



Emergency Officer Decision Record

1. Subject and details of the matter (to include reasons for the decision)

There exists in North East Lincolnshire (and nationally) circumstances that may warrant exercise of powers and decision making outside usual parameters (Coronavirus/COVID-19).

S138 Local Government Act 1972 permits that where such circumstances exist so as to affect the whole or part of their area or all or some of its inhabitants a Council may:

- (a) incur such expenditure as they consider necessary in taking action themselves (either alone or jointly with any other person or body and either in their area or elsewhere in or outside the United Kingdom) which is calculated to avert, alleviate or eradicate in their area or among its inhabitants the effects or potential effects of the event; and
- (b) make grants or loans to other persons or bodies on conditions determined by the council in respect of any such action taken by those persons or bodies.

This decision is made in the above circumstances.

Financial support to care providers

In response to the Covid-19 pandemic, the Government has announced additional funding to councils to help them meet the increased demand for adult social care and to provide additional support to social care providers.

The following outlines the financial support the council is making available to care providers to ensure essential services continue and that the local adult care market is supported and financially resilient during the period of emergency.

Scope

Support / help in accessing national or local government business support schemes will be available to all contracted and non-contracted care and support providers. These are available across the following range of provision: residential and nursing care homes; support at home, supported living, personal support and direct payments.

Support to businesses in North East Lincolnshire is available through a range of schemes managed and funded by central government along with local schemes administered via the council. Adult social care providers are advised to ensure they investigate and access these support streams where possible, to maximise support during this period.

Cash flow support to adult social care providers

The council understands providers may have concerns relating to cash flows to their business during this period of uncertainty. To ensure providers are able to focus on providing high quality care to support our most vulnerable people within the borough the council will seek to alleviate cash flow concerns through the following measures:

- Invoices will be paid quickly and efficiently on receipt, following the payment period end. The council has enabled electronic submission of invoices to facilitate this.
- Support at home providers and supported living providers will be paid in line with their previous month's invoice, providing an income guarantee.
- Support at home providers should continue to access just checking funding and respond accordingly to unexpected changes in individuals' care needs. You need to note that this is Covid-19 related expenditure on your monthly submission
- Residential and nursing care homes will be maintained at current commissioned occupancy levels, as at 30th March 2020. This gives an income guarantee. If levels of commissioned activity fall below the March 30th level the council will fund the void based on current weekly base fee rate.
- Block contract payments to support providers will continue to be made in line with agreed contractual arrangements
- Payments will continue to be made to direct payment recipients 4 weekly in advance and will not be adjusted for temporary decreases to their planned care.

It is a requirement that throughout the Covid-19 emergency, all providers fully co-operate in the management of patient and resident flow through the health and care system by maintaining access to care placements. Social care must not impede access to hospital beds that will be required for intensive and critical care during the emergency response. The council may review payment arrangements where providers are not fully co-operating with the system response.

Providers have been reminded that their business continuity plans should ensure that appropriate workforce is in place to ensure safe and effective care delivery.

Workforce / additional costs support

To enable providers the flexibility to respond to emerging issues within their business relating to Covid-19, the council will make available contingency funding in the form of a one off lump sum. This will allow providers to manage staffing issues, essential set up costs, and any other reasonable costs, in excess of their usual business operations, in response to the covid19 emergency. By offering a lump sum payment in this way we will not affect service user charges, keeping this simpler and easier to manage. This will be paid to providers April 2020.

The one off lump sum payment (based on a percentage of care payments /overall occupancy as at 30th March 2020) is intended to be used for:

- increased costs due to use of temporary or backfill staff e.g. agency costs.
- increased costs due to staff recruitment and DBS checks
- Increased overtime pay costs due to higher staff sickness absences.
- Increased travel time due to disruption to planned care delivery
- Increased costs associated with enhanced infection control eg. cleaning or additional equipment or PPE costs.
- Other related costs e.g. administration / management.

The council expects care providers to deploy their staff flexibly, hire additional staff or use agency staff to meet increased demand or to ensure continuity of service. The council will expect an “open book” approach to expenditure reasonably incurred by providers to support the emergency response.

The council is also expecting providers to look outside of their own organisation to work collaboratively with other providers and the wider care system to ensure all people of North East Lincolnshire, regardless of care setting, continue to receive the appropriate care.

