



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.

Purpose of the report:

This report provides members with an update on the application of provider sustainability measures for adult social care services in response to the COVID-19. It also outlines how infection control funding has been used. For the third and fourth quarters of the financial year members are asked to consider further recommendations to support provider sustainability.

Financial support to adult social care providers

On 19 March 2020, the [government announced](#) £1.6 billion of additional funding for local government to help them respond to coronavirus (COVID-19) pressures across all the services they deliver. An additional £1.6 billion was [announced](#) on 18 April 2020. This extra £1.6 billion takes the total given to councils to help their communities through this crisis to over £3.2 billion. The government further announced on the 14th May 2020 a further £600 million was available through the Infection Control Fund

(ICF) ring fenced for social care, given to local authorities to ensure care homes can cover costs and any measures to reduce outbreaks and transmission.

The infection control fund has been extended to the end of March 2021. North East Lincolnshire council received a further allocation of £2.2m to cover the period September 2020 – End March 2021. This has been further augmented by the announcement of further ring fenced resources to boost the implementation of lateral flow testing in care homes (c£0.5m) and to support the workforce (£0.3M).

In response to the Covid-19 pandemic, North East Lincolnshire council made funding available to ensure the sustainability of care providers, to enable the continuance of care and support to vulnerable people as well as assist the health service in meeting health demand at the peak of the outbreak. The CCG has also contributed to provider sustainability measures.

This report sets out the position to date, provides an update on the administration of the infection control fund and proposes a way forward in terms of further sustainability measures.

Provider sustainability offer through quarters 1 and 2, 2020/21

Our initial support offer included:

- Signposting to advice and support regarding government grants and loans to businesses
- Improving the pace and efficiency of invoice payments through the implementation of an electronic invoicing system
- The payment of a 5 per cent lump sum (in 2 instalments) to enable providers flexibility to meet additional costs
- The provision of an income guarantee based on known activity levels in the months prior to the epidemic
- Enhanced budget available to the “just checking” fund to enable providers to flex support upwards should additional care at home be required

The application of these measures has resulted in estimated £913k of additional expenditure at November 2020, against an approval limit of £1.0m referenced against ODR ASC021. To date, this expenditure is being met from the adult services budgets. The in-year forecast overspend of £1.1m at P9, (December 2020) has substantially reduced due to the loss of a number of service users in the second wave of the pandemic.

Care Setting	Sustainability funding phase 1, percentage spread
Support at Home	27.2
Residential Care	50.7
Supported Living/Personal Support	22.1
Total	100.0

For quarter 2, the council adopted a number of further proposals (to 13th September 2020), to be implemented by the director of adult services on a payment period by payment period basis and commencing from payment period 4 (22nd June 2020). In the cabinet report dated 15th July 2020, it was agreed that the council would delegate authority to the DASS and director of finance to review and adjust such arrangements on a monthly basis subject to a financial limit of £600,000 to the end of payment period 6 (13th September 2020) and make a formal recommendation to the North East Lincolnshire Clinical Commissioning Group to adopt an equivalent approach in respect of NHS funded residential, nursing, continuing health care (CHC) and supported living placements. A total of £182k has been dispensed to support the residential care sector during quarter 2.

Quarter three proposals for sustaining the adult social care market 2020/21

In the past three months, with the advent of testing in care homes, and a substantial rise in the community infection rate, around half of the care homes in the borough have had degrees of COVID infection with around 7 homes experiencing more serious outbreaks. The national capacity tracker helps to identify which of these homes requires targeted support to manage outbreaks and support to maintain safe staffing levels. With close working between the contract team, public health support and the care home managers and staff, outbreaks have been brought under control successfully and in the main, staffing issues have remained confined to a few homes. However, there have been significant deaths in the older population in the second wave of the pandemic, with the largest proportion of these being care home residents. As a consequence, some care homes have seen a substantial drop in their occupancy levels leading to a risk of provider failure.

From an analysis of care home occupancy in November 2020 compared to occupancy in March 2020, 23 homes within North East Lincolnshire which the CCG has a contract with had seen a decrease in occupancy, of which five homes had occupancy levels below 60 per cent. Two of these homes, on the same site are in an active dialogue with the CCG about future viability and options. These options include short term closure of some or all of these providers' beds.

