

| | |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------|
| Interim Executive Director Adults and Health | Ref No: OKD23 20/21 |
| July 2020 | Key Decision: Yes |
| Allocation of Infection Control Grant Funding from Central Government (Second Stage) | Part I |
| Report by Head of Commissioning Adults and Health | Electoral Division(s): ALL |
| <p>Summary</p> <p>On 15 May 2020 the government announced a care home support package backed by a £600m infection control fund . The specified purpose of the grant is to provide support to adult social care providers, including those with whom the Council does not have a contract, to reduce the rate of COVID-19 transmission in and between care homes and support wider workforce resilience to enable improved infection control. The West Sussex allocation of this money is £13.363m. The expectation from government is that 75% of the money is passported directly to registered care home providers (including those the Council doesn't already contract with) and the remaining 25% is allocated based on local need.</p> <p>The Council is required to comply with a number of conditions set out in the grant circular distributed by Government.</p> <p>A key decision (Report Ref: OKD17 20/21) regarding the allocation of infection control money was approved on 12th June 2020 which recommended, in line with government guidance, that 75% of the £13.363m be passported directly to providers. The purpose of this report is to recommend how the remaining 25% balance should be distributed.</p> | |
| <p>West Sussex Plan: Policy Impact and Context</p> <p>National guidance dated 15th May 2020, "Care home support package backed by £600 million to help reduce coronavirus infections" is a series of measures to prevent and control infections in care homes and the wider market that support the focus of the West Sussex Plan and the West Sussex Social Care Action Plan (as referenced in the letter returned to the Secretary of state for care as of 29th May).</p> | |
| <p>Financial Impact</p> <p>The balance of the Council's allocation of the Infection Control Grant is £3.34m. The recommendations in this report utilise that amount in full, in accordance with the grant conditions set by Government.</p> | |
| <p>Recommendation</p> <p>The Interim Executive Director of Adults and Health is asked to approve that the remaining 25% of the Infection Control Funding is paid to providers in line with the proposal in section 2 of the report, subject to providers' acceptance of the terms and conditions of the Council's grant agreement with them.</p> | |

Proposal

1. Background and Context

- 1.1 The COVID-19 pandemic has meant that many care providers are facing challenges, however care homes have been particularly susceptible to outbreaks of infection. As a result, the government announced the allocation of a national infection control fund of £600m on the 15th May 2020. This fund focuses primarily on how to prevent and control the spread of COVID-19 in all registered care homes and help improve infection control measures.
- 1.2 Allocation of the money to local authorities was determined predominantly by the number of CQC registered beds across all client groups with a formula of £975 per bed. The expectation is that 75% of the allocation be passported to care homes directly and the remaining 25% be determined by local need in improving infection control measures. As part of considering local need, the Council is able to take into account all providers in the care market, not just those who operate residential homes.
- 1.3 There are specific aspects of infection control that the money can be spent on as set out in guidance published 9th June 2020 'About the Adult Social Care Infection Fund' and it must be spent by the end of September 2020.
- 1.4 The money cannot be spent retrospectively beyond the 13th May 2020.
- 1.5 Unlike the 75%, the 25% can be spent on Personal Protective Equipment (PPE).
- 1.6 The grant funding is provided to the Council pursuant to section 31 of the Local Government Act 2003 and as such is subject to specific conditions which are reflected in the grant agreement that will be entered into between the Council and the providers.

2. Proposal Details

- 2.1 75% of the allocated infection control grant from central government has been passed to providers in line with guidance and subject to grant conditions. The remaining 25%, approximately £3.34m, is left to the Council to distribute based on local need. An options appraisal has been carried out to determine how this money is distributed, towards the same objectives of infection control.
- 2.2 It is proposed that the 25% be distributed as follows, based on current need:
 1. Bed based support. The Council was required to allocate the first 75% of the funding on the basis of CQC registered beds. Under that approach those parts of the accommodation and support sector which do not have that status are excluded. Nevertheless, the impact of Covid-19 on those services and the accompanying need to spend on infection control measures will have been the same. Therefore, it is proposed to distribute £975 per bed (the same as residential care home bed rates in the 75% ICF grant) over two equal payments (unless the second tranche of money is received before the first payment is made) to the providers of the following:

- Supported living (across mental health and learning disabilities): 627 beds across 134 services
 - Accommodation based support: 173 beds across 8 services
 - Extra Care: 588 beds across 13 services
 - Shared Lives: 144 beds (in house and independent)
 - Total of 1532 beds @ £975 per bed = £1.49m
2. Domiciliary Care. The Government's announcement of the ICF specifically referred to domiciliary care as a sector that would be appropriate for consideration as part of decision-making around the 25%. For this purpose, providers have been categorised into three groups based on a distinction made by considering information held on the number of employees and customers. Need to spend on infection control will be heavily correlated with those two factors, so Small (providers with the lowest numbers of customers) will receive £5,000. Medium £10,000 and Large £20,000.

