

REPORT TO THE MEETING OF THE EXECUTIVE - 2 DECEMBER 2020

PORTFOLIO: ENTERPRISE

REPORT FROM ASSISTANT DIRECTOR, PLACE AND ENVIRONMENT

SUBJECT: ESSEX BUSINESS ADAPTATION FUND (EBAF)

1 DECISION BEING RECOMMENDED

- 1.1 That the Council enters into a grant agreement with Essex County Council (ECC) to receive monies from ECC from which to administer the Essex Business Adaptations Fund (EBAF) in the form of grant payments to local businesses in Rochford district.
- 1.2 That the Assistant Director for Place and Environment finalises the grant agreement with ECC in consultation with the Portfolio Holder for Enterprise.

2 REASON/S FOR RECOMMENDATION

- 2.1 Due to local and national restrictions, many public-facing businesses are legally required to make adaptations to their premises to make them COVID-secure. These adaptations come at a cost that can be difficult for businesses to bear in light of reduced trade and revenues stemming from the same restrictions. ECC has received monies from Government to support the county's COVID 19 response and has identified from those monies this grant scheme (the Essex Business Adaptation Fund), which would provide an avenue for businesses to access external funding to support them to make the adaptations they require, supporting jobs and public health of residents.

3 SALIENT INFORMATION

- 3.1 As a direct response to the existing challenges facing local businesses, the Essex Business Adaptation Fund (EBAF) has been created to support small and medium enterprises (SMEs) to adapt their premises and/or operations in order to continue to operate in a COVID-secure environment and generate income whilst legislation permits them to remain open and/or when restrictions are removed and they are able to reopen.
- 3.2 The fund has been made available for the allocation received by Essex County Council (ECC) from Government in response to the county administrative area being placed in 'Tier 2' of local restrictions in October 2020. The fund has a total value of £2.2m, of which Rochford has been allocated £88,000.
- 3.3 ECC has requested that the fund be distributed by local authorities in light of their experience distributing other business grants over the pandemic, and

their relatively more direct relationship with likely eligible businesses (through the rating system and economic development services).

- 3.4 A policy has been prepared (appendix A) setting out how ECC wishes to see the EBAF implemented across the county. This policy is the result of feedback from individual local authorities who desired an approach that was easy for businesses to understand and which did not create a disproportionate burden on the administering local authority to implement.
- 3.5 As stated above, the primary purpose of the EBAF is to fund adaptations businesses may need to make in response to continuing COVID-19 restrictions. Grants of either £500, £1,000 or £1,500 will be available based on specific eligible items that can be claimed. No business can be awarded more than £1,500 from the EBAF, even if the total costs of the adaptations they require exceeds this figure.
- 3.6 The eligibility criteria for the EBAF are set out in detail in the policy at Appendix A, and are summarised below:
- Businesses must have premises in Rochford District
 - Businesses must be micro, small or medium-sized based on the definitions set out in the Companies Act 2006
 - Businesses must self-certify that they were open and trading to visiting members of the public on 4 November 2020
 - Businesses must self-certify that they have fixed property related costs
 - Businesses receiving the grant must declare that receipt of the grant will not cause them to exceed their legal allowance under State Aid regulations
- 3.7 Businesses will not be eligible for a grant if they were in administration, insolvent or subject to a striking-off notice at any time between local restrictions being introduced and the time of their application being assessed.
- 3.8 In their applications, businesses will need to declare what items of adaptation they are claiming for. Items of adaptation have been classified as having a notional value of either £500, £1,000 or £1,500. Whilst the initial assessment will rely on self-certification, ECC has committed to post-assurance quality checks and taking necessary action against any businesses found to have claimed for items they have then not implemented.
- 3.9 Details of items of adaptation eligible for a grant award, and the notional value of these, is set out in Appendix A. These include promotional material advertising the business is open, relevant training for staff relating to COVID-19 changes, physical adjustments to premises to make COVID-19 secure, creating an online presence to maintain business continuity and costs associated with diversifying operations (including private vehicle costs for

delivery services, access improvements, reconfiguration of the premises' interior and exterior furniture).

- 3.10 The policy also sets out spend that is not eligible for a grant award, including adaptations that are not COVID-secure, subsidy of services, acquisition of land, consultancy and professional fees and consumable PPE.
- 3.11 Assuming an average grant award of £1,000, it is likely that around 88 businesses will be eligible for the EBAF.
- 3.12 It is likely that a fixed application window will need to be advertised at launch; however, given the potential for demand to outstrip supply, the scheme will need to operate on a first-come-first-served basis.