The above details will be reviewed regularly and updated in line with new developments and changes to support arrangements.

Detailed financial considerations

Summary of financial implications

	Contingency fund at 5%	Contingency fund at 4%	Contingency fund at 3%	Contingency fund at 2%	Contingency fund at 1%
	£	£	£	£	£
Support at Home Contingency	91,800	69,500	51,200	32,900	18,200
Support at Home income guarantee	TBC	TBC	TBC	TBC	TBC
Support at home additional just checking	100,000	100,000	100,000	100,000	100,000
Residential and Nursing contingency	382,100	306,000	229,300	152,600	76,300
Residential and Nursing income guarantee	TBC	TBC	TBC	TBC	TBC
Supported Living contingency	118,000	94,400	70,600	47,200	23,600
Supported Living income guarantee	TBC	TBC	TBC	TBC	TBC
Total of known costs	691,900	569,900	451,100	332,700	218,100

TBC data - would be the same value across all contingency options

Support at Home

1. Lump sum payment to providers

Proposals:

- A lump sum payment at the 5% value will be made
- This will be offered in 2 parts, 3% initially and 2% as the emergency progresses. The second payment will be triggered based on feedback from providers or if the emergency continues.
- It is proposed each lead/approved provider would receive the same value, there is minimal difference between them and activity levels in the short term are likely to change between providers, this also keeps them "equal".
- Intermediate care at home and Navigo would contain the pressures within their main contract values.
- The above calculations would not include support for providers in relation to their levels of self-funder activity. This may have to be reviewed depending on the longevity of the emergency or if a provider is in financial difficulty.

2. Just Checking

This is an existing funding stream available to lead/approved providers. This enables providers to flex packages of care as needs change without having to go through additional assessment processes or authorisation procedures. The proposal is to increase this contingency funding by £100k to optimise provider flexibility.

3. Sustaining provider payments

We would pay providers an average over their past 3 months' payment periods to guarantee a level of income. Additional costs due to this are difficult to quantify, it would cover unplanned cancelled calls e.g. on the day, allow resources to be re-deployed and maintain staff in post.

Residential and Nursing Providers

4. Contingency fund

It is proposed to offer contingency funding as a lump sum payment at the 5% level as per the table attached. The offer would be for 3% to be paid initially and a further 2% as the emergency response continues.

An income guarantee will be offered calculated at total occupancy 30th March 20 based on the base residential or nursing care fee rate for 12 weeks.

Considerations:

- The table above only includes in area providers, a separate piece of work is being undertaken to understand extent of out of area provider costs per commissioned placements (as we do not hold data on total occupancy).
- There are differing levels of self funders in each home. Void coverage will only be offered in relation to NEL commissioned placements and not all self funder voids. This decision can be reviewed if providers run into difficulties.

- Further support may be needed if a home was to suffer a COVID19 outbreak.
- costs in relation to void cover is difficult to estimate. We will be able to collate information after each month to identify costs associated with void cover.

Supported Living

5. Contingency Funding

It is proposed to offer contingency funding as a lump sum payment at the 5% level as per the table attached. The offer would be for 3% to be paid initially and a further 2% as the emergency response continues.

- The calculations identify in and out of area providers. Further guidance will be sought from ADASS in relation to out of area placements.
- As before it will be assumed that Navigo extra would contain pressures within their existing contracts.

Income guarantee

As before, additional costs due to guaranteeing income is difficult to quantify, it would cover unplanned cancelled calls e.g. short notice, on the day.

Other Issues for consideration:

CCG contracted housing related support will continue to be paid on block arrangement. This ideally needs to be aligned to the councils approach for the wider HRS programme.

Guidance is being sought from NHS commissioners as to the approach that will be taken in relation to sustaining provision for continuing health care.

2. Is it a Key Decision as defined in the Constitution?

Yes - value over £350k and affects all wards

3. Details of Decision

Financial support to enable sustainability of adult social care provision in North East Lincolnshire

4. Is it an Urgent Decision? If yes, specify the reasons for urgency. Urgent decisions will require sign off by the relevant scrutiny chair(s) as not subject to call in.

