

Agenda Item No:

DERBYSHIRE COUNTY COUNCIL

CABINET MEMBER

8 December 2020

Report of the Executive Director for Adult Social Care and Health

ADULT SOCIAL CARE INFECTION CONTROL FUND ROUND 2

ADULT CARE

1. Purpose of the Report

To seek Cabinet Member approval to:

- to redistribute the unallocated funds of £0.344m designated for care homes from Payment 1 (see 2.3.1 below) with a contribution of £0.106m from the 20% discretionary element from the Payment 1 of the October Infection Control Fund so that all community based services receive the grant of £336.03 per client as specified by Department of Health and Social Care.
- distribute the remaining balance 20% of Payment 1 of the second round of the 2020 infection control fund allocation to meet the Covid 19 staff cost incurred by direct payments recipients, and those unexpected staff costs experienced by eligible home care and care home providers in addressing Covid-19 infection control measures.
- distribute 20% of Payment 2 of the second round of the infection control fund allocation, in combination with any underspend from Payment 1 to be shared between eligible care homes and home care providers to further assist with meeting the costs associated with provision of infection prevention and control procedures.

2. Information and Analysis

2.1 Background

A second round of the Infection Control Fund (ICF) has now been made available to cover the period 1 October 2020 to 31 March 2021. Payments to the Council will be made in two equal instalments, one in October 2020

(already received and distributed to Care Homes as per grant conditions) and another in December 2020.

Pursuant to section 31(4) of the Local Government Act 2003 the Secretary of State attached conditions to the payment of the grant, which are set out in Annex C of the local authority circular which is shown at this hyperlink.

[Adult Social Care Infection Control Fund – round 2: local authority circular - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/circulars/2020/04/adult-social-care-infection-control-fund-round-2-local-authority-circular)

These conditions specified that all funding must be used for COVID-19 infection prevention and control measures and local authorities are required to pass 80% of each instalment to care homes within the local authority's geographical area on a 'per beds' basis and to CQC-regulated community care providers within the local authority's geographical area on a 'per user' basis, including to social care providers with whom the local authority does not have existing contracts. All providers are required to have completed the care tracker, to report on spending incurred and their future anticipated spend. All funding provided must be spent in line with the infection prevention control measures specified in Annex C of the Circular and have been spent by specific timescales.

However, the local authority has discretion to use the remaining 20% of each payment on other COVID-19 infection control measures, including providing support to other care settings, and wider workforce measures in relation to COVID-19 infection control. This paper will consider proposals of how to distribute the 20% of funds and following agreement a paper will be presented to Cabinet Member for Adult Care to report on the payments, confirming that they will meet the grant criteria.

2.2 Summary of Distribution of the October IPC Grant

The grant conditions specify that the Council must distribute 80% of the available grant to care homes on a “per bed” basis and CQC-regulated community care providers (domiciliary care, extra care and supported living) on a “per user” basis. The total October IPC grant allocation for Derbyshire provided by the Department of Health and Social Care (DHSC) is as shown in the table below. The allocation of £662.97 for Care Homes and £336.03 for Home Care Providers has been set by DHSC. These are the same values used for distribution in every local authority area.

	Total Allocation of October 2020 IPC Grant	Activity Beds/Users	Total Unit Allocation	1st Instalment
80% Care Homes	£5,065,069	7,640	£662.97	£331.48
80% Community	£1,954,343	5,816	£336.03	£168.01
20%	£1,754,853	n/a	n/a	n/a
Total	£8,774,265	n/a	n/a	n/a

The allocation of funding for community services will likely be substantially smaller than £336.03 per client, as the figures used by DCHS in making this calculation are based on historical information they have obtained from the Care Quality Commission (CQC). Our records show that there are 7,154 community clients compared with the 5,816 used by DHSC. This has left the Council with a shortfall of £0.450m of the 80% community allocation of the grant if it wants to pay all community providers at the designated level of £336.03 per client.

