



Coronavirus Pandemic Emergency Loan Scheme

Policy and Guidelines

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1. Introduction

1.1. Orkney Islands Council (the Council) has developed an emergency loan scheme, as part of a wider package of measures, aimed at supporting businesses based in Orkney to mitigate the impact of the Coronavirus Pandemic on the local economy. The purpose of this emergency loan scheme will be to supplement rather than replace existing sources of loan finance and to help established and commercially viable local businesses suffering cashflow interruption in this time of uncertainty.

1.2 The scope of the emergency loan scheme will be restricted to supporting established businesses based within the local authority geographical area. Loan applications will be assessed against key eligibility criteria as set out in Section 4 to this document.

2. Who can Apply?

2.1. Sole traders, partnerships, limited liability partnerships, limited companies and other business models can all apply for emergency cashflow loan finance to sustain their businesses through the Coronavirus Pandemic and associated recovery period.

2.2. The Council can lend to micro, small and medium sized businesses (up to 250 employees and turnover not exceeding £50m).

2.3. UK Financial Services Regulations place restrictions on lending £25,000 or less to sole traders and partnerships/limited liability partnerships with 3 or fewer members. The Council is therefore unable to provide direct loans to sole traders/small partnerships of £25,000 or less but can assist with signposting to other loan providers who offer approved lending services.

2.4. Whilst there is no lower financial limit for applications from larger partnerships or limited companies, a loan of less than £25,000 from the Council is unlikely to be the most cost-effective way of accessing emergency cashflow loan finance support for businesses of this size. The availability of the Government backed Coronavirus Bounce Back Loan Scheme for loans of up to £50,000 will provide lending in the under £25,000 area that the Council cannot, leading to the Council loan offer in the £50,000 to £100,000 range.

3. Types of Funding Available

3.1. Loan finance will be provided in the form of secured loans through this Emergency cashflow scheme. It is recommended that applicants discuss their requirements with Economic Development Service staff prior to applying for loan finance.

3.2. The Council's preference is to provide gap funding or co-investment with Banks and other finance providers on equal ranking terms, or on a "pari passu" basis, rather than being the primary lender to businesses. Council loans will be considered where a second ranking arrangement is all that is available provided there is a valuation available that demonstrates that there is sufficient equity in business assets to cover the loan value after the first ranking security.

3.3. All applicants are required to maximise other private and public sector forms of funding before approaching the Council. Applicants will require to evidence this as part of

the application process. The Economic Development Service can assist applicants to identify other funding sources.

3.4. Subject to the agreement of any co-lender, the Council will give due consideration to any emergency cashflow loan facility being structured to provide an initial holiday period of up to 1 year before any repayments of principal and interest are scheduled. On a similar basis, loan repayments will be repayable on a simple or straight line basis over the remainder of the duration of a fixed term loan with all repayments collected by monthly Direct Debit.

3.5. The Council will act as any rational investor would do and will follow the market economy investor principle which is that when a public authority invests in an enterprise on terms and conditions which would be acceptable to a private investor operating under normal market economy conditions, the investment is not a state aid.

3.6. All offers of loan finance will be on commercial terms and conditions. Legal fees will be recharged to the borrower at cost. Arrangement fees and early repayment fees will also apply to any loan facility.

4. Eligibility Criteria

4.1. Loan applications will be assessed against key eligibility criteria that local businesses can demonstrate:

- Firstly, that they were commercially viable prior to the outbreak of the Coronavirus Pandemic.
- Secondly, a requirement for additional cashflow loan finance support is demonstrated together with the capacity to service such a facility.
- Thirdly, a commitment to 'weather the storm' and come out the other side intact and contribute to and strengthen the recovery of the local economy in terms of jobs, growth and other benefits.

4.2. Ineligible Applications

The following paragraphs detail the areas where applications will be considered ineligible for emergency cashflow loan finance. The Final Decision on whether projects are deemed ineligible will be made by the Head of Finance on the advice of a panel consisting of, the Executive Director of Development and Infrastructure, the Head of Planning, Development and Regulatory Services and the Head of Legal Services on the vires of the loan application.

4.2.1. Businesses that are assessed as not being financially viable prior to the outbreak of the Coronavirus Pandemic will not be eligible.

4.2.2. Funding will not be available through this scheme for specific cost items where this will have the potential to distort local market activity, such as the purchase of property on the open market.

4.2.3. Debt repayment, i.e. direct replacement of existing loan facilities, will not be eligible. Existing lenders will be expected to provide an undertaking to stand alongside the Council

in providing emergency cashflow finance to businesses for the duration of any loan agreement or at least consult with the Council prior to making any decision to restructure existing loan facilities.

4.2.4. Businesses which are deemed to be failing will not be eligible for assistance. Projects which have no intrinsic value other than as rescue packages are also ineligible.

5. Lending Terms

5.1. The Council will act as a rational investor at all times and follow the Market Economy Investor Principal. All loans will apply appropriate commercial terms and conditions which will be detailed in any offer of loan finance at the outset on the basis that the conditions require to be met prior to any loan funds being released. Those terms and conditions will also apply for the duration of the loan agreement.

5.2. Applicants will be required to provide adequate security for any loan facility. The level of security cover will reflect the underlying level of risk associated with each loan facility and will be assessed on a case by case basis.

5.3. The interest rate applied to emergency cashflow loan finance will reflect the inherent level of risk associated with investing in the business. Once an interest rate has been set it is fixed for the loan period. Rates will be no lower than what a commercial lender would apply and where possible by agreement will be on equal terms or “pari passu” with existing lenders or co-lenders. Alternatively, where it is not possible to reach an agreement with existing lenders, then the Council will follow the State Aid Reference Rate methodology to establish a proxy for a commercial rate of interest to apply.

