

## KENT COUNTY COUNCIL – RECORD OF DECISION

**DECISION TO BE TAKEN BY:**

Cabinet Member for Adult Social Care and Public Health

**DECISION NO:**

20/00061

**For publication**

**Key Decision:** Affects more than 2 Electoral Divisions and expenditure of more than £1m

**Subject: Infection Control Fund**

**Decision:** As Cabinet Member for Adult Social Care and Public Health, I agree that:

- i) Kent County Council accepts the Infection Control Fund grant (£18.88m) under the terms set out by the government.
- ii) 75% of the Infection Control Fund received from central government (£14.16m) is made available to all registered care home beds in Kent based on the number of registered beds,.
- iii) In line with the terms set out by the government, the money will be paid to each provider in two equal instalments upon the provider entering into a legally binding commitment to:
  - (a) Complete and update the national capacity tracker
  - (b) Only spend the money for infection control purposes as set out in the letter from the Secretary of State for Health and Social Care
  - (c) Only spend the money on expenditure relating to Kent care homes which they would not otherwise have incurred.
  - (d) Apply open book accounting methods to demonstrate how the money has been spent
  - (e) Return any money paid where they cannot demonstrate that the money has been spent as permitted by 30 September 2020
  - (f) to minimise third party charges (for example, costs to avoid the use of public transport)
  - (g) Confirm that in no circumstances is any element of profit or mark-up applied to any costs or charges to be reimbursed as part of this scheme.
- iv) when the second instalment of infection control funding is received, the second instalment is made available on the same basis as the first, to operators once they can demonstrate they have spent the first instalment
- v) the Corporate Director for Adult Social Care will develop proposals on how to allocate the remaining 25% (£4.72m) of the Infection Control Fund grant, in line with the terms of the grant, to support the whole care market (including homecare, supported living and those on direct payments) with wider resilience in relation to COVID-19 Infection Control. These proposals will be subject to a further key decision.
- vi) I **DELEGATE** authority to the Corporate Director of Adult Social Care and Health, in consultation with the Cabinet Member for Adult Social Care and Public Health and the Corporate Director for Finance, to finalise the terms of and confirm the relevant payments as required; and
- vii) I **DELEGATE** authority to the Corporate Director of Adult Social Care and Health to take other relevant actions, including but not limited to entering into and finalising the terms of relevant contracts or other legal agreements, as necessary to implement the decision

**Reason for urgency:** To support the security of the social care provider market in Kent during the COVID19 crisis and enable providers to maintain delivery of essential services to the vulnerable people of Kent.

The government have stipulated that 75% of the initial grant should be passported to providers as quickly as possible. Whilst the government have advised this should be within ten working days upon receipt of the funding, given the scale and complexity of the social care market in Kent, and the number of providers with whom we have no relationship, funds will be passported as quickly as possible.

### **Background:**

On 14 May, the government wrote to Local Authorities announcing that £600 million will be issued to councils to support care providers through a new Infection Control Fund. This will be received in two instalments: 50% in late May and 50% in July. The government has required that 75% of this funding is for direct passporting to homes that have met the conditions outlined in the grant. There is more discretion over how the remaining 25% of the grant can be spent.

### **Legal Implications:**

Legal support has been engaged to develop an Infection Control Grant Agreement, in line with the requirements from Central Government and KCC's own contractual and commissioning policies. These agreements will need to be completed by the recipients before funding is released.

The issue of whether state aid will apply to these payments has been considered during the development of the agreement and measures are in place to ensure appropriate compliance. The agreement makes clear the conditions of the funding and provides for detailed monitoring of the application of the funding and requires re-payment where not used for specified purposes or where compliance is not met.

### **Financial Implications:**

The funding to the Council is received as a grant paid under section 31 of the Local Government Act 2003 ring-fenced exclusively for actions which support care homes in reducing the rate of COVID-19 transmission or to support wider workforce resilience including to domiciliary care providers; the total value is £18.88m.

A first instalment of £9.44m was received at the end of May and is required to be passed on to the market as soon as possible. This is based on 75% of the allocation being for all care homes in the market. This includes elements of the market that, until now, the Council has not had dealings with, and arrangements will need to be made with each home to ensure payment can be made to them.

The payment of the second instalment to providers is contingent on the first being used for infection control measures and being used in its entirety, if not fully used funds will need to be returned to government.

The guidance sets out that the remaining 25% is for the whole market to include other types of provision but with greater discretion at deciding how this proportion of funding can be spent.

Responsibility and accountability for the administration and management of the grant, once accepted from government, will sit with the Council. The administrative costs relating to the Infection Control Fund grant are not provided for from the grant and will need to be met by the council. There is also a risk that if, after payments are made to providers, the DHSC is not satisfied that the funding has been spent in accordance with the grant conditions, it subsequently requires the repayment of the whole or any part of the grant monies paid and the Council is unable to claw back

those funds from providers. Under these circumstances the Council would be required to provide these monies to government from the Council budget. The contractual terms set up with each provider aim to mitigate against this risk.

**Equalities implications:**

In view of the urgency of this decision a full equality impact assessment has not been undertaken, but no significant adverse impact is considered likely on any people with a protected characteristic, as this grant will ultimately support and protect vulnerable and elderly people in the community

**Data Protection implications:** There are no anticipated data implications associated with this decision.

**Cabinet Committee recommendations and other consultation:**

No Cabinet Committee consultation possible due to urgency process

The chair of the Scrutiny Committee, in addition to agreeing that the decision could not be reasonably deferred, provided the following comments:

Mr Booth supported the decision and indicated that every effort should be made to ensure the full funding could be used.

The Group Spokespeople of the Scrutiny Committee provided the following comments:

Mr Bird (LD Spokesperson) stated: *I fully support this decision. I note that £4.72m (25%) of the Infection Control grant is unallocated. I would strongly urge the Cabinet Member and Corporate Director to explore how a significant proportion of this unallocated funding can be used to strengthen infection control for home-care services.*

The Chair and Group Spokespeople of the Adult Social Care Cabinet Committee provided the following comments

None

**Any alternatives considered:** Other alternatives were considered, including not following this course of action, however in order to sustain services and providers in the care market to support the vulnerable people of Kent, these were discounted.

**Any interest declared when the decision was taken and any dispensation granted by the Proper Officer:**

None

12 June 2020

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signed

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date