

TRAFFORD COUNCIL

Report to: Executive
Date: 24 January 2022
Report for: Decision
Report of: Executive Member for Finance and Governance

Report Title

Business Rates COVID-19 Additional Relief Fund (CARF)

Summary

The Government announced on 25 March 2021 a new COVID-19 Additional Relief Fund (CARF) of £1.5 billion to support those businesses affected by the pandemic but that are ineligible for existing support linked to business rates. The relief is available to reduce chargeable amounts in respect of 2021/22 and must be directed towards ratepayers who have been adversely affected by the pandemic and have been unable to adequately adapt to that impact. As the measures are temporary there will be no change in legislation and therefore local authorities will be expected to use their discretionary relief powers to deliver the scheme. Trafford's allocation is £6.4m

Recommendation(s)

That the Executive:-

- i) Approve the proposed use of the proposed COVID-19 Additional Relief Fund (CARF) scheme as detailed in the report in line with the government guidance and available funding; and
- ii) Delegate the final allocation of the funding support to businesses to the Director of Finance and Systems, in consultation with the Executive Member for Finance and Governance.

Contact person for access to background papers and further information:

Name: Louise Shaw
Extension: 3120

Background Papers: None

Relationship to Policy Framework/Corporate Priorities	Successful and Thriving Places
Relationship to GM Policy or	Supporting the local economy

Strategy Framework	
Financial	The government has allocated Trafford £6.444m under Section 31 of the Local Government Act 2003 for the discretionary grants as well as new burdens funding to administer.
Legal Implications:	The government have confirmed that local authorities can use their discretionary relief powers under section 47 of the Local Government Finance Act 1988 (as amended)
Equality/Diversity Implications	No negative impacts
Sustainability Implications	N/A
Carbon Reduction	N/A
Resource Implications e.g. Staffing / ICT / Assets	Software changes will be required but the cost will be met as above, testing and delivery can be met within existing resources
Carbon Reduction	None
Risk Management Implications	N/A
Health & Wellbeing Implications	N/A
Health and Safety Implications	N/A

1.0 Background

- 1.1 On 25 March 2021, the Government announced a new COVID-19 Additional Relief Fund (CARF). The fund is available to support those businesses affected by the pandemic but that are ineligible for existing support linked to business rates.
- 1.2 The relief is available to reduce chargeable amounts in respect of the 2021/22 financial year and as they are only temporary measures, local authorities will be expected to use their discretionary powers (under section 47 of the Local Government Finance Act 1988) to grant these reliefs.
- 1.3 Trafford has been allocated £6.444m via a section 31 grant.

2.0 COVID-19 Additional Relief Fund (CARF) – Eligibility Criteria

- 2.1 Billing authorities will be responsible for designing the discretionary relief schemes that are to operate in their areas. However, in developing and implementing their schemes local authorities must, if they are funding the relief from the section 31 grant:
 - 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, Hospitality and Leisure), the Nursery Discount or the Airport and Ground Operations Support Scheme (AGOSS);
 - 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;
 - Direct their support towards ratepayers who have been adversely affected by the pandemic and have been unable to adequately adapt to that impact;
- 2.2 In line with the legal restrictions in section 47 (8A) of the Local Government Finance Act 1988, billing authorities may not grant the discount 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.

3.0 Trafford's Proposed CARF Scheme

3.1 In line with the government guidance and Trafford's maximum allocation, a proposed scheme is set out at Appendix A, which in brief is based on the following criteria, that a business:

- Has a business rates charge to pay in the 2021/22 financial year after other mandatory and discretionary reliefs have been applied;
- Has not been awarded, or would have been eligible for, the Expanded Retail Discount (covering Retail, Hospitality and Leisure), the Nursery Discount or the Airport and Ground Operations Support Scheme (AGOSS) for the same period, i.e. in the 2021/22 financial year;
- Is in occupation (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) – for the purposes of this scheme, intermittent occupations of 6 weeks or more are excluded from CARF;
- Can evidentially demonstrate that they have been adversely affected by the pandemic and have been unable to adequately adapt to that impact;
- Has not exceeded the subsidy control limits;

3.2 It is proposed that the amount of relief to be awarded should be determined once all applications and supporting evidence has been received and that an application window of 1 March to 31 March 2022 is set. Supporting documentary evidence should be submitted as required within one calendar month of it being requested. This is to ensure that a fair approach to the allocation of funding is adhered to, rather than this being subject to the application date as the fund is a specified limited amount. It will also ensure the maximum amount of funding is allocated within the shortest period of time.

3.3 In addition, it is also proposed that the funding allocation method following the application window closure, is delegated to the Director of Finance and Systems in consultation with the Executive Member for Finance and Governance. This is to ensure as timely decision making as possible. The allocation methodology will be based on the guidance which includes data on the most affected business types, as well as the criteria as defined in 3.1.

3.4 It is proposed that the application window opens on 1 March 2022 due to the other activity surrounding the application for, and decision making in respect of the Omicron related business grants. This particular relief is in respect of the annual bills mainly issued in March 2021, the recovery cycle for which has almost concluded and it is therefore anticipated that this application window start date will not have any adverse impact on those eligible for the relief. In addition, the Council will be able to hold recovery of 2021/22 arrears to those businesses who have been impacted and are waiting on their CARF application outcome.