Implementation of infection control funding

The introduction of infection control funding has to a large extent enabled the council to mitigate some of the cost impacts for providers.

Provider engagement has continued throughout the emergency response. From engagement with providers early in the pandemic the most significant additional area of cost was the increased use of personal protective equipment to comply with government requirements and measures to support staff to isolate. Whereas for round 1, phase 1 of the ICF, PPE costs were not an allowable expenditure, for phase 2 of round 1 providers were able to use the ICF funding to purchase necessary PPE supplies. For round 2 registered providers now have access to the government PPE

portal and for emergency PPE supplies, the NEL local PPE store, alternatively PPE costs can also be met from the infection control fund allocations.

In the past three months there has been a significant increase in the rate of COVID infections. The cost impact on the care sector, and specifically residential care providers has arisen due to a need to cover additional shifts as increased numbers of staff isolate. Some care homes have lost a number of residents in this period leading to surplus care capacity in the system. A limited number of homes may be vulnerable to financial challenges as a result of lost income. During the pandemic, there remains an imperative to sustain the adult social care market and to support the sector in protecting older, vulnerable care home residents from the spread of COVID infection by maintaining them in their care homes. Residential care capacity is also needed to support hospital flow particularly during the recent phase of the pandemic, where care homes have had to close to admissions due to outbreaks.

Vulnerable adults supported at home are also at risk from the spread of infection. COVID testing is for support at home provision is likely to have an impact on the availability of staff.

ICF round 1 allocations

The government mandated that 75 per cent of the ICF funds were allocated to residential care providers to help with the following areas of support:

- Ensuring that staff who are isolating in line with government guidance receive their normal wages while doing so. At the time of issuing this grant determination this included staff with suspected symptoms of Covid 19 awaiting a test, or any staff member for a period following a positive test.
- Ensuring, so far as possible, that members of staff work in only one care home. This includes staff who work for one provider across several homes or staff that work on a part time basis for multiple employers and includes agency staff (the principle being that the fewer locations that members of staff work the better;
- Limiting or cohorting staff to individual groups of residents or floors/wings, including segregation of COVID-19 positive residents;
- To support active recruitment of additional staff if they are needed to enable staff to work in only one care home or to work only with an assigned group of residents or only in specified areas of a care home, including by using and paying for staff who have chosen to temporarily return to practice, including those returning through the NHS returners programme. These staff can provide vital additional support to homes and underpin effective infection control while permanent staff are isolating or recovering from Covid-19.
- Steps to limit the use of public transport by members of staff. Where they do not have their own private vehicles this could include encouraging walking and cycling to and from work and supporting this with the provision of changing facilities and rooms and secure bike storage or use of local taxi firms.

- Providing accommodation for staff who proactively choose to stay separately from their families in order to limit social interaction outside work. This may be provision on site or in partnership with local hotels.

All local residential care providers, irrespective of whether being commissioned by the council/CCG or not, were given access to this funding. ICF round 1 funds were paid in two instalments with grant conditions requiring expenditure by the end of September 2020. The council submitted a formal return setting out how the money had been used.

Locally the council allocated the residual (discretionary) 25% of ICF funding across the following areas:

- 1) Replenishment of PPE contingency supplies for distribution to providers in extremis. It is likely that these costs will be recharged to those providers requiring additional, emergency supplies to ensure equity in the system and to ensure that contingent stocks can be replenished.
- 2) Care at home provision
- 3) Supported living.

Because residential care, supported living and care at home providers received ICF allocations, no further lump sum payments were made in phase 2 of our provider sustainability approach.

