

## **The Ombudsman's final decision**

Summary: Mr X complained the Council refused his application for a Small Business Grant even though he applied before the closing date. He says his business has suffered financially as a result. We find no fault by the Council as Mr X's business was not in receipt of small business rate relief when he applied for the grant. The relief was not awarded until October when the grant scheme was closed.

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## **The complaint**

1. Mr X complained the Council refused his application for a Small Business Grant even though he applied before the closing date for the scheme.
2. Mr X says his business has suffered financially.

## **The Ombudsman's role and powers**

3. We investigate complaints about 'maladministration' and 'service failure'. In this statement, I have used the word fault to refer to these. We must also consider whether any fault has had an adverse impact on the person making the complaint. I refer to this as 'injustice'. If there has been fault which has caused an injustice, we may suggest a remedy. (*Local Government Act 1974, sections 26(1) and 26A(1), as amended*)
4. If we are satisfied with a council's actions or proposed actions, we can complete our investigation and issue a decision statement. (*Local Government Act 1974, section 30(1B) and 34H(j), as amended*)

## **How I considered this complaint**

5. As part of the investigation, I have:
  - considered the complaint and the documents provided by the complainant;
  - made enquiries of the Council and considered the comments and documents the Council provided;
  - discussed the issues with the complainant;
  - sent my draft decision to both the Council and the complainant and taken account of their comments in reaching my final decision.

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## What I found

### Small Business Rate Relief

6. Small business rate relief (SBRR) is applied if business premises have a rateable value of less than £15,000 and, in most cases, if the business uses only one property.
7. If relief is applied, then any business with premises with a rateable value of less than £12,000 will pay no business rates.

### The Small Business Grant Fund

8. In March 2020, in response to the COVID-19 pandemic, the government created schemes for councils to pay grants to small businesses. These included the Small Business Grant Fund (SBGF).
9. To receive funding from the SBGF a business had to be in receipt of small business rate relief (SBRR) (or rural rates relief) on 11 March 2020. Eligible businesses would receive a grant of £10,000.

### Key facts

10. Mr X is a solicitor and has a business premises with a rateable value of £11,500. This means the property was eligible for SBRR but Mr X had not applied for it so was not in receipt on 11 March 2020.
11. Mr X made an application in May 2020 for the SBGF. As he was not in receipt of SBRR, his application was refused. Mr X did not contact the Council about this matter again until 12 October 2020 when he queried why his business was not awarded a grant. He said that all other businesses he had spoken to which paid business rates had received a grant.
12. The Council responded the same day saying that as he is not in receipt of SBRR he did not qualify for the SBGF. It also said that as he has more than one business he would not qualify for SBRR. Mr X responded asking why the Council thought he had more than one business. The Council replied saying he never applied for SBRR and so was not entitled to the SBGF. It did not respond to his question about why it thought he had more than one business.
13. Mr X emailed the Council again saying he previously applied for the SBGF before the deadline of 30 September and again asked why he had not been awarded the SBGF. He said the Council seemed to be putting weight on the fact he has a second business and again asked what his second business is. He said that even if the application process has closed, then the Council's determination was potentially defective.
14. The Council email in response said it had tried to call him to discuss the matter but he was unavailable. It acknowledged Mr X had applied for the SBGF before the closing date but that he has not applied for SBRR. It said this was why it decided he was not eligible for the SBGF.
15. Mr X made an application for SBRR. Following investigation by the Council it determined that if Mr X had applied previously he would have been entitled to SBRR from 1 April 2015. The Council says that as a gesture of goodwill it backdated the SBRR which generated a credit of £22,699.93. This was refunded to Mr X on 2 November 2020.
16. Mr X's MP made a formal complaint on his behalf to the Council. In response, the Council explained that when Mr X originally applied for the SBGF he was not in receipt of SBRR and so the application was refused. Although he was later

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awarded backdated SBRR, this happened after the closing date for the SBGF and so it could not be awarded.

17. Dissatisfied with the Council's decision, Mr X complained to the Ombudsman.

### **Analysis**

18. When Mr X applied for the SBGF in May 2020, his business was not in receipt of SBRR and so the Council did not make an award. Government guidance states that all businesses in receipt of SBRR on 11 March 2020 are eligible for a payment under the SBGF. To qualify for SBRR, Mr X had to apply for it and there is nothing to suggest he did this before 11 March 2020. There is no fault in the Council's decision to refuse the SBGF.
19. The Council was able to make awards of SBGF until 30 September 2020. After receiving the Council's refusal in May 2020, Mr X did not contact the Council again until 12 October. Although he then applied for and was awarded SBRR, this was after the SBGF closed and so the grant could not then be awarded.
20. While I can appreciate Mr X's frustration that he should have been awarded the SBGF, I am not persuaded the reason it was not awarded was due to fault by the Council. It made the correct decision in May 2020 when Mr X initially applied for the SBGF because he was not in receipt of SBRR on 11 March. Mr X did not apply for SBRR until after the SBGF closed. The fact Mr X made an application in May 2020 was not a basis for the Council to award the SBGF after the scheme had closed.

### **Final decision**

21. I will now complete my investigation as there is no evidence of fault causing a significant injustice.

### **Investigator's decision on behalf of the Ombudsman**

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