Yes

5. Anticipated outcome(s)

Additional funding and support be allocated to residential, care at home and supported living providers in North East Lincolnshire; this package of measures at present is limited to in area provision; advice is being sought form ADASS regarding out of area provision and direct payment provisions

6. Details of any alternative options considered and rejected by the officer when making the decision

In developing these proposals, consideration has been given to national advice

7. Background documents considered

None

8. Does the taking of the decision include consideration of Exempt information? If yes, specify the relevant paragraph of Schedule 12A and the reasons

No

9. Details of any conflict of interest declared by any Cabinet Member who was consulted by the officer which relates to the decision (in respect of any declared conflict of interest, please provide a note of dispensation granted by the Council's Chief Executive)

None

10. Monitoring Officer Comments (Monitoring Officer or Deputy Monitoring Officer)

All directors have the power to determine and exercise, having regard to prevailing Council policy, the operational requirements of their functions and to manage the human and material resources available for their functions.

Constitutionally where there is an urgent need or where there is a recess in meetings (in my view, *howsoever arising*) the Chief Executive and all Directors shall be empowered on behalf of and in the name of the Council to deal with matters of urgency or routine business normally requiring a Cabinet or Committee decision which may arise between the meetings of Cabinet / Committees or during any period when the Cabinet / Committees are in recess; provided that

(i) there is no conflict with the Budget and Policy Framework (unless the urgency provisions in the Budget and Policy Framework Procedure Rules are followed)

(ii) If a Key Decision is involved, the matter is contained in the Forward Plan (or the general exception or special urgency provisions are satisfied); and

(iii) In respect of any matter falling within the terms of reference of a Committee the Officer shall first consult with the Chairman or, in his/her absence, the Deputy Chairman; and a report of the decision taken shall be submitted to the next ordinary meeting of the Committee; or in the case of all Executive matters the Officer shall first consult with the Chief Executive, relevant Portfolio Holder(s) and a report of the decision taken shall be submitted to the next ordinary meeting of the Cabinet.

(iv) The Monitoring Officer and Section 151 Officer are consulted in respect of the proposed decision.

The Chief Executive has directed that all decisions made in the above circumstances shall be in consultation with the Leader and Portfolio Holder for Finance and Resources (where available)

11. Section 151 Officer Comments (Deputy S151 Officer or nominee)

The council has received a S31 Grant of £5.2m to meet additional costs in respect of the COVID 19 pandemic. The Health sector has also received additional allocation.

Whilst the payment to the Council is through an unringfenced S31 grant the guidance has been clear that it is expected that the majority of this will be used in meeting additional social care costs, e.g., adults and children.

Some of the measures outlined within the cash flow measures will be met at least in part from existing budget envelopes particularly around block sum payments, payments to residential homes, payments in advance to providers etc. Other payments to providers to ensure sustainability will be additional cost and will be a call on the £5.2m.

It is essential that during this period strict controls and principles are maintained and followed to prevent and mitigate significant financial pressures on the Council in future. To this end it needs to be ensured all additional costs are charged to the appropriate funding area, eg, the funding of all discharge packages, in all care settings, for those patients discharged on or after the 19th March are being met by the additional CCG / health funding; that providers claim whatever help they can from central government / other agencies where this is possible and the expected route and that as recommended in the report all recipients of this additional financial assistance from the Council agree to an open book approach and there is not a situation where providers have profited from this pandemic.

It is noted that the costs quoted are a best estimate and depending on the time the pandemic situation remains in place are likely to increase. To avoid costs increasing and to ensure effective governance of decisions it is recommended that this ODR approves costs capped at a £1m and if or when this amount is reached an additional approval is required.