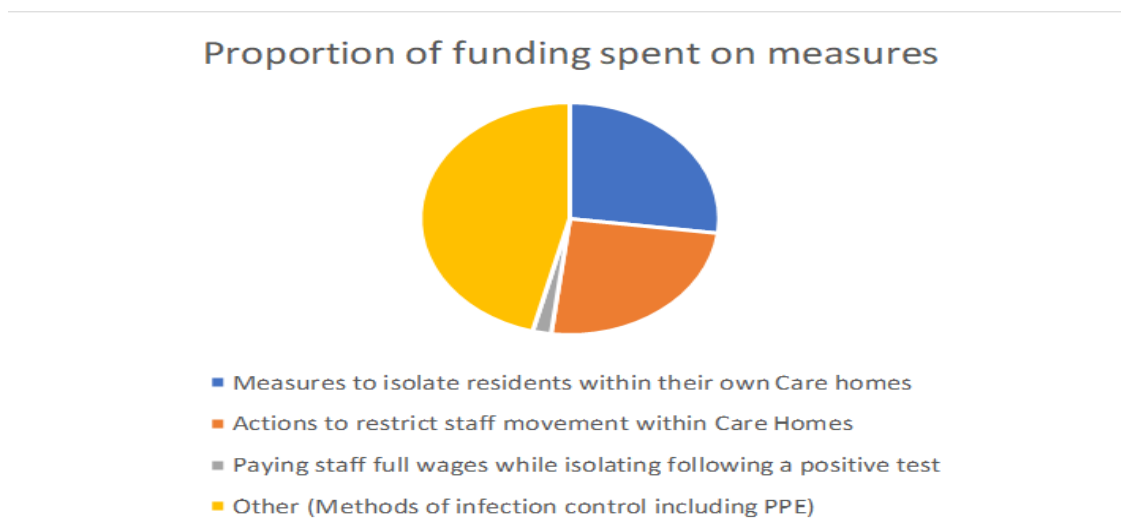
Phase one Infection control Funding June to September 2020

	£
Total Funding received	2,246,238.00
Funding dispensed	2,246,238.00
Funding unspent by providers to be returned to DHSC	56,101.00

Providers who received funding:

	Number
Residential Care	52
Domiciliary Care	8
Other	7
Total	67

Proportion of funding spend on Measures:



