

**South Lakeland District Council
Cabinet**

Wednesday, 05 July 2022

**Covid-19 Additional Relief Fund - Discretionary Non
Domestic Rate Relief**

Portfolio: Finance and Assets Portfolio
Report from: Director of Customer and Commercial Services
Report Author: Amanda Foley – Principal Specialist (Welfare and Income Maximisation)
Wards: (All Wards);
Forward Plan: Key Decision included in the Forward Plan as published on 31 May 2022

Links to Council Plan Priorities: Working across boundaries

Delivering a balanced community

A fairer South Lakeland

1.0 Expected Outcome and Measures of Success

- 1.1 The decision will allow the Council to administer the discretionary Covid-19 Additional Relief Fund (“CARF”) and make grants to eligible businesses in line with section 47 of the Local Government Finance Act 1988 and in accordance with Government Guidance.
- 1.2 The fund has been made available by central government to grant relief on 2021/2022 Non Domestic Rates liabilities to assist those businesses that were affected by the pandemic but were ineligible for other grants under the previous schemes.

2.0 Recommendation

2.1 It is recommended that Cabinet:-

- (1) **Subject to Council approval of the budget, approves the Covid-19 Additional Relief Fund Discretionary Non Domestic Rate Relief (CARF) scheme attached in Appendix 1 for implementation by the Council; and**
- (2) **Delegates to the Operational Lead for People, Welfare and Income Maximisation the authority to make the final decision on the award of the CARF Scheme under section 47 of the Local Government Finance Act 1988**
- (3) **Delegates to the Director of Customer and Commercial Services the authority to determine any requests for reviews of decisions taken under the CARF scheme and delegates to the Lead Specialist for Finance (S151 Officer) the authority to determine any requests for review of decisions of the Director of Customer and Commercial Services under the CARF scheme for a final determination**
- (4) **Delegates to the Operational Lead for People, Welfare and Income Maximisation in consultation with the Lead Specialist for Finance (S151 Officer)**

and the Portfolio Holder for Finance and Resources the authority to make any administrative amendments required to the CARF schemes to reflect future changes in Government guidance or change in local need.

3.0 Background and Proposals

- 3.1 On 25 March 2021, Government announced the Covid-19 Additional Relief Fund (CARF), allocating £1.5 billion of support to assist those businesses affected by the Covid-19 pandemic and ineligible to apply for relief under the previous schemes.
- 3.2 Government guidance on the application of the scheme was published on 15 December 2021 including details of each Local Authority's allocation of funding. The guidance states that Local Authorities should design their own schemes, assessing the impact on businesses and having regard to the guidance, local circumstances and existing Non Domestic Rates legislation.
- 3.3 South Lakeland District Council has been awarded **£2,109,829** in funding for grants of relief in the district. Councils will be reimbursed up to the allocated level of discretionary relief awarded under section 47 of the Local Government Finance Act 1988.
- 3.4 Guidance states that grants should be made under the CARF scheme to assist those ratepayers who have been adversely affected by the pandemic and who were unable to adequately adapt to that impact.
- 3.5 As the eligibility criteria focus on the adverse impact of the pandemic, and the ability of businesses to adequately adapt to that impact, it has been much harder for the Council to identify potential qualifiers of this relief internally. To assist as many businesses as possible, the CARF scheme will be open to all ratepayers unless already excluded as outlined below in 3.10. There will be a requirement to self-certify that businesses meet these criteria via an online application process.
- 3.6 The government guidance stipulates that relief granted under the CARF scheme should be applied on a daily basis to eligible businesses in respect of chargeable Non Domestic Rates for the 2021/2022 financial year.
- 3.7 The government guidance also requires that relief granted under the CARF scheme cannot be awarded for periods when a business premises was unoccupied (except for businesses that were closed temporarily due to the government's advice).
- 3.8 Additionally, the government guidance specifies that businesses that were or would have been eligible for the Extended Retail Discount, the Nursery Discount or the Airport and Ground Operations Support Scheme are excluded from the scheme. In addition, under section 47 of the Local Government Finance Act 1988, grants may not be made to councils (including parish and county councils).
- 3.9 Section 47 of the Local Government Finance Act 1988 stipulates that decisions must be made within 6 months of the end of financial year in which the award falls therefore, in the operation of this scheme, by 30 September 2022.
- 3.10 The CARF scheme detailed in Appendix 1 has been set at a local level taking account of guidance specified by the government. The proposed policy can be found in Appendix 1 and details the eligibility criteria and award methodology as follows:

The level of relief to be awarded will be decided by the council after the closing date for applications which will be widely advertised across the district. Once all applications received within the deadline have been considered, the percentage of relief will be calculated as follows:

The total funding received by South Lakeland District Council

The total net rates liability of all qualifying applications

The percentage of relief to be awarded will be applied to the 2021/22 liability after any other reliefs and reductions have been deducted.

