

Urgent Decision Taken on Behalf of Cabinet

Report to the Leader of the County Council and the Cabinet Member for Economic Development, Environment and Planning
Report submitted by: Director of Growth, Environment and Planning

Part I

Electoral Division affected:
(All Divisions);

Subsidy Control: Designing a New Approach for the UK - Lancashire County Council Response to Consultation

(Appendix 'A' refers)

Contact for further information:

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Executive Summary

The report sets out the detail of the Government consultation [Subsidy Control – designing a new approach](#) and the county council's response to the consultation questions.

Reason for Urgency

This decision is urgent and cannot await the next meeting of Cabinet on 1 April 2021. The reason for this is the requirement to submit a response by 31 March 2021. This decision is therefore being taken on behalf of Cabinet by the Leader of the Council and the Cabinet Member for Economic Development, Environment and Planning in accordance with the provisions of Standing Order C16(1).

Recommendation

The Leader of the County Council and the Cabinet Member for Economic Development, Environment and Planning are asked to:

- (i) Approve the consultation response set out at Appendix 'A'.
- (ii) Authorise the Director of Growth, Environment and Planning to submit the consultation response to the Department for Business, Innovation, Energy and Skills by the deadline date of 31 March 2021.

This decision should be implemented immediately for the purposes of Standing Order C28(3) as any delay could adversely affect the execution of the county council's responsibilities. The reason for this is the requirement to submit a response by 31 March 2021.

Background and Advice

The government is seeking views from interested parties in the design and operation of a new public subsidy control framework to replace the European Union State Aid scheme that is no longer applicable as a result of the UK leaving the European Union.

In general terms, a subsidy is a financial contribution using public resources which confers a benefit on the recipient. This could include, for example, a cash payment, a loan with interest below the market rate, or a loan guarantee. These types of subsidies are administered by all levels of government in the UK. Subsidies should be in the public interest and given to promote a social good or address a market failure such as to incentivise businesses to undertake research and development that increases economic productivity and wider prosperity, or to increase the uptake of low carbon technology. They can also help level up parts of the UK.

Whilst the UK was part of the European Union it was covered by State Aid rules related to public subsidies. This covered a wide range of areas including specific regulations related to exemptions from public subsidy rules for Small and medium sized enterprises, skills development and research. It also included the provision of Assisted Area coverage whereby businesses in specified geographic areas could receive greater levels of public subsidy than those businesses outside these areas. In Lancashire Assisted Area coverage was focused on manufacturing and socio economically deprived areas. This coverage also includes a number of economic development opportunities (the map included in Appendix 'A' refers).

However, unless managed effectively subsidies can have the potential for harmful or distortive effects. Subsidies can give recipients an unfair advantage over their competitors or be an inefficient use of public money if they do not bring about net positive change. As a result, the Government wants to design a Public Subsidy framework that can prevent the negative effects of public subsidies, facilitate the efficient operation of the UK economy as well as allow public bodies to undertake strategic interventions.

To minimise any risks, and increase the likelihood that subsidies achieve positive outcomes, the Government intends to design a policy that regulates (or places “controls” on) the potentially distortive or harmful effects of subsidies. The Government wishes to tailor the new subsidy control framework to support the following objectives:

- Facilitating interventions to deliver on the UK’s strategic interests
- Maintaining a competitive and dynamic market economy
- Protecting the UK internal market
- Acting as a responsible trade partner

A new framework will also support the compliance of the UK with its current and future international obligations including the Trade and Co Operation Agreement with the European Union.

Public Authority Responsibility

There will be a legal obligation placed on public authorities such as local authorities to meet the terms of these principles. Public authorities would be required to follow and apply the following principles (unless there was an exemption).

