



Is a charity eligible to apply for a Business Interruption Loan? If so, how does it do it?

Morgan Lewis

In light of the rapidly developing situation and government response, this memorandum is current as at 06 May 2020.

What is the Coronavirus Business Interruption Loan Scheme?

The Coronavirus Business Interruption Loan Scheme (“**CBILS**”) is part of a government support package for UK businesses (including charities).

It is operated by the British Business Bank via certain accredited lenders, and seeks to alleviate the impacts of the coronavirus on small and medium-sized businesses by offering financial support to combat loss of revenue and cash flow disruptions.

What are the key features of the CBILS?

An accredited lender may provide a borrower with a loan of up to £5 million, as a term loan, an overdraft, invoice finance or asset finance. The term is up to six years for term loans and asset finance facilities. The term is up to three years for overdrafts and invoice finance facilities.

The loans will have commercial interest rates, but the UK Government will pay interest payments and any lender-levied fees for the first 12 months.

The borrower is responsible for repaying 100% of the loan.

The UK Government will provide lenders with a guarantee of 80% of the outstanding balance of the facility, subject to the lender’s annual claim limit.

For facilities under £250,000, personal guarantees are prohibited. For facilities over £250,000, personal guarantees may be required by the lender. However, personal guarantees are limited to 20% of the outstanding amount after recoveries of business assets. Security cannot be taken over primary residential property.

The borrower will not pay any guarantee fee to the UK government. It will be paid by the lender.

Which charities are eligible for a Business Interruption Loan?

The charity must meet the following criteria:

- its business activity must be based in the UK;
- its annual turnover must be no more than £45 million;

- the lender must consider that it has a viable borrowing proposal, were it not for the current coronavirus pandemic;
- it must be able to self-certify that it has been adversely affected by the coronavirus;
- the loan must be used to support primarily trading in the UK;
- it must not have been classed as a “business in difficulty” as at 31 December 2019, if applying to borrow £30,000 or more; and
- the application must be made for business purposes.

The charity does not have to demonstrate that it can grant sufficient security.

The British Business Bank has clarified that the “business in difficulty” test applies to charities. If a charity or non-profit organisation provides goods and services and is a limited liability company or an unlimited liability company, the test should be applied as with other companies. Where the charity undertakes its activity through a subsidiary, the tests should be applied on a group basis. If it is a trust or unincorporated association, the accumulated losses test does not apply.

A charity is a “business in difficulty” if, as at 31 December 2019, it had:

- accumulated losses of more than half of its equity capital (this test does not apply to trusts or unincorporated associations); or
- started, or had fulfilled the criteria to be put into, insolvency proceedings; or
- not reimbursed or terminated other rescue aid, or was under a restructuring plan; or
- (where it does not meet the SME criteria) has fallen below solvency ratios for the previous two years.

For the purposes of the “business in difficulty” test, an SME includes self-employed people, family businesses, and partnerships or associations regularly engaged in an economic activity. It additionally comprises any micro, small or medium-sized charity with fewer than 250 employees and an annual turnover not greater than £45 million.

Each accredited lender is likely to have additional criteria. The charity should first contact the bank at which it has a bank account or an existing loan (and look at its website). If that bank will not lend, then it should approach other accredited lenders (and look at their websites).

How can a business apply for a Business Interruption Loan?

There are over 60 accredited lenders¹. The type and amount of finance available under CBILS will vary between lenders. The charity should review details of CBILS on the websites of the lenders to determine which finance is available.

The charity must then contact the lender via the lender’s website to make an application for financing. The charity should first contact the bank at which it has a bank account or an existing loan.

The lender may ask for the following information:

- the amount of funds that the charity requires;
- the purpose for which the charity needs the funds;

¹ <https://www.british-business-bank.co.uk/ourpartners/coronavirus-business-interruption-loan-scheme-cbilis-2/current-accredited-lenders-and-partners/>

- the period over which the charity will repay the amount borrowed;
- management accounts;
- cash flow forecast;
- a business plan;
- historic accounts; and
- details of assets.

The information and documentation required is likely to vary between lenders. If the charity approaches their existing lender for a smaller facility, the business may need to provide less documentation.

A lender has a discretion whether to lend. If a lender rejects the application for financing under CBILS, the charity may approach another accredited lender.

CBILS launched on 23 March 2020 and the expansion of CBILS was effective from 6 April 2020. If the charity was previously unsuccessful in securing CBILS funding between those dates, it should consider contacting the lender again to review its application.

On 29 April 2020, the British Business Bank removed the requirement for registered charities to derive more than 50% of their turnover from trading activities. Charities which were previously ineligible for CBILS funding on this basis may now apply, provided they meet the other eligibility criteria.

Issues for charities to consider

Charities must consider whether a business interruption loan is appropriate. Many charities in this difficult period are facing “lost”, rather than “deferred” revenue, and it may be the case that such charities are not willing to assume borrowing liabilities under a business interruption loan.

In any event, charities should check their governing documents for any provisions which restrict their ability to borrow.

Are there any other options for charities?

On 8 April 2020, the UK Government announced a £750 million funding package to support “frontline charities”.

Government departments will allocate £360 million to charities providing key services and offering critical support to vulnerable people. Recipients will include hospices, St John Ambulance, charities which help victims of domestic abuse and vulnerable children, and Citizens Advice.

£370 million will also be distributed to small and medium-sized charities which provide services in local communities, such as delivering food and essential medicines and providing financial advice. This includes a grant to the National Lottery Community Fund for those in England. Of that £370 million, £60 million will be allocated using the Barnett formula to charities in Scotland, Wales and Northern Ireland.

Charities are also eligible for the UK Government's Bounce Back Loan Scheme ("BBLS").² This scheme enables charities to borrow between £2,000 and up to 25% of their turnover, subject to a cap of £50,000. The UK Government will provide lenders with a full guarantee of 100% of the outstanding balance of the facility, including both principal and interest. The interest payable is set at a rate of 2.5%, which will be paid by the Government for the first 12 months. Please note that charities which benefit from CBILS will not be eligible for a loan under BBLS, unless that loan will be refinanced under BBLS.³

See <https://www.morganlewis.com/topics/coronavirus-covid-19>

² <https://www.british-business-bank.co.uk/ourpartners/coronavirus-business-interruption-loan-schemes/bounce-back-loans/faqs-for-small-businesses/#f1>

³ See <https://www.lawworks.org.uk/sites/default/files/files/LW-NFPP-C19-CORP-Business-BB-Loan.pdf>