4 ALTERNATIVE OPTIONS CONSIDERED

- 4.1 The Council is not obliged to assist ECC in administering the EBAF; however, a decision not to do so would mean Rochford District businesses failing to receive useful funding, or that funding being provided by ECC direct, later than it is required. This has the potential to affect the viability of local businesses and their relative competitiveness compared to other areas where the funding will be provided.

5 RISK IMPLICATIONS

- 5.1 As with any grant scheme, there is a small risk of fraud in the form of awards being made based on misrepresented details. This is particularly possible where an element of the assessment process relies on self-certification. Nevertheless, the Council is able to minimise the risk of fraud through an appropriate assessment process, including cross-referencing business details against other records.
- 5.2 ECC has advised that they will be managing the post-event assurance process which may include visiting premises to check that adaptations claimed for have actually been purchased and installed.
- 5.3 In every event, should the Council or ECC become aware that a grant award was made on the basis of fraudulent information, or has not been used for the expected purpose, the Council and ECC will be able to consider the case for taking legal action against that person to reclaim the funding.
- 5.4 The financial risk of the scheme to the Council is considered to be minimal as the funding is being provided by ECC. ECC has committed to transferring the Council's allocation for the EBAF to the Council within five days of the grant agreement being signed.

6 RESOURCE IMPLICATIONS

- 6.1 The administering of the EBAF can be achieved within existing budgets and human resources.

- 6.2 The total cost of the EBAF will be limited to the value of the Council's grant allocation from ECC of £88,000.

7 LEGAL IMPLICATIONS

- 7.1 The Council would be subject to the terms and conditions of the agreement which sets out the obligations for issuing the grant. It would be the responsibility of RDC to ensure that the grant is used for the established purpose and administered in line with the policy.
- 7.2 The agreement will have provisions for unspent monies to be returned to ECC and obligations for monitoring and reporting on the award of monies to applicants.

8 EQUALITY AND DIVERSITY IMPLICATIONS

- The Public Sector Equality Duty applies to the Council when it makes decisions. The duty requires us to have regard to the need to:
 - Eliminate unlawful discrimination, harassment and victimisation
 - Advance equality of opportunity between people who share a protected characteristic and those who do not
 - Foster good relations between those who share a protected characteristic and those who do not
- 8.1 The protected characteristics are age, disability, gender, race, sexual orientation, religion, gender reassignment, marriage/civil partnerships, pregnancy/ maternity.
- 8.2 The Equality Impact Assessment indicates that the decision in this report will not have a disproportionately adverse impact on any people with a particular characteristic.

I confirm that the above recommendation does not depart from Council policy and that appropriate consideration has been given to any budgetary and legal implications.

The decision should be taken as a matter of urgency and not subject to call-in because there is a clear need to administer this funding with expediency to maximise the benefit to businesses.

LT Lead Officer Signature: _____



Assistant Director, Place and Environment

Background Papers:-

None.

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If you would like this report in large print, Braille or another language please contact 01702 318111.

Schedule 1 The Project**1 Essex Business Adaptation Funding**

- 1.1 As a direct response to the existing challenges facing Essex businesses and the new measures introduced by Government, a fund has been created to support small and medium enterprises (SMEs) to adapt their premises and/or operations in order to continue to operate in a COVID-secure environment and generate income whilst legislation permits them to remain open and/or when restrictions are removed and they are able to reopen.
- 1.2 The Council is providing the Grant to the Recipient to allow the Recipient to distribute payments from the EBAF to Eligible Businesses. EBAF Grants do not need to be paid back unless the claim was subsequently found to be fraudulent or was not used for the EBAF Grant purpose.
- 1.3 The EBAF is a £2,200,000 fund, enabling local authorities to provide EBAF Grants of either £500, £1,000 or £1,500 per business as set out in this Schedule 1. No Eligible Business may receive more than £1,500 in each round of funding. The Recipient will distribute a portion of the EBAF as EBAF Grants to enable Eligible Businesses to carry out adjustments and improvements to their premises in order to assist them to continue to operate, keep staff in employment, improve their business, and to ensure the health and safety of their employees and customers in response to the current impact of COVID-19. EBAF Grants may also be used by Eligible Businesses to develop new operating practices and diversify businesses in order to capitalise on new opportunities such as new click & collect, takeaway or delivery services.
- 1.4 The requirements set out in sections 2, 3, 4, and 5 are for guidance purposes only. The Recipient may exercise its discretion, as a public body, in determining whether additional businesses or purposes may be awarded EBAF Grants from the Grant. Recipients may wish to exercise this discretion to align distribution of EBAF Grants to other COVID business support grants they are administering. No EBAF Grant may be made that is not for a purpose directly related to the purpose set out in section 1.1 of this Schedule 1.¹
- 1.5 It is recognised that there is insufficient funding available to cover all eligible businesses at the full grant value. Applications will therefore be processed in order of receipt with grants awarded until the funding available has been exhausted.