The Council have had to contact all eligible providers (CQC registered offices in Derbyshire), whether the Council know them or not to obtain their client numbers and the bank details of the provider so that the Council can make the grant payments. It is worth noting that client numbers will include people who do not live in Derbyshire as it is the number of people supported by a Provider from the location of their CQC registered office.

The Council is therefore reliant on other Local Authorities treating providers similarly to ourselves and making contributions to providers in their localities that operate in Derbyshire.

The Local Authorities in the East Midlands region have confirmed that they will operate the same approach to the one the Council have adopted. They have also identified that the numbers of people supported by community providers in their locality are substantially greater than figures used by DHSC in their calculation. These Local Authorities have advised that it is their intention to use part of the 20% discretionary allocation and any underspend (where homes have declined the grant payment) associated with the 80% allocation to care homes. They plan to use these funds to make up the available funding to ensure community providers receive the £336.03 as planned by DHSC. It is

proposed that the Council follows the same approach to increase the payment to providers by using underspend of the grant destined to be paid to Care Homes and funding from the 20% discretionary element of the grant.

Other bordering authorities outside of the East Midlands will be challenged to fund at the same level as Derbyshire if we are notified of any variance from the Grant conditions.

As noted, local authorities may use 20% of the grant on other COVID-19 infection control measures to support the care sector. This could include, for example, additional financial support for the purchase of PPE by providers or by the local authority directly (although not for costs already incurred) on COVID-19 infection activity.

2.3 Distribution of December 2020 Payment 2 Grant Payment

The Council expects to receive Payment 2 of the Grant Payment in December 2020. 80% of the grant payment will be distributed to Providers as described earlier in this report. It is recommended that the remaining 20% of Payment 2 funds will, in combination of any underspend from Payment 1 be shared between care homes and home care providers to further assist with meeting the costs associated with Personal Protective Equipment, Staffing Costs and to help with facilitating improved visiting arrangements in their care home. Payments would be made on a per bed basis for care homes and per Council client for home care providers. Any un-allocated underspend will have to be repaid to DHSC.

3.3 Proposals

3.3.1 Distribution of Unallocated Funding from the Payment 1 of the 80% allocation

A number of Care Home providers did not accept their allocation the ICF grant having decided that the administrative burden was too great and the value of the grant of £331.48 per registered bed was too small. The Council made a number of attempts to encourage these providers to accept their allocation.

This has left unallocated funding of £0.344m from Payment 1 of the grant that should have been paid to Care Homes. The grant guidance published on the 9th November 2020 allows the Council to add unallocated funding to the 20% allocation, to support the whole market. It is therefore suggested that this unallocated funding of £0.344m with a contribution of £0.106m from the 20% discretionary funding, is used to enable the Council to support the whole market by making a payment of £336.03 per client per to each community

provider. The grant guidance referred to can be accessed at the following hyperlink

<https://www.gov.uk/government/publications/adult-social-care-infection-control-fund-round-2/adult-social-care-infection-control-fund-round-2-guidance>

3.3.2 Distribution of the remainder of the 20% funds from the first Payment

If as suggested the Council use part of the 20% Payment 1 funding allocation to make up the unit cost for community providers, then this will leave £1.649m. It is proposed that the Council use this funding in the short term to assist with

- Direct Payment/Shared Lives allocate funds on a case by case basis to help cover additional costs associated with infection control especially those linked to maintaining wages of Personal Assistants (PAs) who need to isolate and use of alternative staff.
- To support providers to request emergency assistance to assist with exceptional costs associated with isolating staff and use of agency staff to cover those isolating. This offer would be only available to care homes services subject of Outbreak Control Team meetings to ensure service viability or to Home Care services where majority staff group are needing to self-isolate.
- To cover the costs of any Council staff needed to transfer to Provider services for short periods of time due to impact of COVID-19 on provider workforce.