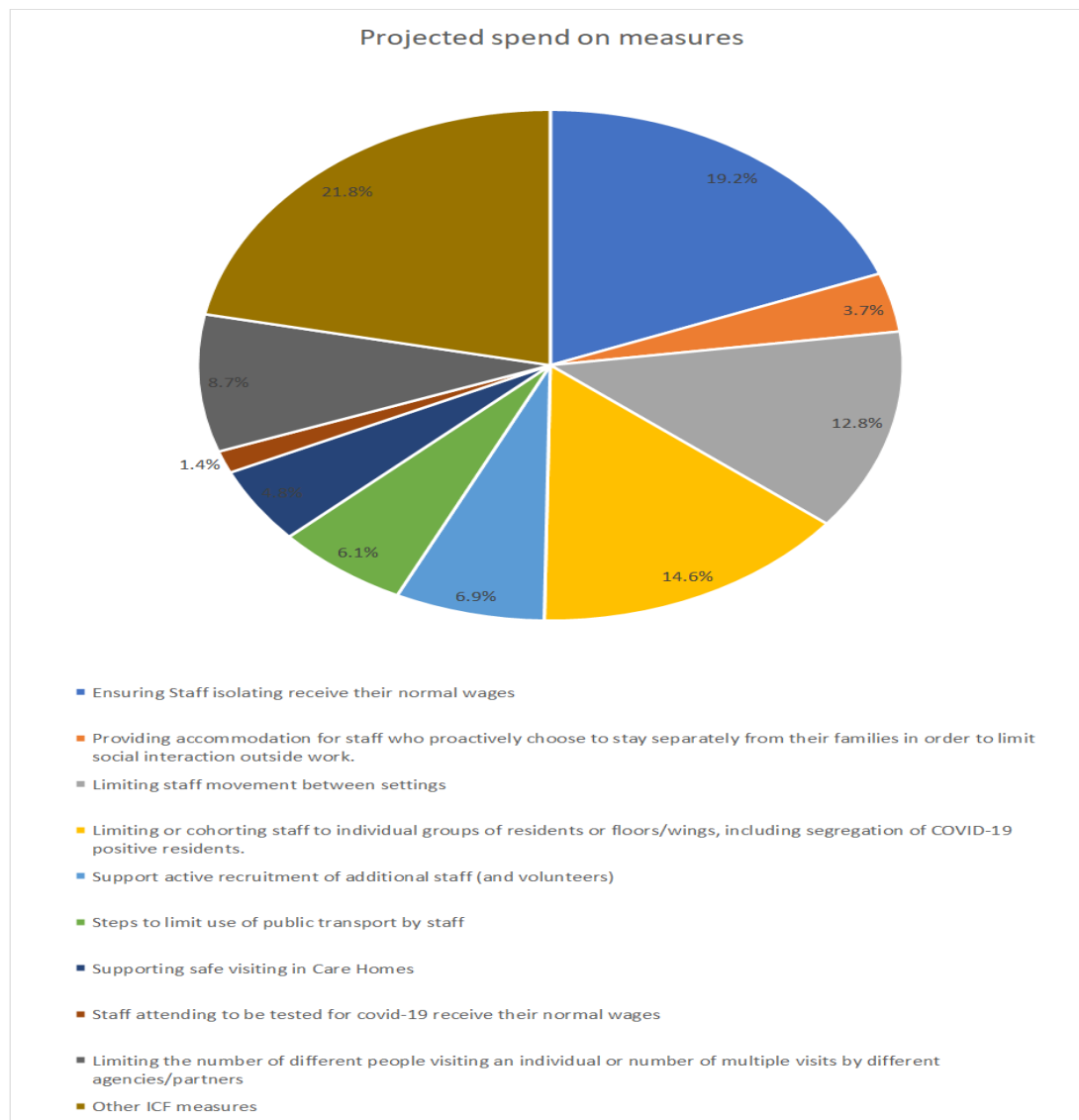
ICF round 2

The government issued new guidance for the ICF payments in round 2. This included an enhanced list of residential and community care providers for 80 per cent of the allocation which was mandatory. This round of funding encouraged local areas to consider how care home visiting could be enabled as well as considering the use of the discretionary element to support those needing access to day centre provision. During the pandemic, there has not been a sustained period during which day-centre provision has been operated for all those who need it. Alternative care and support has been put in place for people where practicable. However, little support has been offered to informal carers and it has therefore been decided in conjunction with the portfolio holder for adult social care to allocated some of the discretionary funding to enable respite and day support for this group of people.

Phase two Infection control Funding October to March 2021

	£
Funding received tranche 1	1,040,334.50
Funding allocation tranche 2	1,040,334.50
Total Funding phase 2	2,246,238.00
Funding dispensed to Care homes by 31st October 2020	527,390.00

Projected spend on Measures October to March 2021:



Next phase of provider support (final quarter)

It is evident that the position with regard to infection control measures has somewhat stabilised with the introduction and deployment of infection control funding. This will continue until the end of March 2021. This funding helps to meet the additional costs

of supporting vulnerable people, including assistance with visiting, day opportunities, infection control measures and staff cover.

Our earlier offer of support to the market to ensure sustainability needs to be responsive to the individual circumstances of each care provider. The most significant impact will be in relation to care homes which have lost residents, since they have to retain/maintain buildings, staff and safe care with a sudden reduction in income.

Provider occupancy levels have been tracked throughout the year and a list of providers "at risk" has been identified. These providers are in dialogue with the CCG's lead officers and contract support team. North East Lincolnshire has a surplus of residential care beds and this is a factor in the viability of the local market, exacerbated by the pandemic.

The options that are being considered in collaboration with care providers are:

- 1) Service rationalisation and consolidation into fewer premises where it is safe and appropriate to do so, considering the best interests of the residents.
- 2) Planned/phased service closure
- 3) Delivery of alternative services, for example there is a need for designated COVID beds in NEL and short stay placements to facilitate hospital discharge for COVID positive residents
- 4) Financial support as the option of last resort where it is desirable to keep the provider in the market place for a period of time pending market recovery or planned/phased service closure

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

Yes - value over £350k and affects all wards

3. Details of Decision

Further financial support to enable sustainability of adult social care provision in North East Lincolnshire.

The decisions required are:

- 1) To delegate authority to the DASS to offer targeted financial support to those providers in the NEL adult social care market place that are at risk of business failure, following a process of consultation and negotiation with providers regarding alternative ways of sustaining the business
- 2) Financial measures can be incorporated within the previously agreed and delegated financial limit for provider sustainability in qu2 of £600k

- 3) That the DASS provides a monthly update to the portfolio holder for health and adult social care regarding progress on sustainability measures and the overall health of the ASC market during the pandemic.