12. Human Resource Comments (Head of People and Culture or nominee)

There are no direct HR implications contained within this ODR

13. Risk Assessment (in accordance with the Report Writing Guide)

The proposal has been prepared in line with national guidance which has been developed to ensure that during the pandemic, local care providers can sustain their business operations during a period of uncertainty and change. Care businesses will face instability in terms of peaks and troughs in demand for services as a result of the epidemic and it can be anticipated that there will be staff shortages as a result of staff members self-isolating. The measures proposed in this decision record acknowledge that providers may face higher than usual staff costs due to the need to source additional capacity from agencies, or due to the need to fund overtime to ensure that safe care can continue to be delivered. Providers will also have other unforeseen business costs, for example additional food costs if usual supplies are interrupted, sourcing additional PPE etc. The proposed measures aim to mitigate the risk of business failures. It is important to maintain safe and effective adult social care services to enable the flow of patients into and out of the hospital system, so that those requiring critical and intensive care can access the treatment required. By offering a guaranteed income level and a lump sum payment the council will be assisting in the management of these risks, thereby helping to protect the health and wellbeing of local people during the crisis. There is a risk that post COVID there will be an expectation of higher levels of care activity than is currently the norm and that these will represent an on-going cost to ASC budgets. To reduce this risk, social workers will have to ensure that placements into adult social care as a result of the epidemic are managed as short term placements and moved on quickly to usual residence.

<p>14. Decision Maker(s):</p> <p><i>In in the absence of the named Director or Delegatee a confirmatory email which is annexed to this record</i></p>	<p>Name: Robert G Walsh</p> <p>Title: Joint Chief Executive</p> <p>Signed: Robert G Walsh</p> <p>Dated: 16th April 2020</p>
<p>15. Consultation carried out with Leader:</p> <p>Portfolio Holder for Finance and Resources (Cllr Shreeve)</p> <p><i>In in the absence of the above named a confirmatory email which is annexed to this record</i></p>	<p>Signed: Councillor Philip Jackson</p> <p>Dated: 16th April 2020</p> <p>Signed: Councillor Stan Shreeve</p> <p>Dated: 16th April 2020</p>
<p>16. If the decision is urgent then consultation should be carried out with the relevant Scrutiny Chair/Mayor/Deputy Mayor</p> <p><i>In in the absence of the named Member the Director has secured a confirmatory email which is annexed to this record</i></p>	<p>Name: Councillor Paul Silvester</p> <p>Title: Chair of the Communities Scrutiny Panel</p> <p>Signed: Councillor Paul Silvester</p> <p>Dated: 15th April 2020</p>

In the event of absence or incapacity of the Leader and/or Portfolio Holder for Finance and Resources the Director has consulted with the following (tick one box) and has secured either a signature above or a confirmatory email which is annexed to this record.

Name	Tick
Deputy Leader and Portfolio Holder for Regeneration, Skills and Housing (Cllr Fenty)	
Portfolio Holder for Environment and Transport (Cllr S Swinburn)	
Portfolio Holder for Health, Wellbeing and Adult Social Care (Cllr Cracknell)	
Portfolio Holder for Tourism, Heritage and Culture (Cllr Procter)	
Portfolio Holder for Children, Education and Young People (Cllr Lindley)	
Portfolio Holder for Safer and Stronger Communities (Cllr Shepherd)	

NOTE

Upon the expiration of the circumstances outlined above (or sooner if appropriate) this Emergency Officer Decision Record shall be referred to the Communities Scrutiny Panel to note.

Appendix 1 – email confirmation

From: Rob Walsh (NELC) <Rob.Walsh@Nelincs.gov.uk>
Sent: 16 April 2020 15:15
To: Simon Jones (Chief Legal and Monitoring Officer) (NELC)
<Simon.Jones1@Nelincs.gov.uk>
Subject: RE: >>PLEASE READ AND RESPOND<< Emergency Decisions

Confirmatory email from me accordingly.

Sent with Email

From: Cllr Philip Jackson (NELC) <philip.jackson@nelincs.gov.uk>
Sent: 16 April 2020 15:13
To: Rob Walsh (NELC) <Rob.Walsh@Nelincs.gov.uk>; Cllr Stanley Shreeve (NELC)
<Stanley.Shreeve@Nelincs.gov.uk>
Cc: Simon Jones (Chief Legal and Monitoring Officer) (NELC)
<Simon.Jones1@Nelincs.gov.uk>
Subject: RE: >>PLEASE READ AND RESPOND<< Emergency Decisions

I support both of these but, like Stan, are keen to see that we robustly monitor the adult social care spend.