PRINCIPLE	EXPLANATION
Subsidies are provided to meet a specific public policy objective to remedy an identified market failure or to address an equity concern	Public authorities will need to consider, explain and assess the policy objective behind the subsidy to ensure there is a benefit to wider society in providing the subsidy. Social equity objectives could include providing transport for residents of remote areas
Subsidies are proportionate and should be the minimum size necessary to achieve the stated public policy objective	Subsidies should be the minimum necessary to achieve the desired aim. In choosing a subsidy the body granting the subsidy (“the public authority”) must adopt those causing Subsidy control - Designing a new approach for the UK 24 the least possible disruption in pursuit of the public policy objective
Subsidies are designed to bring about a change in the practices of the subsidy beneficiary that would not be achieved in the absence of a subsidy and that will assist with achieving the stated public policy objective	Subsidies must incentivise and lead to a change in the behaviour of the beneficiary. They must help to address the public policy objective being pursued.
Subsidies should not normally compensate for the costs the beneficiary would have funded in the absence of any subsidy.	Subsidies should be targeted to bring about an effect that is additional to any that would occur in the absence of the subsidy. They should not normally cover everyday business expenses
Subsidies are an appropriate policy instrument to achieve the stated public policy objective and that objective cannot be achieved through other less distortive means	Alternative policy levers that are likely to cause less distortion to competition should be considered before turning to subsidies
Public authorities should seek to minimise any harmful or distortive effects on competition within the UK internal market that might arise from a subsidy	Public authorities should assess the material competition effects, which are likely to arise from providing the subsidy. This is a domestic test to ensure that a subsidy does not unduly favour one firm to the detriment of a competitor or new entrants to the UK market, or unduly reduce competition within the UK market.
Subsidies’ positive contributions to achieving the objective outweigh any negative effects, in particular the negative effects on domestic competition and international trade or investment	Public authorities will need to assess the material effects on competition and international trade or investment and judge whether the benefits of the subsidy are greater than the harmful impacts of providing

	the subsidy
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The consultation asks for views as to whether there should be any additional principles.

Transparency Database

The Government is creating a Transparency Database to which all public authorities would be required to upload details on public subsidies within a set period. This would allow for a full picture of UK public subsidies and also facilitate, where appropriate, challenge to public subsidies.

Independent Body

The Government also intends to create a new independent body, as detailed in the Trade and Co-operation Agreement with the European Union, to operate the public subsidy regime. The exact role of the new body is yet to be defined and is the subject of consultation questions.

Key Points

The county council agrees with the Government view that all parts of the UK would benefit from a new public subsidy control regime. The opportunity to create a new public subsidy framework will allow the UK to establish a regime that meets the needs of the UK internal market whilst ensuring compliance with the UK's international treaty commitments. As a result, the framework needs to be flexible but be applied in a consistent manner across all the nations of the UK. The county council would welcome further engagement on the development of the new public subsidy scheme and its implementation.

The new public subsidy regime needs to support the levelling up agenda by addressing market failure as well as preventing market distortion. This should include opportunities to support economic growth in less advantaged/deprived areas. The new regime also needs to support new opportunities for business growth that would not otherwise be attractive to the market.

The use of an Assisted Area type geographic mechanism to allow for greater levels of public investment in particular places would help to address market failure and support business growth. Lancashire would wish to retain current coverage flexibilities and, where appropriate, expand that coverage to support economic opportunities. Any new geographic type coverage would usefully relate to key economic sectors, potential for growth and local socio-economic impact.

In order to ensure consistency of decision making there needs to be a clear set of rules across all UK nations in order to prevent unnecessary competition and provide reassurance for public bodies. These rules should include mechanisms to reduce bureaucracy such as the establishment of exemptions for a number of types of public investment such as for skills or for the use of loans (operating in a market context) or for specific sectors.

The county council's response to the consultation is attached as Appendix 'A'.

Consultations

N/A

Implications:

This item has no financial or legal implications as it is a response to a consultation, the resultant legislation changes may have implications that will be addressed when known.

List of Background Papers

Paper	Date	Contact/Tel
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None

Reason for inclusion in Part II, if appropriate

N/A

Urgent Decision Taken on behalf of Cabinet: Declarations

Leader of the County Council

Subsidy Control: Designing a New Approach for the UK - Lancashire County Council Response to Consultation

Original recommendation, as set out in the report, approved without amendment. Yes/No *

Original recommendation amended and decision as follows: Yes/No *

I have a pecuniary/non-pecuniary interest in this matter. Yes/No *

If an interest is declared please give details below:

.....
Leader of the County Council

insert date

Chief Officer

I certify that this is an appropriate and accurate record within the terms of Standing Order C30(2) and (3) of the decision taken by the Cabinet Member.

.....
insert title of authorising officer

insert date

*Delete as appropriate

This decision is to be taken by more than one Cabinet Member and all relevant Cabinet Members must be in agreement with the decision

Urgent Decision Taken on behalf of Cabinet: Declarations

Cabinet Member for Economic Development, Environment and Planning

Subsidy Control: Designing a New Approach for the UK - Lancashire County Council Response to Consultation

Original recommendation, as set out in the report, approved without amendment. Yes/No *

Original recommendation amended and decision as follows: Yes/No *

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.....
Cabinet Member for Economic
Development, Environment and Planning

insert date

Chief Officer

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