

Lancashire County Council

Cabinet

Thursday, 6th August, 2020 at 2.00 pm to be held as a Virtual Skype Meeting

Supplementary Agenda

We are now able to enclose, for consideration at the next meeting of the Cabinet to be held on Thursday, 6th August, 2020, the following information which was unavailable when the agenda was despatched

Part I (Open to Press and Public)

No. Item

7. Urgent Business

An item of urgent business may only be considered under this heading where, by reason of special circumstances to be recorded in the Minutes, the Chair of the meeting is of the opinion that the item should be considered at the meeting as a matter of urgency. Wherever possible, the Chief Executive should be given advance warning of any Member's intention to raise a matter under this heading.

The Leader of the County Council - County Councillor Geoff Driver CBE

- (a) **COVID Recovery Grants for the Visitor and Wider Economy** (Pages 1 - 4)
- (b) **Covid-19: Local Powers** (Pages 5 - 8)

The Cabinet Member for Children, Young People and Schools - County Councillor Phillippa Williamson

- (c) **Withdrawal of the Proposal to Discontinue the Local Authority's Maintenance of Wennington Hall School** (Pages 9 - 12)

Angie Ridgwell
Chief Executive and Director of
Resources

County Hall
Preston

Report to the Cabinet

Meeting to be held on Thursday, 6 August 2020

Report of the Head of Business Growth**Part I**Electoral Division affected:
(All Divisions);**COVID Recovery Grants for the Visitor and Wider Economy**

Contact for further information:

Sean McGrath, Tel: 01772 531053, External Funding and Investment,
sean.mcgrath@lancashire.gov.uk**Executive Summary**

The report requests approval for Lancashire County Council to apply for £1,544,072 of European Regional Development Fund resources to deliver COVID 19 Recovery grants, in its role as Accountable Body for the Lancashire Business Growth Hub BOOST. The grants will form part of a national programme to support Small and Medium Size enterprises, with a discrete allocation for those in the Visitor Economy, in adapting to new trading conditions to aid recovery from the impact of the COVID 19 pandemic.

Recommendation

Cabinet is asked to:

- (i) Note the detail of the report.
- (ii) Agree to the county council applying for £1,544,072 of European Regional Development Funds, in its role as Accountable Body for the Lancashire Business Growth Hub BOOST, to deliver grants to small and medium size enterprises in the Lancashire LEP area; and
- (iii) Authorise the Director of Growth, Environment and Planning to formally apply for the resources and (working with the Director of Corporate Services) formalise all relevant contractual and other documentation.

This decision should be implemented immediately for the purposes of Standing Order C29 as any delay could adversely affect the execution of the county council's responsibilities. The reason for this is that the bid for additional resources is in response to recent Ministerial announcements allocating resources to Growth Hubs to provide grants. The challenges of the COVID 19 mean that businesses are being required to change the way they operate and deliver services in quite a rapid way. As a result the grant programme is required to be operational as soon as is feasible.

Background and Advice

Lancashire businesses are currently facing unprecedented change and impact due to the current economic crisis caused by the COVID 19 global pandemic. 'Redefining Lancashire: Our Approach to Recovery'; notes the risks of irreparable damage to key sectors with the pandemic having significant impacts on the employment base and productivity across Lancashire for years to come. Lancashire's Growth Hub, BOOST, has already responded to the needs of businesses by repositioning the support services and talents of the delivery partners to help and support any business in Lancashire, irrespective of sector and ambition. Services have been made fully open to every business so that they had someone to talk to, the campaign #AskForHelp supported over 5000 businesses either through the BOOST website (and the assets created especially for COVID), or through our business relationship management service, which is a person to person conversation. The Growth Hub also made sure that this temporary pivot was promoted to as wider audience as possible. BOOST remained open at a time when the business community really needed support. However, the service did not include financial support through grants.

In addition to the support provided by BOOST, numbers of businesses are seeking specialist advice to further mitigate the impacts in order to build in resilience within their business or address potential new opportunities and require ongoing support to innovate, scale or meet their own growth path. This has been evidenced by the volume and type of enquires received by BOOST over the course of the pandemic, over 6000 to date.

