

Business Grant Subsidy Allowance (previously referred to as State aid)

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.

There are still some limited circumstances in which State aid rules still apply under the Withdrawal Agreement, specifically Article 10 of the Northern Ireland Protocol. To determine whether Article 10 applies, it will be necessary to assess each case on its individual facts to establish whether the subsidy could affect trade in goods between NI and the EU. For example, to the extent that a UK-wide measure benefits NI companies, or if a subsidy is given to a company in GB with a subsidiary or branch in NI (without appropriate separation between those entities), it is likely to fall within the scope of Article 10. The UK remains bound by its international commitments, including subsidy obligations set out in the Trade and Co-operation Agreement (TCA) with the EU.

On 4 March 2021 new subsidy allowances were established for the COVID-19 business grant schemes. From this date, Copeland Borough Council must apply the updated scheme rules. The rules do not apply retrospectively. Therefore, if an application has previously been rejected before 4 March on the grounds the business had reached previous State aid limits, the application must not be revisited. Businesses may however submit a new application if still within a current payment cycle.

The following rules apply to COVID-19 business grants on the basis of the EU-UK and Co-operation Agreement (TCA)

Rules are applied to applicants at the level of economic actor, which is defined as an entity or a group of entities constituting a single economic activity by offering goods or services on a market.

There are three subsidy allowances for this scheme.

Small Amounts of Financial Assistance Allowance (SMFAA)

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. An applicant may decide not to receive grants under SMFAA and instead receive grants using the below allowances.

COVID-19 Business Grant Allowance (C19BGA)

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).

COVID-19 Business Grant Special Allowance (C19BGSA)

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;

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

Businesses must be able to provide the necessary documentation to demonstrate eligibility for funding under C19BGSA.

Grants provided in excess of the SMFAA will not be granted to applicants that were defined as an 'undertaking in difficulty' on 31 December 2019. The 'undertaking in difficulty' does not apply to small and micro companies (less than 50 employees and less than £9 million turnover) providing the business is not subjective to collective insolvency proceedings.

Further government guidance on the UK's international subsidy control commitments can be found here: [Guidance on the UK's international subsidy control commitments - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/guidance-on-the-uk-s-international-subsidy-control-commitments)