

Special Urgency Decision

Report title	Adult Social Care Infection Prevention Ring Fenced Grant (2020)	
Decision Maker	Special Urgency Decision	
Cabinet member with lead responsibility	Councillor Ian Brookfield Leader of the Council	
Wards affected	All Wards	
Accountable Director	David Watts, Director of Adult Services	
Originating service	Adults Commissioning	
Accountable employee	Becky Wilkinson	Head of Adults Improvement
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Report considered by	Legal Finance	

Recommendation(s) for action or decision:

That the Leader of the Council, two cabinet members, and the Chair and Vice Chair Scrutiny Board formally authorise the following decisions under the special urgency provisions as detailed in the Council's Constitution namely paragraphs 6.10 and 6.11 of article 6 authorises the following decisions under the special urgency provisions:

1. Approve the Council entering into a grant agreement between the Ministry of Housing, Communities and Local Government (MHCLG) and CQC registered care homes in the city to distribute the Infection Control Fund grant as directed by the Department of Health and Social Care, together with any ancillary documents necessary for the Council to receive the funds.
2. Approve the creation of a supplementary budget of £3.3m fully funded by the Adult Social Care Infection Prevention Ring Fenced grant 2020 provided by MHCLG and expenditure in line with the grant terms and conditions. This funding will be paid as a Section 31 grant ring fenced exclusively for actions which support care homes and domiciliary care providers mainly to tackle the risk of Covid19 infections and is in addition to funding already received. 75% of the ring-fenced grant must transfer directly to CQC registered Care Homes (2,516 beds in total) and 25% spent by the local authority in line with grant conditions

3. Approve the proposed communication and process for allocation and monitoring of 75% of the grant funding to Care Homes in line with the grant conditions as set out in section 3 of this report.
4. Delegate authority to the Director of Adult Services, in consultation with the Director of Public health, to approve the plan on behalf of the council for the allocation of the 25% of grant funding to the Wolverhampton System in line with the grant conditions as set out in section 3 of this report.

This is agreed by the following:

Leader of the Council

Cabinet member

Cabinet member.....

Chair of Scrutiny Board.....

Vice-Chair of Scrutiny Board.....

Dated – 16.06.2020

1.0 Purpose

- 1.1 The Government set out the conditions of the Adult Social Care Infection Prevention Ring Fenced grant on 23 May 2020. The primary purpose of this fund is to support adult social care providers, including those with whom the local authority does not have a contract, to reduce the rate of COVID-19 transmission in and between care homes and support wider workforce resilience. A small percentage of it may be used to support domiciliary care providers and support wider workforce resilience to deal with COVID-19 infections.

2.0 Background

- 2.1 On the 23.05.2020 Government set out details and conditions attached to the Adult Social Care Infection Prevention Ring Fenced Grant (2020). This grant will be paid in 2 equal instalments;

Payment 1: May 2020

Payment 2: July 2020

- 2.2 To receive the second instalment, authorities must have returned a Care Home Support Plan by 29 May 2020.¹ Residential care providers, including homes with self-funding residents and homes run by local authorities, will also be required to have completed the Capacity Tracker at least once and committed to completing the Tracker on a consistent basis to be eligible to receive funding. The payment of the second instalment is contingent on the first being used for infection control measures and being used in its entirety.
- 2.3 The Department of Health and Social Care's expectation is that the grant will be fully spent by local authorities on infection control measures of the specified kinds within 2 months of the authority receiving the second instalment. If at the end of September 2020 there is any underspend or the Department is not convinced that the authority has spent the funding according to the grant conditions outlined in the Grant Determination, the Secretary of State may reduce, suspend or withhold grant payments or require the repayment of the whole or any part of the grant monies paid, as may be determined by the Secretary of State and in writing to the authority.
- 2.4 The funding will be administered by recipients receiving a letter from the Council setting out the terms of the funding. The registered care homes will be required to sign and return the letter to confirm that the terms are agreed
- 2.5 The Fund is aimed to support six main strands:
- A. Ensuring that staff who are isolating in line with government guidance receive their normal wages while doing so. At the time of issuing this grant determination this

¹ Care Home Support Plans as outlined in the letter of 14 May 2020

included staff with suspected symptoms of Covid 19 awaiting a test, or any staff member for a period following a positive test.

