

UK Government Subsidy Control Regime Consultation

Purpose

- 1 To inform Members of the UK Government's Subsidy Control Regime consultation and seek views on the proposed key messages for the WLGA response.

Background

- 2 As the UK has left the EU it will no longer be governed by EU State Aid rules. The UK Government is consulting on a new subsidy control regime for the UK, ahead of issuing primary legislation. As the UK Government is no longer subject to EU State Aid rules, it can decide which subsidies are allowable, where and for what purposes.
- 3 The EU State Aid rules were repealed in the UK from the 31st of December 2020. However, they continue to apply to any state aid awarded prior to that date and the European Commission may investigate any aid awarded prior to the 1st of January 2021 until the 31st of December 2024. The State Aid rules also continue to apply to any award of EU Structural Funds in the UK until late 2023. The WLGA has amended the timescale of all its notified schemes under the EU General Block Exemption Regulation (GBER) as a result, ensuring continued cover for local authorities in the provision of aid within certain areas of activity.
- 4 A new Subsidy Control regime has applied in the UK since the 1st of January 2021. The interim regime was established at short notice and is currently operating in a wider legislative vacuum hence the publication of this consultation on a new regime to inform future legislation.
- 5 In this interim period the UK Government has set out initial technical guidance for public authorities on the current application of the regime in the form of the "*Technical guidance on the UK's international subsidy control commitments from 1 January 2021*" – copy available via following link:

[Technical guidance on the UK's international subsidy control commitments - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/consultations/technical-guidance-on-the-uk-s-international-subsidy-control-commitments-from-1-january-2021)
- 6 The new regime will impact on a wide range of issues of concern to local government and will, for example govern the award of grants that local authorities issue to businesses.

Overview of the proposals

- 7 The UK Government Department for Business, Energy and Industrial Strategy (BEIS) published its consultation '*Subsidy Control: designing a new approach for the UK*' on the 3rd of February with a closing date of the 31st of March, after which the UK Government will issue primary legislation governing the whole of the UK. Full details of the consultation and how to submit a response available via the following link:

- 8 As with the UK Internal Market Act, and the recent UK funding announcements for local and regional economies, the new UK subsidy control regime is being progressed without the involvement of the Devolved Governments and will result in less of a role for them in the future. Under the EU State Aid regime, the WLGA worked closely with the Welsh Government on many aspects, from designing appropriate state aid cover for local authorities in the form of notified schemes under the EU General Block Exemption Regulations (GBER) to ensuring annual reporting of aid. It seems that local authorities in Wales, as in the other Devolved Nations, will now be expected to deal directly with the UK Government in relation to administering, governing and reporting aid.
- 9 In line with its international commitments, the UK 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. 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 UK Competition and Markets Authority.

Implications for Local Authorities

- 10 The regime will set the legal framework for subsidies/grants of all types in the UK. This will include areas where local authorities have a direct role, including:
 - Payments issued to address the impact of COVID on local economies such as the business support grants.
 - Replacement EU funding programmes and funding streams, including the Levelling Up Fund, the UK Community Renewal Fund and the UK Shared Prosperity Fund.
 - 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.
12. The regime will also impact areas where local government typically has a less direct role but nevertheless remain fundamentally important such as:
 - Support for environmental measures, including energy saving and climate measures contributing to the 'net zero carbon' goal and decarbonisation programme.
 - Subsidising employment and skills programmes.
 - Subsidies for public service provision in areas of market failure, such as rural bus or rural broadband services, some types of waste collection etc
 - Support for research, development, and innovation.
 - Business bailouts, such as failing steel works, car manufacturing plants, banks: local authorities may have a role in workforce support packages following redundancies.

- Aid to ferry links, airlines and airports: local authorities may have part ownership.
13. The consultation is seeking views on whether bespoke rules are needed for any, or all, of the above activities, and the UK Government will support each area with guidance.
 14. 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, similar to the previous de-minimis provision within the EU State Aids rules which local authorities have regularly operated under).
 15. There are also proposals in relation to transparency. Public bodies, including local authorities, 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 WLGA response

16. It is proposed the WLGA's response should include the following:
 - 16.1 The new regime must be at least as beneficial as the one it replaces, must not disadvantage Wales in relation to any other part of the UK and must not be unduly administratively burdensome.
 - 16.2 The new regime must be based on local government's experience of what works on the ground. Local flexibilities are needed in several areas to ensure local ambitions can be delivered, such as in relation to:
 - supporting the COVID recovery
 - ensuring economic growth and 'levelling up'
 - delivering social benefits / promoting community cohesion
 - delivering employment and skills reforms
 - delivering environmental improvements.
 - 16.3 Whilst the WLGA recognise the need for transparency, any new reporting burdens should be proportionate and as light touch as possible. Reporting burdens at the level of each individual grant programme must be taken into account; local authorities should only have to publish their awards to businesses once and in one place.
 - 16.4 Legal difficulties should be ironed out. The businesses receiving the aid, rather than local authorities, must be responsible for keeping track of the public support they receive from different sources. As currently, businesses should continue to self-certify that aid received does not exceed the permitted thresholds.
 - 16.5 The new regime needs to be supported by training and capacity building for local authority officers. Many local authorities will not have in-house state aid expertise.

- 16.6 Undue concerns over compliance should not stifle valuable projects which should otherwise go ahead.
- 16.7 Local Authorities must be enabled to deliver local benefits for their local communities, businesses and people.
- 16.8 The WLGA welcomes the proposed higher threshold of £340,000 aid to a single recipient over a three-year fiscal period being automatically considered as compatible with the regime.
- 16.9 The WLGA would also welcome the introduction of “notified schemes” based on a template of acceptable aid, similar to the EU General Block Exemption Regulation, as that would provide local authorities, and other public bodies, with a greater degree of legal certainty when providing aid.

Regional Policy

- 17 A key aspect of previous arrangements, of particular relevance and importance to Wales and other disadvantaged areas across the UK, was the Assisted Area Map, which identified disadvantaged areas where higher levels of subsidy were justified as a result of their socio-economic characteristics.
- 18 The WLGA worked closely with both the UK and Welsh Governments on successive iterations of the UK Assisted Areas Map and on the associated rules of regional investment aid for the 2000-06, 2007-13 and 2014-20 EU programming periods, ensuring as much coverage as possible for areas across Wales to have the ability to provide the highest levels of aid to their businesses, communities and people (this was different to the boundaries for the EU Structural Fund programmes).
- 19 The WLGA is of the view that a new UK Assisted Area Map is now required, not least to enable the delivery of the UK Government’s levelling up agenda, as not all nations and regions within the UK are starting from an equal playing field. Further, protecting the UK internal market is only of relevance where there is a level playing field to start with.
- 20 The WLGA would support the development of a replacement UK Regional Aid policy aligned with regional and local economic plans to provide local government and its partners the flexibility to tailor interventions and investments that best support local growth tailored to the place-based characteristics of that specific area.
- 21 A new UK Assisted Area Map needs to be urgently co-designed with local government and devolved governments across the UK to ensure an equal level playing field in achieving the levelling up agenda in a fair and equitable manner across the UK. This is critical to achieving parity and spatial justice in the awards of funding under new UK funding schemes for local and regional economies.

Recommendations

22 Members are invited to:

- 22.1 provide comment on the report;**
- 22.2 approve the proposed key messages to inform the WLGA's response as outlined in paragraph 16; and**
- 22.3 offer their views on the need for a new UK Assisted Area Map as outlined in paragraphs 17-21.**

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