In order to provide financial support for Small and Medium Size Enterprises the Government, utilising the Priority 3 of the European Regional Development Fund, has issued a specification for Growth Hubs to apply against to access LEP area funding allocations.

These allocations, which were finally confirmed on 30th July 2020, will support businesses operating as part of the Visitor Economy, Lancashire allocation £425,911 and the Wider Economy, Lancashire allocation £1,118,161 (the Wider Economy allocation is the 3rd largest in England after London and the North East). The key outputs for the grant scheme will be jobs and businesses safeguarded.

The proposed grants will support the following types of activity and have a strong fit with the 'Redefining Lancashire' campaign:

- 1-2-1 specialist advice which SMEs could call on to address their immediate needs in response to the impact of COVID 19 e.g. HR, accountants, legal, financial, H&S, IT / digital or sector specialists etc.
- For the visitor economy, this could also include supporting SMEs with productivity improvements such as enhanced use of digital tools such as yield management software, mentoring, networking or other measures. It could also support to develop innovative delivery in a socially distanced economy – for example, new ways of delivering cultural events and festivals that are so critical to the visitor experience; and / or

- Purchase of minor equipment to adapt or adopt new technology in order to continue to deliver business activity or diversify in response to COVID 19.
- Normal grant levels are usually between £1,000 - £3,000, although on an exceptional basis the grant recipient may be granted up to a maximum of £5,000.

Unlike previous European Regional Development Fund projects the grants will be made at a 100% intervention rate on the basis of a temporary relaxation in match funding requirements agreed by the UK Government and European Commission. All grants will need to be awarded by 28th February 2021 and all expenditure defrayed by 31st March 2021. The Lancashire scheme will be open for applications in early September 2020 with an aim to deliver at least 500 grants in order to commit the full allocation.

The grants are required to be delivered through Growth Hubs or associated projects. In the Lancashire, the core Growth Hub project, BOOST, is delivered through the Business Growth Service of the county council, hence the proposal for the county council to bid for the additional resources. The Business Growth Service also contains the External Funding and Investment Team which currently delivers grants through the rural LEADER and North West Community Energy Fund programmes and has significant experience of applying for and delivering grant schemes.

Accountable Body and Delivery Function

In preparation for the delivery of the grant programme the county council is establishing a grant delivery system linked to the delivery of the BOOST support service. Due to the timescales involved, this process will need to be as streamlined as possible, yet remain within the constraints of European Regional Development Fund regulations, and deliver grants as quickly as possible to affected businesses. The process will be designed to allow for engagement with Lancashire local authorities and, in the case of the Visitor Economy grants, Marketing Lancashire.

If approved, the county council would act as Accountable Body for £1,544,072, only accessing a minimal amount to pay for any additional resourcing required with the bulk of resourcing costs absorbed by the county council. This approach would maximise the number of grants available. It is envisaged that the grants would be paid in arrears once grant recipients had evidenced defrayed expenditure. The county council would then claim the grant from the European Regional Development Fund via the Ministry of Housing, Communities and Local Government. This approach will reduce the risk to the county council as grants will only be paid once evidence of delivery and payment have been received.

Consultations

N/A

Implications:

This item has the following implications, as indicated:

Risk management

If the county council does not apply for the grant resources another Growth Hub partner will need to apply if Lancashire is not to lose the funds. This will take more time, delaying the launch of the grant programme and therefore delaying the issuing of grants to eligible enterprises.

Legal

The grant funding will need to be distributed in compliance with State Aid laws and appropriate procedures and protections put in place to ensure this.

Finance

Defrayed grants are repaid in arrears by the Ministry of Housing, Communities and Local Government. This is the normal quarterly process for BOOST activity claims. There will be short term cash flowing of the activity in the revenue budget as with the existing boost process. The financial risk of claims not being paid by MHCLG will be negated by the use of the tried and tested boost process and experienced staff processing grant claims and claims to MHCLG for repayment.

