

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: 2021024

BOX 1**DIRECTORATE:****DATE:** 26/11/2020**Contact Name:** Pat Hagan**Tel. No:** 01302 737609**Subject Matter: Local Authority Compliance and Enforcement Grant**

On 22 September the Prime Minister announced that £60 million will be made available across the police and local authorities for COVID-19 related compliance and enforcement activities. Of this £60 million, £30 million is being allocated to local authorities for four months.

Doncaster Council's allocation is £195,174. The funding made available is ring fenced for any activity which will support compliance and enforcement of measures to support public health measures, including social distancing, to control the spread of COVID-19 across individuals, businesses and in the community.

BOX 2**DECISION TAKEN**

The decision is to accept Doncaster's allocation of the Local Authority Compliance and Enforcement Grant of £195,174 (also referred to as 'surge enforcement funding') in accordance with Financial Procedure Rules E9-E13 – External Funding.

The funds will be used in full over the next four months on additional staffing and associated resources required for a Covid-19 marshals model, which will bolster existing resources to support compliance and enforcement within the Borough.

BOX 3**REASON FOR THE DECISION**

As we move towards Christmas, we know that it will be particularly important to support people who will want to use their local high streets and town centres in a COVID Secure way, and by helping people feel safe doing so, we can support the businesses that depend on their custom. In recent weeks Local Authorities have been asked to take on additional responsibilities to support communities to understand and comply with the rules, and this funding is to support

Local Authorities with that role. £30m has also been provided for the police, to ensure that they are able to enforce the rules and regulations where necessary.

The Prime Minister recently set out several steps that can be taken to help increase compliance in relation to measures to help prevent the spread of COVID-19, including encouraging authorities to introduce COVID-19 Secure Marshals. The role of COVID-19 secure marshals is not to enforce COVID-19 regulations, or have any enforcement powers, which should remain the remit of the police and designated local authority compliance and enforcement officers. COVID-19 secure marshals or equivalents should instead engage, explain and encourage best practice and national COVID-19 secure guidance.

Proposed model of support:

The development of town centre integrated management proposes an integrated town centre team that includes a key role which are being called Town Centre Engagement Officers. In light of the current Covid-19 context, the proposal is to create 11 FTE town Centre Engagement Officer posts to provide a seven day cover between 7am – 10pm together with management support. The focus of the resource will be as follows:

- Refocusing the existing Town Centre Liaison Officer role to become town Centre Engagement Officers whose role will be to connect effectively with and support both town centre users and businesses - current team staffing is 6 FTE officers that work Monday – Saturday pattern from 8am – 8pm
- Recruiting 5 FTE Town Centre Engagement Officers
- Recruiting a bank of town centre Marshals providing a visible front facing public service offering Covid guidance related engagement, information, advice and guidance
- 7 day consistent level of visible presence
- A Town Centre Officer in charge
- Additional resources to cover the outer town centres and 'hotspots'
- Administration support (staff rotas, ordering PPE, arranging training and reporting)
- Management support TBC

The specific roles will cover:

Town Centre Engagement Officers – Grade 7 plus an honorarium to the first level of grade 8

11 FTE working 4 on 4 off - bandwidth hours 7am – 10pm

Supporting the objective to ensure Doncaster's Town Centres have effective management arrangements that support them to thrive as anchors of Doncaster's economic, social and cultural renewal. The role will support recent progress and protect and complement the major investment, particularly in Doncaster Town Centre, together with building confidence in the business community and with users of Town Centres. More specifically, the role is working in a dedicated core town centre delivery team that provides a seven day consistent level of visible presence that connects effectively with and supports both town centre users and businesses. There is an emphasis on proactive engagement with businesses as well as information and advice for town centre users, addressing unacceptable behaviours, problem solving on day-to-day operational issues and providing practical support for business and a conduit to wider support. An important elements of the role in context of post-Covid renewal is specific business and public engagement e.g. re social distancing and compliance.

To achieve an early transition into the role, the proposal is to establish the new role on a temporary basis and pay an honorarium to the existing Town Centre Officers.

Town Centre Marshals - Grade 6

10 FTE working 4 on 4 off working core hours 9am - 5pm

To be part of a team working to support compliance and enforcement of measures to control the spread of COVID-19 across individuals, businesses and across the Doncaster community. Working with the town centre and local areas providing a highly visible front facing public service offering engagement, information, advice and guidance as appropriate.