A qualifying application is one that meets all of the eligibility criteria as defined within the policy (Appendix 1, 3.0, 4.0, 5.0 and Appendix A, as confirmed by self-declaration that is received prior to the deadline set.

The criteria for the Covid-19 Additional Relief Fund are as follows:

- (a) The ratepayer is not eligible (or would be eligible) for the Expanded Retail Discount (covering Retail, Hospitality, and Leisure), the Nursery Discount or the Airport and Ground Operations Support Scheme (AGOSS);
- (b) The rate payer is not a council (including parish and county councils);
- (c) The ratepayer is not entitled to either Small Business Rate Relief or Rural Rate Relief granted at 100%;
- (d) The ratepayer is not entitled to mandatory relief (80%) and discretionary (top up) of 20% which is funded through business rates retention;
- (e) The hereditament is treated as occupied by the council;
- (f) The ratepayer confirms that they have been adversely affected by the pandemic and have been unable to adequately adapt to that impact;
- (g) The ratepayer is not subject to subsidy control as outlined below in 7.4 and in section 4 of the policy.
- (h) The hereditament is not excluded as shown in Appendix A of the CARF policy.

- 3.11 Should there be any change in circumstances related to a property which impacts on the amount of relief awarded negatively, awards made will be recalculated. At the point of application, the applicant is required to complete a declaration to confirm understanding that any relief awarded is conditional on the property's continuing eligibility and that in the event of any change in circumstances at the property which impacts eligibility, the award will be recalculated accordingly. Applicants are also required to complete a declaration to confirm that false or inaccurate information provided may result in criminal proceedings under the Fraud Act 2006. In the first instance, as this is a relief the relief will be applied to the account
- 3.12 Any adjustment will firstly, be offset against any arrears relating to 2021/2022. If there are no arrears accrued for 2021/2022, it will be offset against any previous year's arrears. If there is still a remaining amount it will be credited to 2022/2023 account and repayments adjusted accordingly. The award of this relief will not reset or delay any ongoing recovery process if arrears remain after the award is credited to an account.
- 3.13 As detailed in Appendix A (9.0), the council's scheme of delegation allows the Operational Lead for People, Welfare and Income Maximisation to awards, revise, or revoke any applications. The Director of Customer and Commercial Services will be consulted on any significant or contentious decisions prior to final determination.
- 3.14 Disputes in relation to the granting or non granting of discretionary relief as made by the Director of Customer and Commercial Services will be considered by the Council's Section 151 Officer whose decision on behalf of the council will be final. Any further dispute would then constitute a formal appeal process and Judicial Review.

4.0 Appendices Attached to this Report

Appendix No.	Name of Appendix
1	SLDC Policy for the granting of Covid-19 Additional Relief Fund Discretionary Non-Domestic Rate Relief

5.0 Consultation

- 5.1 Although a common approach is being taken with neighbouring Eden District Council to implement the Covid-19 Additional Relief Fund, it is not known at this stage whether that will be the case across the whole of Cumbria, as schemes are currently still being considered or in development.
- 5.2 A working group of Specialists have agreed the process for collecting information and administering payment of the grants.
- 5.3 A nationally recognised Revenues consultant had advised the working group of Specialists on the development of the scheme, and criteria proposed.
- 5.3 The Portfolio Holder for Finance and Assets, the Section 151 Officer and Specialist for Economy and Culture have been consulted on the detail of this decision and appended guidance.

6.0 Alternative Options

- 6.1 SLDC could choose not to use the discretionary relief provision which would not comply with the Government request and would not give the intended support to those businesses in the district that were impacted by the pandemic but ineligible under earlier Covid-19 relief schemes. This is therefore not a recommended option.
- 6.2 SLDC could chose to administer grants at a level exceeding the government allocation which would not be reimbursed and is therefore not affordable for the Council and also not a recommended option. Monitoring of levels of award will be undertaken to ensure that the Council will be fully reimbursed for grants awarded.

