

OFFICER DECISION RECORD 1 FORM

This form should be used to record Officer Decisions in Excess of £100k (but below the key decision threshold), or where required by Financial, Contract or other Procedure Rules or following formal delegation from Cabinet or a Cabinet Member or a Council Committee.

Decision Reference No: 2021/19/PH/BetterCareFunding

BOX 1

DIRECTORATE: Adults Health and Wellbeing

DATE: 20th July 2021

Contact Name: Susan Hampshaw

Tel. No.: 07974 600221

Subject Matter: Adjustment of Better Care Funding (BCF) from the earmarked reserve to agree funding of Gypsy, Roma and Traveller link worker post (ODR: AHWB.025.2020).

Approval of the use of the COVID Contain grant to fund two posts until March 2022 and the BCF subsequently in 2022/23.

BOX 2**DECISION TAKEN**

Following the recommendation from Joint Commissioning Operational Group, approved by Joint Commissioning Management Board on 29 October 2020, this decision is to agree to provide Doncaster Clinical Commissioning Group (CCG) with a total of £87,862 over a two-year period to enable them to employ a Gypsy Traveller Link Worker. Funding would be due to commence from 1 April 2021, from the Non Recurrent BCF Earmarked Reserve allocated to the Place Plan.

During 2020/21 financial support for local authorities was made available from the Government by way of grants under section 31 of the Local Government Act 2003 to deliver key activities to respond to local outbreaks of COVID, provide containment interventions and support residents most impacted by COVID. The Council received Contain Outbreak Management Fund (COMF) £2.495m and £5.527m both approved via a Rule 16 on 9th November 2020 and 23rd December 2020 respectively. Both approvals delegated to the Director of Public Health in consultation with the Director of Corporate Resources and the Portfolio Holder for Public Health future decision making regarding these funding streams. Current guidance stipulates that this funding must be spent by 31st March 2022.

As the result of the COVID pandemic with its disproportionate impact on our minority ethnic citizens a number of community link workers have been employed to support the implementation of the COVID outbreak management plan. To better meet the needs of these communities it was decided to recruit two Gypsy Roma and Traveller link workers, over a two-year period,

This decision requires an adjustment of the initial funding decision with respect to its start date. Specifically, funding of £87,862 from 1st April 2021 from the COVID contain grant and funding of £82,862 from 1st April 2022 from the Non Recurrent BCF Earmarked Reserve allocated to the Place Plan.

Additionally, although these posts are directly employed by the CCG they are embedded within a cohort of council employed community link workers and are supervised by the COVID Community Link Coordinator.

BOX 3

REASON FOR THE DECISION

The BCF is a programme spanning both the NHS and local government. Its aim is to improve the lives of some of the most vulnerable people in our society by placing them at the centre of their care and support and providing them with 'wrap around' fully integrated health and social care, resulting in an improved experience and better quality of life.

The council carried out a Black and Minority Ethnic Health Needs Assessment that people from Gypsy, Roma and Traveller communities face access issues in Doncaster with primary care and dentistry services in particular. These workers will facilitate more accessible health and wellbeing services. Additionally, and more immediately these workers will contribute to mitigating the impact of the COVID pandemic on our Gypsy, Roma and Traveller citizens.

BOX 4

ALTERNATIVE OPTIONS CONSIDERED AND REJECTED

Option 1 – Do Nothing: Doing nothing could result in failure to meet our duties under the Equalities Act and reach out to the most marginalised in our society. (Not recommended)

Option 2 – Approve the use of Contain the Outbreak Fund for the two posts in 2021/22 and Better Care Fund earmarked reserve in 2022/23, a total amount of £175,724 to enable an official link with the Gypsy Roma and Traveller community via the two posts. Having link workers to provide information and communicate with both the Council and Healthcare Services provides an operational means of bridging the gap between Health/ Social Care professionals and the Gypsy Roma and Traveller communities which would feed in to the wider localities agenda.
(Recommended)

BOX 5

LEGAL IMPLICATIONS

Section 1 of the Localism Act 2011 provides the Council with a general power of competence, allowing the Council to do anything that individuals generally may do. Section 111 of the Local Government Act 1972 gives the Council the power to purchase goods and services.