Regards
Philip

From: Cllr Stanley Shreeve (NELC) <Stanley.Shreeve@Nelincs.gov.uk>
Sent: 16 April 2020 13:31
To: Rob Walsh (NELC) <Rob.Walsh@Nelincs.gov.uk>
Cc: Cllr Philip Jackson (NELC) <philip.jackson@nelincs.gov.uk>; Simon Jones
(Chief Legal and Monitoring Officer) (NELC) <Simon.Jones1@Nelincs.gov.uk>
Subject: Re: >>PLEASE READ AND RESPOND<< Emergency Decisions

Rob

Delay in HRP. - consent
Financial support for care providers. - consent

Happy to support both proposals, whilst acknowledging that the social care measures are complex and require close monitoring. I look forward to appropriate updates on this matter in particular.

Stan

From: Simon Jones (Chief Legal and Monitoring Officer) (NELC)
Sent: 15 April 2020 11:24
To: Rob Walsh (NELC) <Rob.Walsh@Nelincs.gov.uk>
Subject: >>PLEASE READ AND RESPOND<< Emergency Decisions

Rob.

I have this morning received confirmation from the Communities Scrutiny Chair, Cllr Silvester, as to his consent to the attached decisions. Below.

You are now able to brief Leader and Portfolio Holder for Finance and Resources in accordance with the emergency framework of governance implemented as a result of the COVID-19 emergency.

Confirmatory emails from yourself and Members are sufficient in that scheme to evidence the decision.

Upon completion the decisions and supporting email threads will be subject to publication.

Regards,
Simon.

Simon D Jones,
Chief Legal and Monitoring Officer
North East Lincolnshire Council
Municipal Offices, Town Hall Square, Grimsby, DN31 1HU | DX13536 Grimsby 1|
Telephone number (01472) 324004 | simon.jones1@Nelincs.gov.uk

From: PAUL SILVESTER
Sent: 15 April 2020 11:10
To: Simon Jones (Chief Legal and Monitoring Officer) (NELC)
<Simon.Jones1@Nelincs.gov.uk>
Subject: Re: >>PLEASE READ AND RESPOND<< Emergency Decisions

Good morning Simon

I have read the emergency decision notices and my response as Chair of the Communities Scrutiny panel is as follows

1. Delay in HRP implementation; - consent
2. To ensure care provider resilience and sustainability - consent.

Kind regards

Councillor Paul Silvester

From: Simon Jones (Chief Legal and Monitoring Officer) (NELC)
<Simon.Jones1@Nelincs.gov.uk>
Sent: 15 April 2020 10:35
To: Cllr Paul Silvester (NELC) <Paul.Silvester@nelincs.gov.uk>
Subject: >>PLEASE READ AND RESPOND<< Emergency Decisions

Councillor.

To address the COVID-19 crisis, the Council has invoked emergency powers and put in place an emergency framework of governance.

This provides for the Chief Executive to be a decision maker in consultation with Leader and PFH for Finance and Resources.

Such decisions are captured on an Emergency Officer Decision Record. Some records will relate to a single decision, others will contain a schedule of decisions.

In the main they are key decisions, usually the remit of Cabinet, but due to urgency cannot be entered onto the Forward Plan nor the usual 28 day notice given.

There are “special urgency” provisions in the Constitution whereby emergency decisions can be made, as long as the Chair of the appropriate Scrutiny Panel consents. This is a conscious consent.

Emergencies and civil contingencies are the remit of the Communities Scrutiny Panel.

As a matter of course, once the emergency dissipates and business can return to normal, ALL emergency decisions will be referred to your panel for noting.

As a result of social distancing and isolation, wet signatures cannot be obtained.

Therefore there will be reliance on an exchange of emails to evidence your consent.

This email and your response will be subject to publication in the interests of transparency.

On behalf of the Chief Executive I therefore seek your consent to the following (attached) decisions.

1. Delay in HRP implementation; and
2. To ensure care provider resilience and sustainability.
- 3.

I would suggest that in your response to simply state:

1. Consent/Don't consent;
2. Consent/Don't consent.....etc with the appropriate option.

I look forward to hearing from you as soon as possible.

Regards,
Simon.

Simon D Jones,
Chief Legal and Monitoring Officer
North East Lincolnshire Council
Municipal Offices, Town Hall Square, Grimsby, DN31 1HU | DX13536 Grimsby 1 |
Telephone number (01472) 324004 | simon.jones1@Nelincs.gov.uk