List of Background Papers

Paper	Date	Contact/Tel
Draft Tender Specification ERDF Covid 19 Recovery Grants	30/07/20	Sean McGrath 01772 531053

Reason for inclusion in Part II, if appropriate

N/A

Report to the Cabinet

Meeting to be held on Thursday, 6 August 2020

Report of the Head of Legal and Democratic Services**Part I**

Electoral Division affected:
(All Divisions);

Covid-19: Local Powers

Contact for further information:

Josh Mynott, Tel: (01772) 534580, Democratic and Member Services Manager,
josh.mynott@lancashire.gov.uk

Executive Summary

This report sets out proposed arrangements for decision making in Lancashire in relation to the ongoing Covid-19 pandemic, including in relation to new powers from government to be able to close individual premises, close public outdoor places and restrict events with immediate effect. This report also sets out the principles behind the proposed arrangements for the implementation of those powers.

Recommendation

Cabinet are asked to approve that:

- i. Authority to give directions under the Health Protection (Coronavirus, Restrictions) (England) (No. 3) Regulations 2020 be delegated to the Chief Executive and Director of Resources, and any other officer(s) that the Chief Executive deems it appropriate to further delegate to.
- ii. The Director of Corporate Services be authorised to approve the final arrangements for the policy and procedure for the implementation of these new powers.
- iii. Powers to take any decision on behalf of the cabinet necessary to urgently address or mitigate outbreaks of Covid-19 which can lawfully be delegated to officers, subject to the decision-taker, before taking the decision, having taken appropriate steps to consult the Leader, or, in his absence, the Deputy Leader, or in the absence of both, any members of the cabinet as considered appropriate by the decision taker, be delegated to the Chief Executive, Executive Directors and the Director of Corporate Services.
- iv. Such powers in (iii) above to replace the delegation to officers approved by the Leader of behalf of Cabinet on 23 March 2020 last until 31 January 2020 unless otherwise reviewed.

This decision should be implemented immediately for the purposes of Standing Order C29 as any delay could adversely affect the execution of the County Council's responsibilities. The reason for this is that there is a need to respond quickly to any new outbreaks or incidents of Covid-19 as they arise in Lancashire.

Background and Advice

New Powers for Local Authorities

On 18 July 2020, new legislation came into effect which gave local authorities new powers to respond to a serious and imminent threat to public health and to prevent COVID-19 transmission in a local authority's area where this is necessary and proportionate to manage spread of the coronavirus. The regulations include powers for local authorities to:

- restrict access to, or close, individual premises;
- prohibit certain events (or types of event) from taking place;
- restrict access to, or close, public outdoor places (or types of outdoor public places);

To make a direction under these Regulations a local authority needs to be satisfied that the following 3 conditions are met:

1. the direction responds to a serious and imminent threat to public health in the local authority's area;
2. the direction is necessary to prevent, protect against, control or provide a public health response to the incidence or spread of infection in the local authority's area of coronavirus;
3. the prohibitions, requirements or restrictions imposed by the direction are a proportionate means of achieving that purpose;

Before making a direction, local authorities will need to gather sufficient evidence to demonstrate that these tests have been met. This evidence may come from a range of local and national sources. A local authority must consult with the director of public health, and assess whether the conditions for taking action have been met.

A local authority should also consult the police prior to issuing a direction, Local authorities should be clear about why they are taking directive action and communicate this clearly to the Secretary of State, the person(s) to whom the direction applies and, where appropriate, those impacted by the direction.

Regulations also allows the Secretary of State to direct a local authority to issue a direction where the Secretary of State considers the conditions above have been met, and can also direct a local authority to revoke an existing direction where the above conditions are no longer met.

Any direction issued by a local authority under the Regulations will need to state the date and time on which the prohibition, requirement or restriction comes into effect, and the date and time on which it will end. This should include the basis on which the

three conditions are met and why a specific prohibition, requirement or restriction is necessary.

A local authority must review a direction it has issued under the Regulations at least every seven days and determine whether the three conditions for making the direction continue to be met. If at any stage the threshold for restrictions is no longer met, the direction should be immediately revoked or replaced with a direction which meets the threshold set out above.

Prior to issuing a direction, local authorities must have due regard to the Public Sector Equality Duty (PSED) as set out in section 149 of the Equality Act 2010 and should consider carrying out an equalities impact assessment to determine whether the measure may disproportionately affect people with protected characteristics. Identifying disproportionate impact would not prohibit a local authority from taking action, but this should be balanced against the wider public health risk in a local authority's area, and mitigations should be considered and implemented wherever possible.

