

Report to Executive Director Adults and Health

February 2021

Allocation of Adult Social Care Rapid Funding from Central Government – Lateral Flow Device Testing

Report by Head of Commissioning, Adults and Health

Electoral division(s): All

Summary

On 23rd December 2020, the government announced a specific support package for adult social care providers backed by £149m to support the rollout of Lateral Flow Device (LFD) testing in care homes.

The specified purpose of this funding is to support additional rapid testing of staff in care homes, and to support visiting professionals and enable indoors, close contact visiting where possible. This includes adult social care providers with whom the local authority does not have a contract.

The West Sussex allocation of this money is £3.284m. The expectation from government is that 80% of the money is passported directly to registered care home providers and the remaining 20% is allocated to the care sector, for the same purpose, based on local discretion.

The Council is required to comply with a number of conditions set out in the grant circular distributed by Government.

Recommendations

The Executive Director of Adults and Health is asked to approve that;

- (1) 80% of the Adult Social Care Rapid Testing Funding is paid to care home providers, in line with Government Guidance, subject to the government grant conditions, and the providers' acceptance of the terms and conditions of the Council's grant agreement with them; and
- (2) that the allocation of the remaining 20% of the Rapid Testing Fund, will be allocated at the same rate per bed to support extra care and supported living settings. The remaining 20% funds will be allocated to smaller care homes and supported living settings where the proportionate costs are greater to implement LFD testing. This allocation is made for the same purpose as the 80%, based on local need and made subject to appropriate grant conditions.

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 an infection control fund of £600m on the 15th May 2020. This fund focused on how to prevent and control the spread of COVID-19 in all registered care homes and help improve infection control measures.
- 1.2 On 17th September 2020, the government announced a further infection control fund of £546m as a continuation of the support to social care providers to prevent, reduce and control Covid-19 infections.
- 1.3 The Adult Social Care Rapid Testing Fund is a new grant of £149m nationally, to support the increased Lateral Flow Device (LFD) testing in care settings, with separate conditions to the original Infection Control Fund (which ran from May to September 2020) and the extension to the Infection Control Fund (which runs from October 2020 to March 2021).
- 1.4 The government has ring-fenced 80% of the allocation to be passported to care home providers directly, and the remaining 20% be determined locally in improving testing measures. To be eligible for the money all recipients must agree to regular input into respective reporting mechanisms as per the grant conditions outlined.
- 1.5 This funding will be paid to the Council in a single instalment in January 2021 and can be used to cover expenditure from 2 December 2020 to 31 March 2021. All funding must be spent by its conclusion on 31 March, and any funding that remains unspent at this point will need to be returned to DHSC.
- 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.
- 1.7 A further new £120 million of funding is expected in the near future and has been reported by DHSC, of which West Sussex is estimated to receive around £1.6m to help local authorities to boost staffing levels, a direct ask of the sector. The funding will provide additional care staff where shortages arise, support administrative tasks so experienced and skilled staff can focus on providing care, and help existing staff to take on additional hours if they wish with overtime payments or by covering childcare costs. Guidance for this funding will be published shortly.

2 Proposal details

- 2.1 The Council's allocation of the LFD Testing fund is as follows:

The total allocation for West Sussex is £3,284,756

80% of this total is £2,627,804.80 and is based on the CQC provided data stated in the allocation (Annex B). In West Sussex there are a couple of homes that are not currently operational, some anomalies with bed numbers and a number of homes that do meet the eligibility criteria for the Rapid Testing fund. As a result, the 80% will be distributed equally between all eligible homes (9060 beds) equating to an amount of £290.04 per bed to support the LFD testing.

DHSC set out the requirements for providers to be compliant with the Rapid Test Funding. The Council has reviewed the information submitted by providers to confirm a judgement on eligibility based on consideration of a combination of factors; including completion of recent NECS tracker returns, historic completion of returns and compliance with completing reporting requirements. This exercise has concluded that 9060 residential beds are eligible for the 80% of the funding.

- 2.2 20% of the total is £656,951.20 and the same amount per bed of £290.04 will be allocated to each of the 1270 supported living and extra care beds in the County.

The remaining money will be distributed on a per bed basis to all eligible smaller care settings (20 beds or less) where the costs of introducing LFD testing are proportionately higher. This equates to an additional amount of £135.19 per bed, making a total payment of £425.23 per bed for the 2135 beds within 257 settings with 20 beds or less.

- 2.3 To receive an allocation from either the 80% or 20% 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.
- 2.4 It is the Government's expectation that the grant will be fully spent by care providers on measures to support rapid testing using LFD as identified within the guidance, by the 31st March 2021. If there is any underspend or the Department of Health and Social Care is not satisfied that it 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.
- 2.5 There is an expectation by the Government that 80% money is distributed to the care homes within 10 working days of receiving the allocation subject to the recipient agreeing to the terms and conditions applied. The allocation was received on the 20th January which means payments should be made by the 3rd February 2021, subject to care homes meeting the conditions stated in the local authority circular January 2021. The Council will distribute both the 80% and 20% funding at the same time in order provide maximum time for all providers to spend the money before the 31st March 2021 and to reduce the need for Council staff resources in distributing twice.