- B. Ensuring, so far as possible, that members of staff work in only one care home. This includes staff who work for one provider across several homes or staff that work on a part time basis for multiple employers and includes agency staff (the principle being that the fewer locations that members of staff work the better;
- C. Limiting or cohorting staff to individual groups of residents or floors/wings, including segregation of COVID-19 positive residents;
- D. To support active recruitment of additional staff if they are needed to enable staff to work in only one care home or to work only with an assigned group of residents or only in specified areas of a care home, including by using and paying for staff who have chosen to temporarily return to practice, including those returning through the NHS returners programme. These staff can provide vital additional support to homes and underpin effective infection control while permanent staff are isolating or recovering from Covid-19.
- E. Steps to limit the use of public transport by members of staff. Where they do not have their own private vehicles this could include encouraging walking and cycling to and from work and supporting this with the provision of changing facilities and rooms and secure bike storage or use of local taxi firms.
- F. Providing accommodation for staff who proactively choose to stay separately from their families in order to limit social interaction outside work. This may be provision on site or in partnership with local hotels.

2.6 The local authority must ensure that funding which it allocates for a measure described above is allocated on condition that the recipient care provider:

- A. uses it for those measures only
- B. will provide the local authority with a statement certifying that that they have spent the funding on those measures by 23 September.
- C. if requested to do so will provide the local authority or DHSC with receipts or such other information as they request to evidence that the funding has been so spent,
- D. provide DHSC or the local authority with an explanation of any matter relating to funding and its use by the recipient as they think necessary or expedient for the purposes of being assured that the money has been used in an appropriate way in respect of those measures.
- E. will return any amounts which are not spent on those measures

2.7 Eligibility

- A. A local authority must ensure that funding which it allocates for a measure described above is allocated on condition that the recipient care provider:
- B. uses it for those measures only
- C. will provide the local authority with a statement certifying that that they have spent the funding on those measures by 23 September.
- D. if requested to do so will provide the local authority or DHSC with receipts or such other information as they request to evidence that the funding has been so spent,
- E. provide DHSC or the local authority with an explanation of any matter relating to funding and its use by the recipient as they think necessary or expedient for the purposes of being assured that the money has been used in an appropriate way in respect of those measures.
- F. The local authority will return any amounts which are not spent on those measures

3.0 Approach to be taken by The City of Wolverhampton Council

3.1 The proposal for distributing the funds in line with grant conditions:

- A. CWC letter to all qualifying Care Homes notifying the providers of the conditions of the grant from MHCLG and the requirements placed on CWC for the monitoring of the grant.
- B. Return signed declaration accepting terms and conditions of the grant prior to allocation.
- C. Notification of State aid letter to all providers and confirmation of financial sustainability inline with State aid requirements to be returned prior to allocation of grant
- D. Engagement via survey with providers to co-produce options for 25% and agreement of the final plan to be delegated to the DASS in consultation with the DPH to sign off on behalf of the council due to time requirements.

4.0 Reasons for Special Urgency

- #### **4.1**
- In the light of the current situation involving Covid-19 the Council has, as a result of the Government's decision on restriction of movement, taken the decision to cancel all physical Council meetings until the rules allow these to be carried out. In the intervening period it will use the Council's urgent action powers for any decisions that must be taken. These powers are to be used sparingly and the guiding principles for any decisions are:

Only those decisions that have to be made (i.e. as a result of Covid-19 or related matters, including support of businesses in this difficult time or as a result of an immovable deadline) will be made.