Based on this, West Sussex has:

| | |
|------------------------------------------------|-----------|
| Small: 43 providers x £5000 | =£215,000 |
| Medium: 29 providers x £10,000 | =£290,000 |
| Large: 28 providers x £20,000 | =£560,000 |
| To be confirmed: 26 providers (assumed medium) | =£260,000 |
| Total | £1.325m |

3. Outreach services supporting people within learning disabilities and mental health services are categorised using the same criteria as domiciliary care:

| | |
|-------------------------------|-----------|
| Small: 35 providers x £5,000 | =£175,000 |
| Medium: 3 providers x £10,000 | =£30,000 |
| Large: 1 provider x £20,000 | =£20,000 |
| Total | £ 225,000 |

4. Guidance for the 25% allows the Council to allocate this money for spending on personal protective equipment (PPE). This is not a freedom which is available to care homes who have received funding from the 75% payment, since PPE is specifically excluded as an eligible item. However, as a sector, the cost of PPE has become a significant pressure. As a result, the Council will distribute the balance of funding after the cost of items 1 to 3 has been finalised to care homes with CQC beds on the basis of a fixed sum per bed. Given that the estimated balance is around

£300,000, this is likely to translate into an amount of around £29 per bed.

- 2.3 To receive an allocation from 25% element of the grant, providers will be required to enter into a grant agreement with the Council. This will ensure compliance with the s.31 grant conditions imposed by Government.
- 2.3 The grant circular sets out a requirement for funding to be “passed on as quickly as possible”. However, given the s.31 grant conditions and the need to put in place “arrangements” with providers to comply with these conditions (i.e. a grant agreement), this requirement is challenging. The Council will endeavour to make payment of the funding to providers as soon as it reasonably can whilst also ensuring the s.31 grant conditions are met, and the Council is protected from any risk.
- 2.4 It is the Government’s expectation that the grant will be fully spent on infection control measures of the specified kinds by the end of September. If there is any underspend or the Department of Health and Social Care is not satisfied the money has been spent according to the grant conditions 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. This will be covered off within the grant agreement with providers to mitigate any risk the County Council.

Factors taken into account

3. Consultation

- 3.1 The defined timescales for the administration of these funds are extremely short. The proposals reflect the Council’s understanding of pressures in the market. Internally legal, finance and procurement teams have also been consulted and are supporting the process for payment.

4. Financial (revenue and capital) and Resource Implications

- 4.1 The County Council will administer the funding in line with the conditions that have been set by government. These conditions will be included in the Section 31 grant agreement that providers will need to agree prior to receiving any money. This will ensure that the County Council is able to recover any underspend from providers and so be able respond to any requirement to return funding to the Department of Health and Social Care without creating a liability for itself.
- 4.2 When combined with the allocations agreed in key decision ([OKD17 20/21](#)), the recommendations in this report will enable the available funding to be distributed in full. The approach proposed will also allow for prompt payment to providers, which is another key consideration because of the cashflow implications that Covid-19 is causing.

5 Legal Implications

- 5.1 The s.31 grant circular sets out that this funding may constitute state aid and that Local Authorities must comply with relevant state aid legislation when making allocations of the grant. Account has therefore been taken of the purpose of the funding, the form and scope of services otherwise available in

the market without such support and the conditions which will be attached to fund distribution in compliance with the Services of General Economic Interest Decision (SGEI) 2012/21/EU.

- 5.2 Member states are required to report on aid given under the SGEI decision every two years and therefore it will be important to advise the Department for Business, Innovation & Skills of its use.
- 5.3 The section 31 grant contains a number of conditions which the Council is required to ensure compliance with. All providers will be required to agree to the grant agreement to the Council before the funding is paid.

5. Risk Implications and Mitigations

| Risk | Mitigating Action (in place or planned) |
|-------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Risk to the Council of increased resource requirement to administer, distribute, monitor and potentially recoup unspent money | The Council will seek to minimise the resources required but cannot avoid such costs. |
| Lack of clarity in the government guidance may lead to different interpretations of demands on providers | Grant agreement as detailed as possible and additional guidance being sought via LGA/ADASS |
| Risk the Council is required to repay the grant funding if the s.31 grant conditions are not complied with. | Providers will be required to sign a grant agreement with the Council which reflects the s.31 grant conditions. This will include repayment provisions if the provider does not comply with the conditions. |
| Challenge from some providers as to how the 25% has been allocated, the amounts awarded and rationale for those decisions | The decisions regarding recipients of the 25% have been taken to maximise the impact of the strict Infection Control Fund criteria on the care market in the short time available. The amounts awarded have been determined on comparability with residential care, and bandings for domiciliary care etc. based on numbers of staff employed and customer numbers. |

6. Other Options Considered (and reasons for not proposing)

- 6.1 The options appraisal took into account other potential services to be considered. The County Council is able to consider use of wider funds to

further support the market and this is being actively considered alongside the allocation of the infection control fund

- 6.2 Not to put in place grant agreements would be contrary to Section 31 grant conditions and put the Council at risk of claw back from central government with no contractual means to recover from providers if there was no grant agreement in place.

7. Equality and Human Rights Assessment

Every effort will be made to ensure that the public sector equality duty is considered in the distribution of allocation to ensure the relevant factors and potential impact on the expectations of the duty are considered and mitigated where possible.

8. Social Value and Sustainability Assessment

Local market and service providers will primarily be supported by the grant allocation approach being taken.

9. Crime and Disorder Reduction Assessment

Not Applicable

Appendices None

Background Papers None

Head of Commissioning Adults and Health

Catherine Galvin

Interim Executive Director Adults and Health

Alan Adams

Contact Officer:

Chris Makin, Service Improvement Lead

Chris.makin@westsussex.gov.uk