

## **COVID-19 Business Grant - State Aid and UK Subsidy allowance guidance**

What is state aid and subsidy allowance?

Subsidies, formerly state aid is any advantage granted by public authorities through state resources on a selective basis to any organisations that could potentially distort competition and trade in the European Union (EU).

The definition of state aid/subsidies is very broad because 'an advantage' can take many forms. It is anything which an undertaking (an organisation engaged in economic activity) could not get on the open market.

### **State aid/subsidy allowance rules**

State aid/subsidy allowance rules can (among other things) apply to the following:

- Grants (Covid and non-Covid)
- loans
- tax breaks, including enhanced capital allowances
- the use or sale of a state asset for free or at less than market price

The rules can apply to funding given to charities, public authorities and other non-profit making bodies where they are involved in commercial activities.

In principle, state aid is not allowed in the EU. However, some state aid is beneficial to the economy and supports growth and other policy objectives. State aid can be given to support a wide variety of activities including research and development, environmental protection, and aid for small to medium sized businesses. The state aid rules allow for good aid, which is necessary to deliver growth and other important objectives.

The UK supports the need for effective state aid rules to prevent distortion of competition and to create an open and competitive market in the EU on which UK firms can fairly compete and grow.

**Please note that Coronavirus Job Retention Scheme grants (Furlough) is not considered as State Aid as was available to all businesses.**

### **Guidance for Business Grants awarded up to and including the 31 December 2020**

The EU State aid rules no longer apply to subsidies granted in the UK following the end of the transition period, which ended on 31 December 2020.

European Union laws restrict the amount of state funding businesses can receive. This includes government grants, loans, or tax reductions. Local Restrictions Support Grants count towards your state aid allocation. The EU State aid rules no longer apply to subsidies granted in the UK following the end of the transition period, which ended on 31 December 2020. The EU state aid rules that applied: 200,000 Euros received over a three-year period which covers the current financial year, running from April 2020 to March 2021, and the two preceding financial years, plus 800,000Euros received over the period March 2020 to December 2020.

The European Aid rules no longer apply to subsidies granted in the UK following the end of the transition period, which ended on 31 December 2020, however the United Kingdom remains bound by its international commitments, including subsidy obligations set out in the Trade and Cooperation

Agreement (TCA) with the EU. On Thursday 4 March 2021 new subsidy allowances were established for the COVID-19 business grants schemes, based on the principles set out in Article 3.4 of the TCA.

From Thursday 4 March 2021 the updated provisions must apply.

The below scheme rules will be applied to applicants at the level of economic actor, which is defined as an entity or a group of entities constituting 17 a single economic entity regardless of its legal status, that is engaged in an economic activity by offering goods or services on a market.

Grants may be paid in accordance with Article 3.2(4) of the TCA, which enables an applicant to receive up to a maximum level of subsidy without engaging Chapter 3 of the TCA. This allowance is 325,000 Special Drawing Rights, to a single economic actor over any period of three fiscal years, which is the equivalent of £335,000 as of 2 March 2021. An applicant may elect not to receive grants under the Small Amounts of Financial Assistance Allowance and instead receive grants only using the below allowances available under this scheme.

Where the Small Amounts of Financial Assistance Allowance has been reached, grants may be paid in compliance with the principles set out in Article 3.4 of the TCA and in compliance with Article 3.2(3) of the TCA under the COVID-19 Business Grant Allowance (subsidies granted on a temporary basis to respond to a national or global economic emergency). For the purposes of these scheme rules, this allowance is £1,600,000 per single economic actor.

This allowance includes any grants previously received under the COVID-19 business grant schemes and any State Aid previously received under Section 3.1 of the European Commission's Temporary Framework across any other UK scheme. This may be combined with the Small Amounts of Financial Assistance Allowance to equal £1,935,000 (subject to the exact amount applicable under the Small Amounts of Financial Assistance Allowance using the Special Drawing Right calculator).

Where an applicant has reached its limit under the Small Amounts of Financial Assistance Allowance and COVID-19 Business Grant Allowance, it may be able to access a further allowance of funding under these scheme rules of up to £9,000,000 per single economic actor, provided the following conditions are met:

- A. The Special Allowance covers only the applicant's uncovered fixed costs incurred during the period between 1 March 2020 and 31 March 2022, including such costs incurred in any part of that period ('eligible period').
- B. Applicants must demonstrate a decline in turnover during the eligible period of at least 30% compared to the same period in 2019. The calculation of losses will be based on audited accounts or official statutory accounts filed at Companies House, or approved accounts submitted to HMRC which includes information on the applicant's profit and loss.
- C. 'Uncovered fixed costs' means fixed costs not otherwise covered by profit, insurance or other subsidies.
- D. The grant payment must not exceed 70% of the applicant's uncovered fixed costs, except for micro and small enterprises (for the purposes of this scheme defined as less than 50 employees and less than £9,000,000 of annual turnover and/or annual balance sheet), where the grant payment must not exceed 90% of the uncovered fixed costs.
- E. Grant payments under this allowance must not exceed £9,000,000 per single economic actor. This allowance includes any grants previously received in accordance with Section 3.12 of the European

Commission's Temporary Framework; all figures used must be gross, that is, before any deduction of tax or other charge.

F. Grants provided under this allowance shall not be cumulated with other subsidies for the same costs.

An applicant must be able to provide the necessary documentation to demonstrate it is eligible for funding under this COVID-19 Business Grant Special Allowance.

Grants provided more than the Small Amounts of Financial Assistance Allowance may not be granted to applicants that were defined as an 'undertaking in difficulty' on 31 December 2019.

In derogation to the above, grants can be granted to micro or small enterprises (as defined above) that were already in difficulty on 31 December 2019 if they are not subject to collective insolvency proceedings.

It is the responsibility of the applicant to ensure North Lincolnshire Council is aware of any previous funding that has been received under any of the above exemptions. If an applicant is unsure, they must contact the grant provider to seek clarification and provide this evidence to North Lincolnshire Council.

North Lincolnshire Council does not hold responsibility for the evidence submitted and should an event occur where the applicant has breached state aid regulations then they will be held responsible and be required to repay part or all the grant awarded to them.

Additional Information

#### Difficulty in undertaking

'Undertaking in difficulty' means an undertaking in respect of which at least one of the following circumstances occurs:

1. 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 where 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. For the purposes of this provision, 'share capital' includes, where relevant, any share premium.
2. 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
3. Where the undertaking is subject to collective insolvency proceedings or fulfils the criteria for being placed in collective insolvency proceedings at the request of its creditors.
4. 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.
5. In the case of an undertaking that is not an SME, where, for the past two years: (1) the undertaking's book debt to equity ratio has been greater than 7.5 and (2) the undertaking's EBITDA interest coverage ratio has been below 1.0.

A business that is determined to be an 'undertaking in difficulty' can only receive grants up to the Small Amounts of Financial Assistance Allowance limit.

For more information on any of the above please visit <https://www.gov.uk/guidance/state-aid>