7.0 Implications

Financial, Resources and Procurement

- 7.1.1 Payment on account will be made to Local Authorities throughout the year to cover the cost of the scheme under the provision of Section 31 of the Local Government Finance Act 2003.
- 7.1.2 Pre-payment checks are not required under this scheme which is simpler to administer but which will rely on businesses completing a short application outlining the implications of making a false representation under the Fraud Act 2006, as detailed in 11.1 of Appendix 1, and self-certifying that they met the eligibility criteria.
- 7.1.3 Funding has been received to administer the scheme, totalling £2,109,829, which will not create an additional overall budget commitment as the funding received will be used to make awards to those who are eligible under the scheme, hence will be cost neutral. Under part 4 (7.3) of the council's constitution, virements in excess of £100,000 require approval by Council. A request for approval will be included in the outturn report due to be taken to full council on 13 July 2022 by the s.151 Officer. No applications or payments in respect of the CARF scheme will be considered or made until full council approval has been received.

Human Resources

- 7.2.1 It is not yet known the level of additional demand that will be placed on the revenues service following the launch of the scheme, which will be dependent on the number of applications received. It is anticipated that delivery of the scheme will be met using existing resources due to significant nationally recognised recruitment challenges within this field. However, it should be noted that delivery of the CARF scheme will impact on other work within the Revenues team, which may be delayed, or temporarily paused, particularly in light of the existing pressures within the service, and recent additional demands, for example, the Council Tax Energy Rebate main and discretionary support schemes. The impact will be monitored on an ongoing basis.

Legal

- 7.3 This report seeks authority to establish the discretionary Covid-19 Additional Relief Fund (“CARF”) in accordance with the scheme detailed in Appendix 1. The report also seeks approval to put in place appropriate delegations for the Operational Lead for People, Welfare and Income Maximisation to make grants to eligible businesses in accordance with the CARF scheme (and in consultation with the s.151 Officer and relevant Portfolio Holder to make any administrative amendments to the adopted scheme), and for the Director of Customer and Commercial Services to determine any arising requests for reviews in relation to grant award decisions. The report also seeks approval for any further requests for review/ appeal of decisions of the Director in relation to the CARF scheme to be delegated to the S151 Officer for the final decision of the council.
- 7.4 Guidance from the Department for Levelling Up Housing and Communities (“COVID-19 Additional Relief Fund (CARF): Local Authority Guidance” – see Background Documents) provides that the Government will, in line with the eligibility criteria set out in the Guidance, reimburse local authorities where relief is granted by the authority using discretionary relief powers under s. 47, Local Government Finance Act 1988. The DLUHC Guidance states that it is a matter for each authority to adopt a local scheme and to determine in each case whether to grant relief under s. 47, with regard to the adopted scheme and Government Guidance. Legal Specialists are advised that the CARF scheme detailed in Appendix 1 has been prepared by officers, in consultation with an external Business Rates Consultant, taking account of the DLUHC Guidance.
- 7.5 As a result of the UK’s exit from the EU (and following the end of the transition period), from 1 January 2021, the subsidy control regime is applicable to Government subsidised grants. The DLUHC Guidance for CARF notes that providing relief under a CARF scheme is likely to amount to a subsidy and that any relief so provided by local authorities will need to comply with the UK’s domestic and international subsidy control obligations. The Council must be satisfied that all subsidy allowance conditions have been fully complied with when making grant payments. The Council will request appropriate confirmation from recipients in respect of awards made (e.g. applicants will be required - via the Council’s online application process - to make a declaration with regard to subsidy allowances) and will retain appropriate evidence in support.
- 7.6 The DLUHC Guidance has clarified that there are three subsidy allowances applicable for the CARF schemes:

a) 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 (in a three-year period (consisting of the current financial year and the two previous financial years);

b) The COVID-19 Additional Relief Fund Allowance - 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;

c) Covid-19 Additional Relief Fund Further Allowance - for this allowance, applicants must satisfy a number of further conditions to demonstrate eligibility as set out in the Government Guidance.

7.7 The DLUHC guidance proposes a number of sample paragraphs for inclusion in application forms to explain options (a) – (c) above, and their requirements, to applicants. This will be a compulsory requirement under the Council’s online application process for the CARF scheme and the sample paragraphs will be included on the application form. It is recommended that the Council should ask businesses to keep necessary documentation to evidence the information provided.