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)

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 and to the practice which has been shared by other councils operating within the region.

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, Resources and Assets (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 un-ringfenced 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. The proposed measures aim to mitigate the risk of business failures. Proposals for the final part of the year have been developed in the light of experience as the pandemic effects have developed over the past few months. The council has also since the previous response received and dispersed infection control monies to local providers which helps to supplement the overall offer to the sector and provide further support with staff costs, cohorting and other infection prevention measures for the next phase of the pandemic.

It continues to be 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 should there be a resurgence of cases in the area. Should any provider get into difficulty, commissioners have the option to respond with a more targeted offer of support to prevent provider failure. It is recommended that ongoing dialogue with the care sector continues to ensure that changes within the local care market can be responded to quickly. The support offer will be reviewed regularly to ensure that it remains fit for purpose. 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 with rehabilitation and support.

<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: agreed via email</p> <p>Dated: 2nd February 2021</p>
<p>15. Consultation carried out with Leader:</p> <p>Portfolio Holder for Finance, Resources and Assets (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: agreed via email</p> <p>Dated: 2nd February 2021</p> <p>Signed: agreed via email</p> <p>Dated: 2nd February 2021</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: Agreed via email</p> <p>Dated: 1st February 2021</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)	x
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 APPROVAL

From: Rob Walsh (NELC) <Rob.Walsh@Nelincs.gov.uk>
Sent: 02 February 2021 14:08
To: Simon Jones (Chief Legal and Monitoring Officer) (NELC)
<Simon.Jones1@Nelincs.gov.uk>
Subject: FW: PLEASE READ AND RESPOND FW: Emergency ODRs Assisted
Restrictions Grant and ASC Provider sustainability
Importance: High

Simon,

We all consent.

Rob

From: Cllr Philip Jackson (NELC) <philip.jackson@nelincs.gov.uk>
Sent: 02 February 2021 14:00
To: Cllr Stanley Shreeve (NELC) <Stanley.Shreeve@Nelincs.gov.uk>; Rob Walsh
(NELC) <Rob.Walsh@Nelincs.gov.uk>
Subject: RE: PLEASE READ AND RESPOND FW: Emergency ODRs Assisted
Restrictions Grant and ASC Provider sustainability
Importance: High

I consent too.

Philip Jackson

From: Cllr Stanley Shreeve (NELC) <Stanley.Shreeve@Nelincs.gov.uk>
Sent: 02 February 2021 13:31
To: Rob Walsh (NELC) <Rob.Walsh@Nelincs.gov.uk>; Cllr Philip Jackson (NELC)
<philip.jackson@nelincs.gov.uk>
Subject: Re: PLEASE READ AND RESPOND FW: Emergency ODRs Assisted
Restrictions Grant and ASC Provider sustainability

Consent

Cllr Stan Shreeve

Get Outlook for iOS

From: PAUL SILVESTER
Sent: 01 February 2021 17:53
To: Simon Jones (Chief Legal and Monitoring Officer) (NELC)
<Simon.Jones1@Nelincs.gov.uk>

Subject: Re: Emergency ODRs Assisted Restrictions Grant and ASC Provider sustainability

Good evening Simon

As Chair of the communities Scrutiny panel, I have read and considered the two Emergency ODRs and my response is as follows:

1. Assisted Restriction Grant – dissemination of further funding; - Consent
2. ASC Provider Sustainability – Update and rationale for final quarter's approach. - Consent

Kind regards

Councillor Paul Silvester

From: Simon Jones (Chief Legal and Monitoring Officer) (NELC)
<Simon.Jones1@Nelincs.gov.uk>
Sent: 01 February 2021 17:28
To: Cllr Paul Silvester (NELC) <Paul.Silvester@nelincs.gov.uk>
Cc: PAUL SILVESTER
Subject: Emergency ODRs Assisted Restrictions Grant and ASC Provider sustainability

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, Resources and Assets.

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.

You may note that as we move to a period of stabilisation and recovery, monitoring comments will also appear from the Director of Public Health or his deputies.

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. Assisted Restriction Grant – dissemination of further funding;
2. ASC Provider Sustainability – Update and rationale for final quarter's approach.

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,
Assistant Director Law, Governance and Assets
(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