The decisions will be made or endorsed (where the decisions have to be made very urgently) using the Urgent Action powers.

The decisions will be made available on a regular basis to Councillors through the daily update to Councillors and in any event through a weekly roundup of the decisions made through the relevant pages on the Council's website so that the Public can access them.

The relevant powers under the Constitution are:

Council Decision

6.10 Urgent Decisions outside the Budget or Policy Framework

An urgent decision which is contrary to the Policy Framework or budget adopted by the Council may be taken by the Cabinet if the Chair of the Scrutiny Board agrees that the decision is urgent. If no such Chair is available (or willing) then the Mayor or in his/her absence the Deputy Mayor may agree that it is urgent before a decision is taken.

6.11 Cabinet Decision

Where an urgent decision on a matter delegated to the Cabinet is required but it is not feasible to arrange a meeting of the Cabinet, the appropriate Director, in conjunction with the Head of Paid Service is authorised to take the appropriate urgent action provided that the action shall have first been discussed with and approved in writing by the Leader (or in the Leader's absence, the Deputy Leader) and two other Cabinet Members and the Chair and Vice-Chair of the Scrutiny Board or their nominees.

These proposed decisions fall into the criteria for urgent decisions set out above.

5.0 Reasons for decision

- 5.1 To create a supplementary budget fully funded through Government grant to implement measures to protect the residents in our Care Homes and prevent the spread where possible of Covid-19 for both residents and the care workforce and delegate sign-off of the final plan to the DASS and DPH on behalf of the council.
- 5.2 Evaluation of alternative options
- 5.3 Failure to adhere to grant conditions or accept the funds from MHCLG would put care homes at risk of provider failure due to the current increase in costs incurred in containing the spread of the virus. Evidence has shown that pro-active measures already taken within Wolverhampton care homes has resulted in a reduction of cases of the virus. To continue to undertake infection prevention without accepting the grant funding would significantly increase costs to CWC that would not be met by the Government in alternative ways.
- 5.4 A further option of putting in place a grant agreement was considered, however it would be extremely challenging to individually negotiate and complete 70 grant agreements and have them in place in time to administer the grants.

6.0 Financial implications

Approval is sought to create a supplementary budget of £3.3 million in Adult Services fully funded by the Adult Social Care Infection Control Fund. The Council is required to pay 75% of the total grant over to all CQC registered care homes in Wolverhampton within 10 days of receipt. The Council can then determine how to distribute the remaining 25% within specified guidelines. As detailed above the grant will be received in two tranches and must be spent by the end of September 2020. The care homes will be required to sign an agreement confirming their compliance with the grant conditions before receiving any funding. This agreement protects the Council from risk of grant clawback by the Department of Health and Social care by mirroring the grant conditions and reporting requirements as detailed in the body of this report. If these conditions are not complied with the Council will be able to withhold or clawback funding from care homes as required.

[JB/10062020/T]

7.0 Monitored in line with grant conditions

8.0 Legal implications

- 8.1 Support provided to care providers by local authorities using the grant paid to them from the Adult Social Care Infection Control Fund may constitute state aid. Local Authorities must comply with relevant state aid legislation when making allocations of the grant. Legal advice has been obtained by Counsel and this confirmed that the funding can be provided under the temporary framework established to allow aid to be provided to deal with the problems created by Covid 19.
- 8.2 The Council and Providers will need to comply with the terms of the grant agreement in order to receive the funding and may be subject to clawback if it does not comply with the terms.
- 8.3 The providers will also be required to comply with the terms of the grant letters referred to in this report.

[TS/10112020/Q]

9.0 Covid Implications

- 9.1 This funding has been provided to support adult social care providers, including those with whom the local authority does not have a contract, to reduce the rate of COVID-19 transmission in and between care homes and support wider workforce resilience.

10.0 Schedule of background papers

- 10.1 Government guidance on distribution of the fund.