3 Other options considered (and reasons for not proposing)

- 3.1 Not paying out the grant funding to providers and returning the money to central government: not considered as against Government direction and providers dealing with COVID-19 in care homes are worst hit and the Council wants to support the market.

- 3.2 Not to put in place grant agreements: this 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.
- 3.3 Consideration was given to whether domiciliary care providers could access the funding but given the focus on lateral flow testing and visiting which do not apply in the same way to this part of the market currently this option was not included.

4 Consultation, engagement and advice

- 4.1 The defined timescales for the administration of these funds are extremely short so both the 80% and 20% will be distributed at the same time.
- 4.2 Internally legal, finance and procurement teams have been consulted and are supporting the process for payment.

5 Finance

- 5.1 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.
- 5.2 Funding allocations were made to local authorities based on registered bed numbers contained within published CQC data. Adjustments have been made where necessary with DHSC agreement.
- 5.3 The allocation is paid to the Council in one instalment in January 2021 and must be spent to increase LFD testing within care home settings by the 31st March 2021.

6 Risk implications and mitigations

Risk	Mitigating Action (in place or planned)
Risk to the Council of increased resource requirement to administrate, distribute, monitor and potentially recoup unspent money. The LDF funding has separate return criteria to be completed by providers and collated by the council to the ICF funding, though they will	No funding has been provided as part of the allocation for additional administrative costs incurred. The workload that the process entails will occur at the expense of other priorities for Adults, Legal and Finance teams.

Risk	Mitigating Action (in place or planned)
<p>be reported on the same template. This will increase the demand on council resources to communicate with providers, ensure collection of returns and collate information received.</p>	
<p>Government guidance advocates that councils should not release money without having received signed agreements back from providers. If the Council applies this approach it will not meet the strict timescales for distribution of the 80% funding will delay payments to providers reducing the window that they have to spend the funding prior to the 31st March 2021</p>	<p>Because of the short timescales for both passporting this allocation to providers and for them to spend the money on LFD testing the money will be sent out to providers without waiting for signed agreements to be returned. Providers will have clear instructions communicated via several methods and this process has been used in the past successfully. In administering a previous fund, all providers except one returned the addendum letters so the risk is low in comparison to the risk of not being able to get money to providers to meet the outcomes of the funding set out by DHSC.</p>
<p>Lack of clarity in the government guidance may lead to different interpretations of demands on providers</p>	<p>Grant agreement as detailed as possible and additional guidance being sought via LGA/ADASS</p>
<p>Risk the Council is required to repay the grant funding if the s.31 grant conditions are not complied with.</p>	<p>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. Providers will be reminded of their obligations in receiving money from the fund, including in respect of reporting, conditions of spend and completing the weekly tracker information.</p>

7 Policy alignment and compliance

- 7.1 From the 1st January 2021, public authorities are no longer bound by the EU state aid rules but are bound to ensure that they comply with the UK's international obligations on subsidy control.
- 7.2 The s.31 grant circular sets out that the Department of Health and Social Care considers that the grant funding, and the measures it is intended to support are consistent with the UK's international obligations on subsidy control. In line with this view, the Council considers that the COVID-19 infection control measures specified in the s.31 grant are consistent with the subsidy control requirements because the measures will help detect COVID-19 and reduce its incidence and spread and are over and above that which care providers would normally be expected to provide. Due to their potential to limit the transmission of COVID-19 and therefore prevent loss of life, the measures are of particular importance to, and in the interest of, care home residents, workers and their families as well as being in the general public interest. Further, the measures/services are not being provided by the market at the level or quality required by the market, and thus to secure their provision compensation needs to be provided to an undertaking or set of undertakings.
- 7.3 The Government will require the Council to record relevant information on relevant subsidies. At the present time, the Government (the Department for Business, Innovation & Skills) has not published details of what this will consist of and so the Council should ensure that information on the subsidy is retained in case it is asked in future to provide details to Government.
- 7.4 The section 31 grant contains a number of conditions which the Council is required to ensure compliance with, including completion by providers of the Care Homes Capacity Tracker, repayment of any funding not spent by 30 March 2021 or if spent on something other than the specific purpose set out in the s.31 grant. A grant agreement has been prepared by Legal Services to reflect these conditions and to ensure the Council, in making payment of the grant funding to the providers, is in compliance with the s.31 grant. In the event payment is made before the provider has formally signed and returned the grant agreement to the Council, the provider will be deemed to have accepted all of the grant agreement terms and conditions unless they have indicated to the Council, within set timescale, of receipt of the grant funding that they do not agree to the grant agreement conditions in which case the provider will need to refund the grant funding to the Council.
- 7.5 There will be one grant agreement per legal entity that is the owner/registered CQC care provider for the care home(s), if a provider has more than one care home, there will be one grant agreement to cover all care homes of that provider within West Sussex.

Catherine Galvin

Head of Commissioning, Adults and Health

Contact Officer: Chris Makin, Service Improvement Lead,
Email: chris.makin@westsussex.gov.uk

Appendices None **Background papers** None