7.8 The Council will need to comply with the transparency and reporting obligations regarding subsidy control.

7.9 The Council will also ensure that it has appropriate data protection arrangements in place in line with the GDPR and Data Protection Act 2018.

Health and Sustainability Impact Assessment

7.4 Have you completed a Health and Sustainability Impact Assessment? Yes

7.5 Summary of Health and Sustainability Impacts

		Positive	Neutral	Negative	Unknown
Environment and Health	Greenhouse gases emissions		x		
	Air Quality		x		
	Biodiversity		x		
	Impacts of Climate Change		x		
	Reduced or zero requirement for energy, building space, materials or travel		x		
	Active Travel		x		
Economy and Culture	Inclusive and sustainable development		x		
	Jobs and levels of pay	x			

	Healthier high streets	x			
	Culture, creativity and heritage		x		
Housing and Communities	Standard of housing		x		
	Access to housing		x		
	Crime		x		
	Social connectedness		x		

Equality and Diversity

7.6 Have you completed an Equality Impact Analysis? No

7.7 If you have not completed an Impact Analysis, please explain your reasons: It is not required in these circumstances as the scheme applies to all eligible businesses in the district.

7.9 Summary of Equality and Diversity impacts

Please indicate: P = Positive impact; 0 = Neutral; N = Negative; Enter "X"						
Age	P		0	X	N	
Disability	P		0	X	N	
Gender reassignment (transgender)	P		0	X	N	
Marriage & civil partnership	P		0	X	N	
Pregnancy & maternity	P		0	X	N	
Race/ethnicity	P		0	X	N	
Religion or belief	P		0	X	N	
Sex/gender	P		0	X	N	
Sexual orientation	P		0	X	N	
Armed forces families	P		0	X	N	
Rurality	P		0	X	N	
Socio-economic disadvantage	P		0	X	N	

Risk Management	Consequence	Controls required
Reputational damage of approval for the CARF scheme not being given	Criticism of the Council by ratepayers and the government.	Approval of the scheme recommended
Grants are not issued promptly	Businesses will not receive financial assistance as intended by government and within the statutory timescale	Online application form developed for efficient application of grants, staff trained and in place to verify and approve applications by 30 September 2022
Discretionary grants are given to fraudulent claimants	Grants are given to businesses that are not eligible, or made to	Online application process including requirement to self-certify as to eligibility and anti-fraud statement in conjunction with access to

Risk Management	Consequence	Controls required
	incorrect business rates accounts	Business Rates software holding ratepayer details
Process not applied, or applied incorrectly	Judicial review, financial loss, reputational damage	Administer the scheme and deliver the support in line with government mandate
Online application and verification processes to manage a multi-million pound scheme in order to get grants paid to businesses with minimal delay	Reputational impact to the Council and delays to the processing of payments	Robust process in place to expedite payment of grants whilst being compliant with government guidance and localised scheme
The processing of grants requires some redirection of staff resources from other activity	Other work may be paused or take longer to enable focus on processing of CARF scheme	Continuous management of competing demands on staff time. Leadership Team to be updates on resource needed, progress and delays etc
Change in applicant circumstances after grant has been awarded	Grants are given to businesses that are not eligible	Online application process including requirement to self-certify understanding that changes in circumstances will result in recalculation of awards, and timely recalculation of awards when a change of circumstances occurs

Contact Officers

Amanda Foley, Principal Specialist, Welfare and Income Maximisation,
amanda.foley@southlakeland.gov.uk

01539 739570

Background Documents Available

Name of Background document	Where it is available
Covid-19 Additional Relief Fund: local authority guidance	COVID-19 Additional Relief Fund (CARF): local authority guidance - GOV.UK (www.gov.uk)

Tracking Information

Signed off by	Date sent	Date Signed off
Section 151 Officer	30/05/22	17/06/2022
Monitoring Officer	30/05/22	20/06/2022
CMT	16/06/22	16/06/2022

Circulated to	Date sent
Lead Specialist	N/A
Human Resources Lead Specialist	N/A
Communications Team	N/A
Leader	N/A
Committee Chairman	N/A
Portfolio Holder	N/A
Ward Councillor(s)	N/A
Committee	N/A
Executive (Cabinet)	N/A
Council	N/A