4.0 Subsidy Control

4.1 The CARF scheme is likely to amount to subsidy and therefore any relief provided under this scheme will need to be complied with, on a business self-assessment declaration basis. Full details of the various subsidy control limit schemes can be found at Appendix B

4.2 In those cases where it is clear to the local authority that the ratepayer is likely to breach the subsidy control limits then Trafford should automatically withhold the relief.

5.0 Right of Appeal

5.1 In all cases where an organisation disagrees with the Council's decision, an appeal may be made in writing to the Director of Finance and Systems within one calendar month from the date of the decision

6.0 Fraud

6.1 The government and Trafford Council will not tolerate any business falsifying their records or providing false evidence to gain this discount, including claiming support above the subsidy control limits. A ratepayer who falsely applies for any relief, or provides false information or makes false representation in order to gain relief may be guilty of fraud under the Fraud Act 2006.

Other Options

The Council could in effect not access the government funding available on behalf of eligible businesses. This would mean that the Council would not award the CARF relief and subsequently local businesses would pay more business rates.

Consultation

As this is the local application of a central Government fund and an urgency to award businesses as soon as possible, no consultation is required.

Reasons for Recommendation

The reason for the recommendations is as set out at the beginning of the report


Key Decision : Yes

If Key Decision, has 28-day notice been given? Yes

Finance Officer Clearance GB

Legal Officer Clearance DS

[CORPORATE] DIRECTOR'S SIGNATURE

(*electronic*)..... 

To confirm that the Financial and Legal Implications have been considered and the Corporate Director has cleared the report prior to issuing to the Executive Member for decision.

Appendix A – 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 will be 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 Trafford, via a section 31 grant, up to the maximum level of allocation. Trafford's maximum allocation level for CARF is £6.444m and the combined CARF awards will therefore not exceed this amount.
- 1.4 The relief is available to reduce the amounts in respect of the 2021/22 financial year only.

2.0 Eligibility Criteria

- 2.1 Each application will be determined on its own merits having regard to the government guidance which has clear stipulations linked to the section 31 grant conditionality.
- 2.2 A Trafford based business will be able to apply for CARF rates relief in respect of the 2021/22 financial year on a per hereditament basis subject to the following criteria:
 - They have a continuing national non domestic rating liability and a charge to pay in the 2021/22 financial year after mandatory reliefs and other discretionary reliefs funded by section 31 grants have been applied;
 - They have not been awarded, or would have been eligible for, the Expanded Retail Discount (covering Retail, Hospitality and Leisure), the Nursery Discount or the Airport and Ground Operations Support Scheme (AGOSS) for the same period, i.e. in 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) – for the purposes of this scheme, intermittent occupations of 6 weeks or more are excluded from CARF;
 - The ratepayer can evidentially demonstrate that they have been adversely affected by the pandemic and have been unable to adequately adapt to that impact;
 - They have not exceeded the subsidy control limits;
 - They have applied within the application window of 1 March to 31 March 2022 and have submitted supporting documentary evidence as required within one calendar month of it being requested.
- 2.3 The amount of relief awarded should be recalculated in the event of a change of circumstances. This could include, for example, a backdated change to the rateable value or the hereditament. This change of circumstances could arise during the year in question or during a later year.

3.0 Method of Application and Supporting Evidence

- 3.1 An online application form, one per hereditament, will be required to be completed, which will include a self-assessment declaration in respect of the subsidy control limits.
- 3.2 The ratepayer will need to clearly state, and demonstrate, how the business has been adversely affected by the pandemic and why they have been unable to adequately adapt to that impact.
- 3.3 The ratepayer will also need to provide a copy of their two most recent audited accounts.
- 3.4 The Council may require further supporting information which must be provided within one calendar month from the date of request.

4.0 Amount of relief

- 4.1 The basis of the allocation of the relief per hereditament will be delegated to the Director of Finance and Systems and the Executive Member for Finance and Governance.
- 4.2 Although each case will be considered on its own merits, the number of applications received during the application window, the business type and the maximum funding allocation will all form part of the final CARF decision.
- 4.3 If awarding the CARF results in an overall credit for the 2021/22 financial year, the credit will automatically be applied to any outstanding bills starting with the current financial year, unless the ratepayer specifically requests a refund.

Right of Appeal

In all cases where an organisation disagrees with the Council's decision, an appeal may be made in writing to the Director of Finance and Systems within one calendar month from the date of the decision.

Fraud

The government and Trafford Council will not tolerate any business falsifying their records or providing false evidence to gain this discount, including claiming support above the subsidy control limits. A ratepayer who falsely applies for any relief, or provides false information or makes false representation in order to gain relief may be guilty of fraud under the Fraud Act 2006.

Appendix B – Subsidy Control, Trade and Co-operation Agreement, Small Amounts of Financial Assistance Allowance and the COVID-19 Additional Relief Fund Allowance and Further Allowance

Trade and Co-Operation Agreement

The COVID-19 Additional Relief Fund (CARF) is likely to amount to a 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).

Small Amounts of Financial Assistance Allowance

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 2022/23 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.

The COVID-19 Additional Relief Fund Allowance

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.

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.

COVID-19 Additional Relief Fund Further Allowance

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.