

New UK subsidy control regime

Purpose

For discussion and direction.

Summary

The Government has launched a consultation on a new subsidy control regime for the UK, ahead of issuing primary legislation.

No longer being subject to EU law, the UK can decide which subsidies are allowable, where, and for what purposes. The new regime will impact on a wide range of issues of concern to local government and will also govern the award of grants that councils themselves issue to businesses and organisations.

LGA Officers have been engaging with Whitehall at an early stage to ensure local government concerns are reflected in the new regime. LGA now wishes to respond formally to the consultation and seeks members' views.

Recommendations

Board members are asked to consider the issues raised within the report and provide a view on the suggested focus of an LGA response.

Action

Officers to feed members' views back in the consultation response.

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Overview

1. On 3 February 2021, the Government (BEIS) published its [consultation](#) 'Subsidy Control: designing a new approach for the UK'. The document provides detail on the proposed new regime and seeks responses to a range of questions. The consultation closes 31 March 2021, after which the Government will issue primary legislation governing the whole of the UK.
2. In line with the UK's international commitments, the government has indicated that public support will only be allowed to step in where there are clear social, economic or environmental advantages and a value-for-money case can be made.
3. Most new grant programmes or one-off grants, whether national, regional, or local will have to comply with a range of principles to ensure the grants minimise the distortive effects on competition. The system will be governed by an independent body, possibly the Competition and Markets Authority.

Impact on councils

4. The regime will set the legal framework for subsidies/grants of all types in the UK. This will include areas where local government has a direct role:
 - 4.1 payments issued in relation to tackling COVID. Councils issue several business support grants and the adult social care infection control fund for example
 - 4.2 local growth or enterprise funds such as the proposed UK Shared Prosperity Fund, the Communities Recovery Fund, Levelling Up Fund and the Towns Fund, or any loans given by councils
 - 4.3 one-off grants from councils to small-scale initiatives which benefit local communities, such as arts, culture, heritage, museums, sports events, social enterprises, volunteer and community groups.
5. The regime will also impact areas where local government typically has a less direct role but nevertheless remain fundamentally important:
 - 5.1 support for environmental measures, including energy saving and climate measures contributing to the 'net zero carbon' goal
 - 5.2 subsidising employment and skills programmes
 - 5.3 subsidies for public service provision in areas of market failure, such as rural bus or rural broadband services, some types of waste collection etc.
 - 5.4 support for research, development, and innovation
 - 5.5 business bailouts, such as failing steel works, car manufacturing plants, banks. Councils may have a role in workforce support packages following redundancies

5.6 aid to ferry links, airlines and airports. Councils may have part ownership.

6. The consultation is seeking views on whether bespoke rules are needed for any or all of the above activities, and the Government will support each area with guidance. It will also explore those instances where the size of grant is so low that it can be automatically considered to be compatible with the regime (no more than £340,000 to single recipient over a three-year fiscal period is proposed).
7. There are also proposals in relation to transparency. Public bodies, including councils, will have to publish all awards of aid above a threshold on a new publicly accessible subsidies database. The proposed reporting threshold is £500,000, for most types of aid.

Proposed LGA response

8. As part of our long-standing dialogue with Whitehall on these questions, we would propose that our response to the consultation is based around following key messages:
 - 8.1 The new regime must be based on local government's experience of what works on the ground.
 - 8.2 Significant simplification and local flexibilities are needed in several areas to ensure local ambitions can be delivered including:
 - 8.1.1 supporting the COVID recovery
 - 8.1.2 ensuring economic growth and 'levelling up'
 - 8.1.3 delivering social benefits / promoting community cohesion
 - 8.1.4 delivering employment and skills reforms
 - 8.1.5 delivering environmental and transport improvements.
 - 8.3 We recognise the need for transparency, but new reporting burdens should be limited. Reporting burdens at the level of each grant programme must be taken into account: councils should only have to publish their awards to businesses one time and in one place.
 - 8.4 Legal difficulties should be ironed out. The businesses receiving the aid, rather than councils, must be responsible for keeping track of the public support they receive from different sources for example. As currently, businesses should continue to self-certify that aid received does not exceed the permitted thresholds.
 - 8.5 The new regime needs to be supported by training and capacity building activities for local government officers. Many councils will not have in-house state aid expertise. Undue concerns over compliance should not stifle valuable projects which should otherwise go ahead. Councils must be given a 'green light' to deliver local benefits.
 - 8.6 The regime needs to be predictable and clearly separated from the new public procurement regime (which LGA is also helping to co-design with government). When goods or services are procured via public procurement, the subsidy control regime is not applicable.

8.7 We seek members' views on these messages.

Implications for Wales

9. The proposals will provide a single legal framework for the whole of the UK. There may be concerns in Welsh local government that a single national framework for subsidies may limit devolved powers in fields such as economic development. Government underlines that spending decisions within the parameters of the new regime will remain with the devolved administrations, however.

Next steps

10. Having discussed the issues raised in this report, lead members will be asked to agree the LGA's final detailed response to the consultation (43 questions).