¹ Delete this paragraph if Recipient council does not wish to have discretion.

2.0 Eligible Businesses

To qualify as an Eligible Business that may receive an EBAF Grant, the business must self-certify that each of the criteria set out below is met:

2.1 the business has

- (a) fixed property related costs; and
- (b) was open and trading to visiting members of the public on 4 November; and
- (c) either:
 - (i) been required to close OR
 - (ii) been severely impacted by the restrictions imposed;

1.2 the business has a place of business within the Council's administrative area;

2.3 the business qualifies as one of the following:

- (a) "Micro" as defined by s384A (and not excluded by s384B) of the Companies Act 2006; or
- (b) "Small" as defined by s382 and 383 (and not excluded by s384) of the Companies Act 2006; or
- (c) "Medium-Sized" as defined s465 and 466 (and not excluded by s467) of the Companies Act 2006;

2.4 the business has all up-to-date and relevant certificate(s) to show compliance with laws and regulations relevant to its trade (for example a food hygiene certificate, a licence to sell alcohol, permission to operate a pavement seating area, trading authority);

2.5 the business is ensuring, and will continue to ensure, adherence to all COVID regulations;

2.6 the EBAF Grant will not constitute Unlawful State Aid.

3 Businesses that are not eligible

3.1 EBAF Grants shall not be made available to businesses that were in administration, insolvent, or where a strike-off notice had been made on or before the date that the business applied to receive an EBAF Grant.

4 Eligible expenditure

4.1 EBAF funding is intended to defray costs incurred by Eligible Businesses as a direct result of making adaptations to their premises or diversifying their operations in response to the introduction of COVID restrictions in Essex.

- 4.2 The total of all EBAF Grants to an eligible business shall not be more than £1500 in each round of funding.
- 4.3 The Recipient shall make EBAF Grants of £500 for items which are to:
- a) Promote that the business is operating and COVID-secure such as signage, stencils, leaflets, advertising, web / mobile technology.
 - b) Train, upskill, or reskill staff in courses directly connected to or associated with the adaptations or changes being made for businesses.
- 4.4 The Recipient shall make EBAF Grants of £1000 for items which can include the items set out in 1.4.3 and also include:
- c) Improvements, adjustments, or expanding business premises to assist them in continuing to operate in response to COVID-secure practices and social distancing guidelines in response to the current impact and COVID of COVID-19 (i.e. sanitiser stations/units, protective screens, barriers, adaptations for serving food and drink etc)
- 4.5 The Recipient shall make EBAF Grants of £1500 for items which can include the items set out in 1.4.3 and 1.4.4 and also include:
- d) Costs associated with establishing and running an online presence where the business does not currently have an online presence (ie digital technology platforms / licensing)
 - e) Enabling the business to diversify operations in order to generate new or enhance existing income streams including the purchase of equipment to enable this. Examples of eligible items included but are not limited to:
 - Vehicles and personal transportation connected with providing delivery services such as cycles.
 - Access improvements/ amendments (i.e. motion sensor doors, queuing adaptations, one-way set-ups, improvised waiting areas etc)
 - Internal adaptations (i.e. relocation of existing fixtures / fittings / services etc. potentially to support revised utilisation of space to ensure social distancing or diversified uses of premises)
 - Exterior furniture, shelter, heating, lighting (i.e. tables, seating, benches, awning, canopy, patio-heaters, interventions to support appropriately spaced outdoor service etc).

5 Spend Exclusions:

- 5.1 The Council and the Recipient administering the scheme reserve the rights on the measures that will receive EBAF Grants, subject to available budget, demand and complexity.
- 5.2 The following costs are excluded from the scheme and the Recipient shall not make EBAF Grants, and the Eligible Business shall not use EBAF Grants, for:
- a) Equipment / adaptations which are not COVID-secure and do not follow the guidance and legislation set out by Her Majesty's Government.
 - b) Acquisition of land / buildings either directly or indirectly connected to making businesses COVID-secure.
 - c) Direct subsidy of customers purchases for example offering 50% off meals.
 - d) Consultancy, design and statutory application fees.

- e) Professional fees (e.g. solicitor / surveyor / architect)
- f) Personal Protective Equipment, consumable items such as masks/gloves/sanitiser refill etc.
- g) Retrospective expenditure where works/items were already been obtained prior to 15th October 2020 when additional restrictions were introduced.
- h) Expenditure incurred 28 days after the Eligible Business receives notification that it has been successful in its application for an EBAF Grant.