There will be a requirement to provide PPE, IT and telephones etc., and this will be covered in the costings.

There is a separate proposal by Regulation and Enforcement to provide additional resource for compliance with, and enforcement of, restrictions and guidance. This includes additional NRT Officers and will provide an evening response seven days per week.

BOX 4

ALTERNATIVE OPTIONS CONSIDERED AND REJECTED

- Establish a model of support beyond the funding available - the funding awarded for four months appears to sufficiently reflect the additional requirement, however this will be monitored. If more marshals are needed within the 4 month period a further decision will be required and additional funding will need to be identified.
- Establish a model of support below the amount of funding available – the grant is ring-fenced and must be used for compliance and enforcement activities. The Council will maximise the use of the grant funding which supports a model which does not appear to exceed requirements.
- Establish a model to be put in place for a period greater than 4 months – the funding is for four months which covers the Christmas and after-Christmas sales period when activity and footfall is expected to be higher. It is not expected that the same level of support will be required in late February/March, however the situation will be reviewed taking into account local infection rates and whether additional support is required. An extension beyond four months will require a further decision and funding will need to be identified

BOX 5

LEGAL IMPLICATIONS

Section 1 of the Localism Act 2011, allows the Council to do anything that individual may generally do.

The Council must ensure that it complies with the terms and condition of the grant letter as failure to do so could invoke claw back of the funding.

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.

At paragraph 2.6 of the Local Terms and Conditions for Employees an officer who for any reason is called upon to undertake the full duties and responsibilities of a higher graded post for a continuous period of at least two weeks is entitled to receive a salary in accordance with the grading of the post temporarily occupied.

Alternatively where an officer is not required to undertake the full duties and responsibilities of a higher graded post the employing authority may consider granting an honorarium of an amount, dependent upon the circumstances of each case, to an officer who performs duties outside the scope of his post over an extended period or where the additional duties and responsibilities involved are exceptionally onerous.

For all posts, given the temporary nature it is advisable to set up temporary contracts for a fixed term. Any employee regardless as to whether or not they are employed for a fixed term obtain certain employment protection, which includes protection from unfair dismissal after 2 year's employment service. In order for liability in relation to, inter alia, 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.

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.

Should the length of the contracts exceed 1 year upon termination (if it is anticipated that the roles will be extended beyond March as the longer term plan is to establish a permanent integrated town centre management team) the Employee may be entitled to be placed on the redeployment register and after 2 years may be entitled to a redundancy payment.

If it is anticipated that after 2 years the post holders will revert to their substantive posts then a secondment could be considered. The Council's policy and procedures should be followed which includes Secondment Agreements being set up.

As the roles are envisaged to be conducted for at least 4 months on a full time basis, care should be taken when calculating holiday pay ensuring eligible pay includes acting up allowance, HR advice is suggested on this issue.

Honoraria

Where an employee assumes the job title, duties, responsibility and salary of the new role and there is no periodic review of the arrangement, it is possible that the arrangement could become permanent as more time passes.

It is good practice to have a written agreement setting out the arrangement from the outset to avoid the potential risk of the arrangement becoming permanent.

If there is a written agreement in place, specifying the time frame over which the employee will "act up", and what the terms governing the arrangement are, there is little risk that the arrangement will become permanent. Where a time frame has not been specified, but it is set out clearly in writing that it is a temporary arrangement and there are periodic reviews in discussion with the employee, again it is unlikely that it will be deemed to be a permanent promotion.

It is advised that the arrangement is made clear to the employees that additional payments will be made pursuant to the honorarium scheme and do not constitute a permanent contractual entitlement for extra pay for undertaking those duties in order to rebut any legitimate expectation of the payment continuing after those circumstances ceased. This will then reduce risk of claims made for unlawful deduction from wages.

Suggest further HR advice is sought on this issue.

Name: Gemma Ashton

Signature: [REDACTED]

Date: 19.11.20

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

BOX 6

FINANCIAL IMPLICATIONS:

Doncaster Councils allocation from this grant is £195,174 for four months. The grant is ring-fenced and Government has issued guidance on how it expects the money to be spent.

