 - Can provide evidence to show that the business has been adversely impacted by the pandemic and was unable to adequately adapt to that impact
 - Has not exceed maximum subsidy allowances
 - Applied for CARF within the application window of 28 January to 28 February 2022 and provided additional supporting evidence if the Council requests this by 4 March 2022.
- 2.3 The Council will take the following into account when making decisions about the CARF scheme. Each case must have been severely impacted by pandemic (lost business revenue) and will then be considered on its own merits taking into account
 - The impact on the business of the pandemic and the evidence provided

- The business sector the business falls into and how this sector has been affected by the pandemic
- The extent to which the business tried to adapt its business model to adjust to the impacts of the pandemic
- The impact of the business in Oldham and its role as a good employer and provider of jobs and opportunities
- The use of the business hereditament and the business activity conducted within it e.g., if employees work from the business premises
- The length of time the business has been in operation
- The government guidance and scheme intentions
- The level of demand and the funding available

This list is not exclusive.

2.4 Applications will not normally be considered for the following hereditaments:

- Advertising Rights/Boards
- Land used for advertising
- Car Parking Spaces
- Car Parks
- Sponsorship signs
- Automated teller machines (ATM) or cash machines.
- Premises/land used for personal storage
- Cemeteries
- Pipeline & appurtenances
- Central and Local Government and NHS infrastructure
- Utilities and Communications Infrastructure
- Premises and land used for personal use or storage

3.0 Application Process

- 3.1 An online application form will be required, one per property (hereditament) which will include a self- assessment declaration that the business has not exceeded the maximum subsidy allowances.
- 3.2 The ratepayer will need to clearly evidence how the business has been adversely affected by the pandemic and why the business could not adequately adapt to that impact.
- 3.3 The ratepayer will need to provide a copy of the business' two most recent audited accounts.

4.0 Amount of Relief

- 4.1 The basis of the funding allocation for the relief will be delegated to the Director of Finance in consultation with the Deputy Leader and Cabinet Member for Finance and Low Carbon.
- 4.2 Each case will be considered on its own merits. The final CARF decision will also be made in consideration of the funding available, maximisation of that funding to Oldham businesses and the type of business applying for the scheme.
- 4.3 If a CARF award results in an overall credit for the 2021/22 financial year, the credit will automatically be applied to any outstanding or current year's bills, unless the ratepayer specifically requests a refund.

5.0 Right of Appeal

- 5.1 Where a business disagrees with the Council's decision not to award relief under the CARF scheme, an appeal may be made in writing within one calendar month from the date of the decision.

6.0 Fraud

- 6.1 Businesses may face prosecution if they manipulate or falsify their application for CARF in order to obtain an award under this scheme. Any award made as a result of fraud may be subject to claw back, as may any refunds paid in error. The Government and Oldham Council will not tolerate any business falsifying their records or providing false evidence to gain their discount, including claiming support above the maximum subsidy allowances. A ratepayer who falsely applies for any relief or provides false information or makes false representation to gain relief may be guilty of fraud under the Fraud Act 2006.

7.0 Policy changes

- 7.1 Changes to this policy can be made under delegated authority of the Director of Finance in consultation with the Deputy Leader and Cabinet Member for Finance and Low Carbon.

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