Those directly impacted by any direction under these Regulations, including the owner or occupier of premises or event organiser against whom a direction applies, will have the right of appeal to a local magistrate and may make representations to the Secretary of State. The direction issued must include details of the right to appeal to a magistrates' court and the time within which such an appeal may be brought.

Whilst these powers are intended to be used on serious and imminent threats, the process of gathering evidence means that it is not generally expected that it will be possible to use them to address immediate concerns. However, it would be expected that these powers are part of a wider suite of engagement, support and influencing tools that are, in many cases, already likely to have been used in relation to a venue, site or event that is causing concern, and so prompt action will be possible.

As part of the arrangements, consideration is being given to enforcement activities, and also to the role in the process of colleagues from district councils. Cabinet is asked to note the new powers and approve that the detailed arrangements and the power to issue directions be delegated to officers as set out in the recommendations.

Lancashire County Council delegations

At the start of the outbreak, the Leader of the Council approved an urgent delegation to all officers at Head of Service level or above to enable them to take any decisions that would normally be reserved to Cabinet. This was a mechanism to ensure that the council was able to respond quickly to the rapidly developing and very serious situation, and was also designed to ensure that there were mechanisms in place to take essential decisions in the event that key decision makers were unable to perform their duties because of the virus. Controls were in place to ensure that key decisions makers were consulted on any such decisions.

Whilst the situation has moved on, the situation remains serious, and the need for the council to be able to act quickly in the event of an outbreak remains. However, it is also clear that the mechanisms for democratic decision making by members are effective and in place.

It is therefore suggested that the current delegation be replaced by a delegation to just the most senior officers in the council, and that it be made clear that it only relates to decisions that mitigate or address the impacts of the further spread of Covid-19.

Consultations

N/A

Implications:

This item has the following implications, as indicated:

Risk management

As set out in the "Background" above.

List of Background Papers

Paper	Date	Contact/Tel
None		
Reason for inclusion in Part II, if appropriate		
N/A		

**Report to the Cabinet
Meeting to be held on Thursday, 6 August 2020**

Report submitted by: Director of Education and Skills

Part I

Electoral Division affected:
Lancaster Rural East

Withdrawal of the Proposal to Discontinue the Local Authority's Maintenance of Wennington Hall School

Contact for further information:

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Executive Summary

This report informs Cabinet about the plan to withdraw the proposal to discontinue the Local Authority's maintenance of Wennington Hall School and sets out the recommendations for consideration.

Between 3 February and 16 March 2020, the county council consulted on a proposal to discontinue the local authority's maintenance of Wennington Hall School, Lancaster.

As part of the statutory process, responses to the stage one consultation were considered and a decision taken on 9 April 2020, to publish a Statutory Notice. The Statutory Notice was published on 23 April 2020.

All interested parties were invited to share their views between 23 April and 21 May. Following the closure of the representation period on 21 May 2020, it is recommended that a decision is made to withdraw this proposal

Recommendation

Cabinet is asked to:

- i. note the process undertaken to date in relation to Wennington Hall School.
- ii. agree to the withdrawal of the proposal to discontinue the local authority's maintenance of the school until the procurement process is implemented and the market has been tested.
- iii. agree that the Schools' Adjudicator be informed of the decision to withdraw the proposal.

Background

The statutory process as set out in the School Organisation (Establishment and Discontinuance of Schools) Regulations 2013 must be followed before making a decision on the discontinuance of a maintained school. This is supplemented by further guidance on the process published by the Department for Education.

The Department for Education's statutory guidance, 'Opening and Closing Maintained Schools' includes the following reasons for the discontinuance of a maintained school:

It has been judged inadequate by Ofsted and there is no sponsored academy solution. This applies to Wennington Hall School where, for more than two years, an academy solution has not been secured. In September 2019, the Regional Schools' Commissioner, on behalf of the Department for Education, wrote to advise that approval had been given to revoke the academy order, subject to the council sourcing an appropriate independent provider to take over the running of educational provision at Wennington Hall.

It is no longer considered viable. The reduction in number on roll at Wennington Hall School has reduced the school's income to a level which increasingly threatens its viability.