3.3.3 Distribution of the 20% funds from the second Payment

It is recommended that the remaining 20% of Payment 2 funds will, in combination of any underspend from Payment 1 be shared between care homes and home care providers to further assist with meeting the costs associated with provision of infection prevention and control procedures. Payments would be made on a per bed basis for care homes and per Council client for home care providers.

4. Financial Considerations

The funding allocated to the Council is as follows:

80% Care Homes	£5,065,069
80% Community Care providers	£1,954,343
20% Other care Settings and IPC Measures	£1,754,853
Total Allocation	£8,774,265

Any portion of the grant that is unspent by 31 March 2021 will have to be repaid to the Department of Health and Social Care.

5. Legal Considerations

The Care Act 2014 places a duty on the Council to promote an efficient and effective market. In performing that duty, the Council must have regard to the importance of ensuring the sustainability of the market.

Due regard has been given to the Department of Health & Social Care's Guidance About the Adult Social Care Infection Control Fund published 9 June 2020 and the Local Authority Circular: Adult Social Care Infection Control Fund ring-fenced Grant 2020 together with the Department of Health & Social Care's Guidance: Adult Social Care Infection Control Fund – round 2: local authority circular (updated 9 November 2020) its accompanying annexes, and Adult Social Care Infection Control Fund – round 2: guidance (updated 9 November 2020)

The Department of Health and Social Care (DHSC) considers that the measures specified are covered by the Services of General Economic Interest Decision (SGEI) 2012/21/EU. This is because the measures will help reduce the incidence and spread of COVID-19 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, these measures are of particular importance to care users, workers and their families, as well as being in the general public interest. Furthermore, they are not being provided by the market at the level or quality required, and thus to secure their provision, compensation needs to be provided to incentivise an undertaking or set of undertakings. Local authorities can choose to rely on this Decision to make lawful payments of the aid but must ensure they comply with its requirements

From 1 January 2021, the government has announced that the UK will no longer be bound by the EU state aid rules. A new UK-wide subsidy control regime will be introduced based on WTO subsidy rules after the end of the transition period. Guidance is expected to be published before the end of the year for public authorities.

6. Equality and Diversity Considerations

Providers are required to adhere to Derbyshire County Council's Equal Opportunities policies. The Council also encourages Providers to gain the Derbyshire Respect and Dignity Award.

7. Other Considerations

In preparing this report the relevance of the following factors has been considered: human resources, health, environmental, transport, and crime and disorder considerations.

8. Key Decision

No

9. Is it necessary to waive the call-in period in respect of any decisions proposed in the report? Yes

The Cabinet Member is intended to treat this report as urgent and is, therefore, not subject to call in in view of the need to meet the deadline for distribution of the funding .The Chair of the Scrutiny Committee (People) has been consulted and he has agreed that the decision proposed is reasonable in all the circumstances and to it being treated as a matter of urgency.

10. Officer's Recommendation

To support

- the allocation of government grant funding towards improved infection prevention and control procedures (IPC) as described in this report. It is proposed to redistribute the unallocated funds of £0.344m for care homes from the first Payment with a contribution of £0.106m from the 20% discretionary element from the first Payment of the October ICF Grant to make up the funding for community based services so that all receive the grant of £336.03 per client per Payment as specified by DHSC.
- That the remainder of 20% discretionary element from the first Payment, totalling £1.649m, is used to:
 - support people in receipt of Direct Payments and people in shared lives with any IPC costs,
 - assist providers subject to outcome control meetings where they adversely impacted by COVID-19
 - to cover the costs of any Council staff needed to transfer to Provider services for short periods of time due to impact of COVID-19 on provider workforce.
- That the 20% of Payment 2 grant, will in combination of any underspend from Payment 1 be shared between care homes and home care providers to further assist with meeting the costs associated with provision of infection prevention and control procedures. Payments would be made on

a per bed basis for care homes and per Council client for home care providers.

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