A funding agreement should be prepared setting out the terms of the grant including a provision to protect the Council from the requirement to contribute towards any breakage or redundancy costs at the end of the term.

The Care Act 2014 places a number of duties to promote an individual's wellbeing, ensuring that care and support provision is integrated together with other health provision.

The first year of funding will be from the Covid Contain Grant, therefore the terms and conditions of the grant should be complied with.

The second year of funding will be from the Non Recurrent BCF Earmarked Reserve allocated to the Place Plan. It should be noted that Cabinet approved to delegate detailed spending decisions for the implementation of the Doncaster Place Plan £3m, other Integrated Functions £0.7m and unallocated balance £0.7m, to the Director of People in consultation with the Chief Finance Officer and relevant Portfolio Holder, on the 27th March 2018.

S112 of the Local Government Act 1972 allows a local authority to appoint such officers as are necessary for the proper discharge of its functions, on such reasonable terms and conditions as it thinks fit. Salary grade should be determined by job evaluation.

It is advisable to set up a temporary contract for a fixed term. In order for liability in relation to unfair dismissal, to be limited there must be a legitimate reason for a fixed term contract and the employee must be made aware of this reason and of the anticipated length of the contract at the commencement of the contract. After the 4th year of renewal the employee may be entitled to the position on a permanent basis.

When recruiting to these posts consideration should be given to establishing them as temporary contracts for a fixed term and appropriate advice sought from HR and Legal. If the length of the contract exceeds 1 year upon termination the employees may be entitled to be placed on the redeployment register and after 2 years may be entitled to a redundancy payment.

The Fixed Term Employees (Prevention of Less Favourable Treatment) Regulations 2002 confirm that employees should not be treated less favourably on the ground they are fixed term unless this is objectively justified. Less favourable treatment means, but is not limited to pay and terms and conditions.

Agency posts

There are no legal restrictions on the use of Agency workers for a local authority. There is a legal obligation to consider best value and therefore it is recommended that there be regular reviews of the decision to use agency staff to ensure this obligation is being met. There should be a contract that sets out the terms of assignment in place prior to the renewal of the role.

Reed were appointed as the Council's supplier of temporary staff following a procurement process which was compliant with both EU Procurement Regulations and Contract Procedure Rules. In addition care must be taken to ensure the Agency Worker Regulations and the Council's Policies relating to Agency workers and Recruitment in general are adhered to. Care should also be taken to manage the risk of an implied employment contract, As a minimum there should be regular assessment of the nature of work that agency workers are engaged to do; focus on using agency workers for specific projects or cover for fixed periods. Incorporate a review of requirements for agency workers into a regular review of staffing levels and needs.

The Council should also note that should the worker become a permanent employee in the future, the time spent as an agency worker may count towards continuous service in order for employment rights to be conferred in terms of qualifying service to be able to bring a claim for unfair dismissal.

An agency worker may also be deemed to be a DMBC employee for the purposes of vicarious liability depending on the amount of day-to-day control DMBC has of their work.

It is important that sight is not lost of the Council's recruitment, retention, and vacancy management policies, which should be followed.

Name: Neil Concannon Signature: Emailed Date: 27/7/21

Signature of Assistant Director of Legal and Democratic Services (or representative)

BOX 6

FINANCIAL IMPLICATIONS:

During 2020/21 the Council received several ring fenced Government grants under section 31 of the Local Government Act 2003 to support costs associated with tackling COVID-19. Receipt of Contain the Outbreak Management Fund (COMF) £2.495m and £5.527m both approved via a Rule 16 on 9th November 2020 and 23rd December 2020 respectively. Government guidance confirmed that this funding could roll forward into 2021/22 but must be spent by 31st March 2022. The afore mentioned decisions approved the delegation of further decisions from these grants to Director of Public Health in consultation with the Director of Corporate Resources and the Portfolio Holder for Public Health.