In this context, on 16 January 2020, Cabinet approved a stage one consultation be undertaken regarding the future of Wennington Hall School, due to poor educational standards at the school and the failure to secure a sponsor to convert the school to an academy.

During the period 3 February to 16 March 2020, an initial consultation was undertaken, including a consultation event at the school held on 27 February 2020.

On 9 April 2020, approval was given by the Leader of the Council and the Cabinet Member for Children, Young People and Schools, on behalf of Cabinet in accordance with the provisions of Standing Order C16(1), to:

- i. note the consultation arrangements that were undertaken and the responses that were received in response to the authority's proposal.
- ii. approve that the authority publishes a Statutory Notice of its proposal for the discontinuance of local authority maintenance of Wennington Hall School.
- iii. confirm approval of the procurement process to identify an independent provider to take over the premises.

The publication of a Statutory Notice would lead to a further statutory consultation (Stage 3) in order to determine the proposal.

The Statutory Notice was subsequently published on 23 April 2020, in accordance with section 15(1) of the Education and Inspections Act 2006, stating that Lancashire

County Council intended to discontinue its formal maintenance of Wennington Hall School.

All interested parties were invited to share their views on this proposal between 23 April and 21 May 2020.

A timetable for the overall process to discontinue the maintenance of Wennington Hall School was set out in the 9 April report, with the intention of reporting to Cabinet on the outcomes from both the publication of the Statutory Notice and the representation period in June or July 2020.

Following the closure of the representation period on 21 May 2020, and given the challenges presented by the current pandemic and the potential impact this may have had on the market, it was recognised that the authority would be unable to run a satisfactory procurement process, prior to the implementation of the discontinuance proposal, which is subject to a statutory timetable. Therefore, the current proposal needs to be withdrawn until such time as the procurement process could be progressed.

A proposal can be withdrawn by the proposer at any point before a decision is taken. The proposer must send written notice to the Schools Adjudicator and a notice must also be placed on the website where the original proposals were published.

Implications:

If the proposal to discontinue the school was not withdrawn, the implications are included in the risks highlighted below;

Risk management

The authority has a statutory duty to secure high-quality school places for its residents. School places would be secured for all current pupils affected by the proposed discontinuance, and potential future placements implemented through the local authority's commissioning arrangements.

Human Resources

There are implications for staff employed at the school who may be subject to the Transfer of Undertakings (Protection of Employment) Regulations 2006, depending on the nature of any successor service. Any incoming provider would wish to ensure its position is protected under any arrangement entered into with the county council.

Financial

Wennington Hall School was judged to require special measures in 2017 and the county council intervened in relation to safeguarding issues at the school. As a result of the required intervention and continued reduction in numbers on roll, the school has a cumulative deficit of over £1million. This deficit is expected to rise substantially by March 2021.

When a local authority discontinues its maintenance of a school, any balance remaining including a deficit reverts to the authority.

An alternative sustainable solution for the school is to secure an external provider for the school through a transparent procurement process.

Procurement Process

The county council intends to conduct a formal procurement process commencing in September 2020, with suitably experienced providers in the field of special educational needs, who meet specified eligibility criteria and who may be in a position to deliver education to pupils currently on roll at Wennington Hall.

Property Transfer or Sale

There is the potential for a substantial capital receipt for the school premises. However, a capital receipt will only be realised if approval from the Department of Education is given to the disposal under S77 School Standard and Framework Act 1998. In addition, the approval of the Secretary of State would be required under Schedule 1 to the Academies Act 2010.

The county council must also give consideration to Section 123 of the Local Government Act 1972. This provides that a council cannot dispose of its land for a consideration less than the best that can be reasonably obtained in the market, except with the express consent of the Secretary of State or via the 2003 General Disposal Consent order, permitting councils to dispose of land at an undervalue without Secretary of State consent, provided that:

- (a) the authority considers the disposal will help it to secure the promotion or improvement of the economic, social or environmental well-being of its area; and
- (b) the undervalue of the disposal does not exceed £2,000,000.

Equality and Cohesion

A full Equality Impact Analysis will be completed and reported at the determination stage of the proposal.

List of Background Papers

None

Reason for inclusion in Part II, if appropriate

N/A