The proposal is to fund Covid-19 marshals and related staffing costs as follows:

Post Description	Grade	Number of equivalent posts (FTE)	Salary per annum (£)	Hourly rate including on costs (£)	Enhancements 6% all inclusive allowance (£)	post duration (weeks)	Total cost (£)
Existing Town Centre Engagement Officers honorarium costs	8	6	34,167.90	17.71	2,050.07	16	£7,534
Town Centre Engagement Officers	8	5	34,167.90	17.71	2,050.07	16	£55,720
Town Centre Marshals (8288 hours)	6	Up to 14	25,512.24	13.26	2,050.07	16	£118,730
IT							£2,000
Training							£2,000
Materials							£3,500

Telephones	£3,690
Discretionary budget	£2,000
Total costs	£195,174

The 11 Town Centre Engagement Officers includes 6 FTE Grade 7, already in post and budgeted for. The additional cost relating to this decision is £195k which covers the honorarium costs of the 6 existing posts from Grade 7 to Grade 8 and the additional 5 x Grade 8s (plus Marshals and associated costs).

According to the grant guidance, administration costs related to the scheme can be covered by the grant funding, e.g. training and materials (including PPE).

Financial procedure rules E.10-E.13 External Funding apply.

Name: Nick Cameron **Signature:**  **Date:** 30th October 2020

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

BOX 7

OTHER RELEVANT IMPLICATIONS

HR IMPLICATIONS

Town Centre Engagement Officers – Grade 7 plus an honorarium to the first level of grade 8, JE ID Number 7783, Temporary until 31st March 2021.

Town Centre Marshals - Grade 6, JE ID Number 7784, Temporary until 31st March 2021.

The new posts should be recruited to in line with DMBC's Safer Recruitment policy, initially open to Redeployees before being advertised internally / externally and will need to be created on the HR portal prior to any appointment.

Employees who complete 12 months continuous service accrue employment rights. Employees who complete 2 years continuous service accrue rights to a redundancy payment.

If the successful candidate will attain 12 months continuous service prior to the end of the temporary contract they will be eligible to access the Redeployment procedure. To avoid having to retain the individual beyond the scope of the original contract terms they should be placed on the redeployment register early enough to have 12 weeks on the register plus their required notice period before the end of the contract.


Fixed-term employees have the right not to be treated less favourably than comparable permanent employees because they are on a fixed-term contract.

This means you must treat fixed-term employees the same as comparable permanent employees unless there are 'objectively justifiable' circumstances for not doing so (ie there is a genuine, necessary and appropriate business reason).

This means the same or equivalent (pro-rata) pay and conditions, benefits, pension rights and opportunity to apply for permanent positions within the business.

Under the Fixed-term Employees (Prevention of Less Favourable Treatment) Regulations 2002, employees who have been on a fixed-term contract for four years or longer will usually be legally classed as permanent if their contract is renewed or if they are re-engaged on a new fixed-term contract.

The only exemptions are when employment on a further fixed-term contract is objectively justified to achieve a legitimate business aim or when the period of four years has been lengthened under a collective or workplace agreement.

Name: Sarah Brown Signature:  **Date: 26th November 2020**

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:**

Local authorities are subject to the Equality Act and the Public Sector Equality Duty will apply to all decisions taken on measures relating to encouraging social distancing in the public realm.

**BOX 9
RISK IMPLICATIONS:**

Appropriate risk assessments will be undertaken before deploying COVID-19 marshals to ensure staff are safe in performing their duties, recognising they will be engaging with the public and the associated health and safety risks with regards COVID-19 transmission or otherwise.

This will include consideration of responsibilities and suitability of staff to carry out the work, taking into account pre-existing health conditions of staff and other characteristics that may mean the individual is at greater risk than others.

If bringing in agency or contracted staff, consideration will be made as to whether contractors have appropriate risk assessments and operational/supervisory protocols in place.

**BOX 10
CONSULTATION**

Consultation has take place with Senior Managers with a stake in the integrated town centre management model. The existing Town Centre staff have been consulted and agree with proposal to offer an opportunity to volunteer for proposed role for the stated period to the end of March.

**BOX 11
INFORMATION NOT FOR PUBLICATION**

It is in the public's interest to be aware of this decision record under the Freedom of Information Act 2000, therefore this decision will be published in full, redacting signatures and officers names only.

Name: Pat Hagan

Signature 

Date: 26/11/2020

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

**BOX 13
AUTHORISATION**

Name: Riana Nelson

Signature: 

Date: 03/12/2020

Director of Learning, Opportunities and Skills

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.