5.4. The loan period will be set following an assessment of the business model and the applicant’s ability to service the loan facility. As a guideline, an emergency cashflow loan facility with a duration of up to 6 years, based on an initial repayment holiday period of up to 1 year, followed by up to 5 years to repay the loan balance in full would be standard terms. Given the short-term nature of the emergency cashflow loan facility, requests for such a loan facility for up to 10 years may be considered in exceptional cases, but any request beyond 10 years is unlikely to be approved.

5.5. Applicants are expected to fund a proportion of their emergency cashflow requirements from sources other than the Council. The Council will not normally fund more than 50% of these requirements but may extend to 75% in exceptional circumstances.

6. How to Apply

6.1. In the first instance, potential applicants should contact the Economic Development Service to discuss their requirements and their eligibility for the emergency cashflow loan finance. At this point, the Economic Development Service will identify if an applicant requires any other business support including the services offered by Business Gateway.

6.2. Business Gateway

6.2.1. This is a government initiative which aims to provide a range of support measures to those who wish to start up a new business or to grow an existing business. This service is supported by local and national resources and includes:

- Access to training courses.
- Business planning advice from an accredited adviser.
- Advice on funding opportunities.
- Access to national information services.

6.2.2. The Business Gateway is operated by the Council's Economic Development Service and should be the first point-of-contact for all business support enquiries.

6.2.3. Once the Economic Development Service is satisfied that a business meets the eligibility criteria for emergency cashflow loan finance, the applicant will be invited to submit a completed loan application form, business plan and supporting documentation.

6.3. Application Form

6.3.1. The application form details the information and documentation which is required to apply. The form is available from the Council's Economic Development Services in paper or electronic form. Contact details for Economic Development are listed on the front page and a direct link to the web page is below:

<https://www.orkney.gov.uk/Service-Directory/B/business-development.htm>

6.3.2. Within the form applicants are requested to detail their requirements for an emergency cashflow loan.

6.3.3. The application form includes a declaration and undertaking which must be printed and signed before the form is returned. The main body of the application can be emailed or submitted in paper form.

6.4. Business Plan

6.4.1. Support with business planning can be provided through the Business Gateway Service, if required. Contact details for Business Gateway can be found in the following link:

<https://www.bgateway.com/local-offices/orkney/local-support>

6.4.2. A business plan should include the following information:

- Business background.
- Overview of the business sector.
- Company structure.
- Management structure.
- Description of the business model including outputs and outcomes.

- Description of links in the supply chain.
- Details of current and proposed employment.
- Analysis of the market in which the business operates.
- Details of current/potential competition.
- Sources of Finance – existing and proposed. Please state what other applications have been submitted, any feedback received and/or any approvals.
- Justification for seeking emergency cashflow finance from the Council.
- Impact on the business if the cashflow finance is not secured.
- A 6-year cash flow projection.
- A 6-year projection of the business Profit and Loss Account and Balance Sheet.

6.4.3. The business plan must be supported by financial projections for a minimum of 6 years. This will include profit & loss accounts, cashflows and balance sheet forecasts. The cashflow requires to be prepared on a monthly basis and projections should be accompanied by detailed assumptions in relation to statements made in the application.

6.4.4. Businesses will also be asked to supply a full set of financial accounts for the previous 3 years. Management accounts may also be requested along with other information required in the assessment process, for example, asset lists, details of key contracts, licences held.

7. Decision Making Process

7.1. On receipt of an application, Economic Development Staff will look carefully at your application and provide advice and feedback on the potential success of an application before progressing further. Applications that meet the Council's lending criteria as set out in this guide will be formally assessed and a recommendation will be made to a decision panel by the Economic Development Staff team on whether a loan should be offered.

7.2. Approval/Rejection decisions will be taken by the Head of Finance on the advice of a panel consisting of the Executive Director of Development and Infrastructure, the Head of Planning, Development and Regulatory Services and having received advice from the Head of Legal Services that the proposed loan is not ultra vires.

7.3. An indication of the timescale for a decision will be given by Economic Development Staff at an early stage in the application process.

8. Monitoring of Loans

8.1. Economic Development Staff will monitor all loan advances to ensure that the loan beneficiaries meet the requirements and conditions of the Council scheme. As part of the monitoring of all loans Economic Development Staff will carry out annual business reviews on each borrower. Part of this process will involve following up on the estimated benefits to the local economy as detailed at the time of application.

8.2. Finance Staff will monitor the performance of the emergency cashflow loan book including accounting for the all scheduled loan repayments and accounting for the fair value of the financial instruments.

9. Applicable Legislation

9.1. Applicants must be aware that the following UK and Scottish legislation applies to any and all information provided to the Council within the application form or accompanying documents:

9.1.1. Data Protection 1998

Orkney Islands Council is registered under the Data Protection Act 1998. Any personal information provided in the application form will be used solely by the Council in connection with the application for loan assistance.

9.1.2. Local Government (Scotland) Act 1973

It is normal practice for reports on applications for loan assistance to be considered in private due to the exempt content including personal and financial detail. However, some information provided in the application form and in the supporting submissions may be made public in reports to the Council or any of its relevant Committees if the Council Members decide to do so having taken legal advice. The Council may also make details of any approval public through local press releases.

9.1.3. Freedom of Information (Scotland) Act 2002

Any information provided in an application may be provided to the public under the Act. If there is any information contained in the application form or supporting documentation which applicants do not wish to be publicised, they must disclose this at the time of application. Any requests for disclosure of such information may be discussed with the applicant, however, it cannot be guaranteed that information supplied in connection with an application will be kept confidential.