At the end of 2020/21 £7m was transferred to Earmarked Reserves, £5m of which will continue to fund work/schemes outlined in earlier decisions and £2m has since been freed up to fund new priorities such as that outlined in the body of the report. The first year of funding for the 2 posts will therefore be funded from this grant.

A business case was presented to JCOG on 29th Oct 2020 requesting £88k to cover the periods 01/04/21 – 31/03/23 for the Gypsy Traveller Link Worker post from the Better Care Fund earmarked reserve. It has subsequently been agreed that this funding will be used in 2022/23 to fund the 2 posts.

Name: Helen Rowlands Signature: Emailed Date: 28/07/21

Signature of Chief Financial Officer and Assistant Director of Finance (or representative)

BOX 7

OTHER RELEVANT IMPLICATIONS

Name: _____ Signature: _____ Date: _____

Signature of Assistant Director (or representative)

ANY IMPLICATIONS SENT TO DEPARTMENTS SHOULD GENERALLY BE SUBMITTED AT LEAST 5 WORKING DAYS IN ADVANCE TO ENSURE THESE CAN BE GIVEN THE RELEVANT CONSIDERATION.

BOX 8

EQUALITY IMPLICATIONS: (To be completed by the author).

EQUALITY IMPLICATIONS:

Gypsies and Travellers are a racial group as defined in s9 of the Equalities (2010) and are therefore protected. Decision makers must consider the Council's duties under the Public Sector Equality Duty of S149 of the Equality Act (2010). The duty requires the public sector such as the Council and NHS, when exercising its functions, to have 'due regard' to the need to eliminate discrimination, harassment and victimisation and other conduct prohibited under the act, and to advance equality of opportunity and foster good relations between those who share a 'protected characteristic' and those who do not share it. This case seeks to positively assist Gypsies and Travellers and therefore an equality impact analysis/assessment is not required for this report.

BOX 9

RISK IMPLICATIONS: (To be completed by the author)

When the initial decision was taken to fund these posts, the key risk was related to recruitment. In the event, this was not an issue. Current risk relates to the short term funding of the posts which may result in the targeted communities being reluctant to engage.

BOX 10

CONSULTATION

Joint Commissioning Operational Group and Joint Commissioning Management Board for the initial decision.

BOX 11

INFORMATION NOT FOR PUBLICATION

In accordance with the Freedom of Information Act 2000, it is in the Public's interest for this decision to be published in full, redacting only the signatures.

Name: Maisie Mattocks Signature: _____ Date: 28/07/2021

Signature of FOI Lead Officer for service area where ODR originates

BOX 12

BACKGROUND PAPERS

Please confirm if any Background Papers are included with this ODR YES/NO

(If YES please list and submit these with this form)

BOX 13

AUTHORISATION

Name: Rupert Suckling Signature:  Date: 28/07/2021

Director of Public Health

Does this decision require authorisation by the Chief Financial Officer or other Officer

NO

If yes please authorise below:

Name: _____ Signature: _____ Date: _____

Chief Executive/Director/Assistant Director of _____

Consultation with Relevant Member(s)

Name: _____ Signature: _____ Date: _____

Designation _____

(e.g. Mayor, Cabinet Member or Committee Chair/Vice-Chair)

Declaration of Interest YES/NO

If YES please give details below:

PLEASE NOTE THIS FORM WILL BE PUBLISHED ON THE COUNCIL'S WEBSITE IN FULL UNLESS IT CONTAINS EXEMPT OR CONFIDENTIAL INFORMATION.

Once completed a PDF copy of this form and any relevant background papers should be forwarded to Governance Services at Democratic.Services@doncaster.gov.uk who will arrange publication.

It is the responsibility of the decision taker to clearly identify any information that is confidential or exempt and should be redacted before publication.