

Public Subsidy – Designing a New Approach - Lancashire County Council Response (with Appendix)

Question 1: What type of subsidies are beneficial to the UK economy?

Subsidies are beneficial where they can address issues of market failure and support the economic growth of the UK economy, including helping local areas to address the economic barriers that have prevented them growing to their full economic potential. In this context public subsidies can drive productivity of the UK, something which is particularly important as the UK builds pursues a Levelling Up agenda and builds its economic position in international markets.

Question 2: What type of subsidies are potentially most harmful and distortive?

Subsidies are harmful and distortive where they support ongoing inefficiencies without seeking to address them and/or support currently efficient businesses to other no other purpose than to help them access public funding. In such cases subsidies can contribute to market failure and by supporting inefficiencies they can entrench existing market failure by adversely influencing investment decisions.

Question 3: Do you agree with the Government’s objectives for a future subsidy control Regime? Are there any other objectives that the Government should consider?

The Government should consider the impact of market failure, particularly the ability for businesses to access investment funding, where this had had a detrimental impact up local economies. Market failure can specifically lead to under investment where capital is not available either due to lack of information and/or perceived risk issues. This restricts the ability of businesses to innovate, extend and enhance productivity. This has a direct impact on the ability of those businesses to support employment and skills growth, key indicators for any 'levelling up' policies.

Question 4: We invite respondents’ thoughts on further sources of evidence that would help to strengthen our analysis of policy impacts. In particular:

- Additional datasets (other than the European Commission’s Transparency Award Module) on local or regional subsidy awards (e.g. by value, sector or category)
- Research and evaluation projects that have been conducted on the impacts of different types of subsidy awards on domestic competition and trade (e.g. by value, sector or category)

Using locally available information to assess the impact of the EU State Aid regime would be useful, for example 75% of the manufacturing businesses that access support from the Lancashire Growth Hub are in an Assisted Area.

Question 5: We invite respondents' views on whether our proposed subsidy control Regime, including the way it functions, may have any potential impact on people who share a protected characteristic (age, disability, gender re-assignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex (gender) or sexual orientation), in different ways from people who don’t share them. Please provide any evidence that may be useful to assist with our analysis of policy impacts.

Without addressing market failure any subsidy policy will not address the issues that impact upon those individuals and communities that share protected characteristics. For example, in parts of Lancashire have significant proportions of communities with protected characteristics whose communities are associated with higher levels of unemployment, associated barriers to work and skills linked to socio economic deprivation. Any subsidy scheme needs to recognise the opportunities that

exist to support these groups and thereby contribute to the Government's aspiration for an across the county increase in productivity as part of the UK's levelling Up agenda.

Question 6: Do you agree with the four key characteristics used to describe a support measure that would be considered a subsidy? If not, why?

Yes, these appear to be reasonable

Question 7: Should there be a designated list of bodies that are subject to the new subsidy control regime. If so, how could that list be constructed to ensure that it covers all financial assistance originating from public resources?

Ideally yes and to be constructed by reference to the level of market participation in the relevant market.

Question 8: Do you think agricultural subsidies in scope of the AoA and fisheries subsidies should be subject to the proposed domestic arrangements? If so, what obligations should apply?

Yes, they should so that all sectors are covered by the same Public subsidy framework where appropriate

Question 9: Do you think audio-visual subsidies should be subject to the domestic regime? Please provide a rationale for your answer.

Yes, they should so that all sectors are covered by the same Public subsidy framework where appropriate

Question 10: Do you agree with the inclusion of an additional principle focused on protecting the UK internal market by minimising the distortive effects on competition?

It is important that where subsidies are used, they are in support of addressing market failure and do not have the effect of distorting the market by displacing activity from one part of the UK internal market to another (without due regard for the local negative impact). However, this requirement should not prevent businesses making their own operational investment decisions based upon commercial factors.

Question 11: Do you think there should be any additional principles?

The use of public subsidies to address market failure will be a key tool in supporting the Government's Levelling Up agenda. As a result, a principle related to role of public subsidies in improving productivity, increasing employment and addressing socio economic deprivation should be included as an additional principle.

In addition, further principles should be added to ensure that specific types of investment related to Government objectives such as skills investment can be automatically exempted from the need for assessments.

Question 12: What level of guidance or information would be helpful for public? authorities to assist with their compliance with the principles?

The Government needs to offer clear guidance concerning the assessment of public subsidies to ensure a consistent quality of decision making across the UK internal market. This will prevent unnecessary competition between areas and provide reassurance for public bodies.

Question 13: Should the threshold for the exemption for small amounts of financial assistance to a single recipient replicate the threshold in the UK-EU Trade and Cooperation Agreement at 325,000 Special Drawing Rights over a three-year period? If not, what lower threshold would you suggest and why?

Yes

Question 14: If you consider the small amounts of financial assistance threshold should replicate the UK-EU Trade and Cooperation Agreement, should it be fixed at an amount of pound sterling (GBP)?

Yes, in order to support investment planning

Question 15: Do you agree that subsidies under the proposed small amounts of financial assistance threshold be exempt from all obligations under the domestic regime, except for the WTO prohibitions? If not, why?

Yes

Question 16: Should relief for exceptional occurrences be exempted from obligations regarding principles, prohibitions and conditions in the subsidy control regime?

Yes, it should but there needs to be a clear process for identifying where exceptional circumstances rules apply, i.e. the economic impact of Covid 19 or another significant economic event, and the appropriate/proportionate response.

Question 17: Should subsidies granted temporarily to address a national or global economic emergency be exempted from the rules on prohibited subsidies and any additional rules set out below?

See answer to question 16

Question 18: Should the threshold for the exemptions for Services of Public Economic Interest replicate the relevant thresholds in the UK-EU Trade and Cooperation Agreement at 750,000 Special Drawing Rights over a three-year period, and for transparency obligations at 15 million Special Drawing Rights per task? If not, what lower threshold would you suggest and why?

This approach seems reasonable to replicate the terms of the Trade and Co operation Agreement with the European Union.

Question 19: If you consider the SPEI thresholds should replicate the UK-EU Trade and Cooperation Agreement, should they be fixed at an amount of pound sterling (GBP)?

Yes, see answer to question 18

Question 20: Do you agree with the Government's approach to prohibitions and conditions? Should any types of subsidy be added to either category? If so, why?

The Government's approach seems reasonable

Question 21: Would more detailed definitions of any of the terms set out in this section, including the definition of "ailing or insolvent enterprises" be useful to ensure a consistent and proportionate approach to compliance? If so, what should these be?

Clear definitions would be useful to ensure there is consistency of decision making across the UK internal market and prevent any deviations from the public subsidy control process.

Question 22: Should the Government consider any additional ways to protect the UK internal market, over and above the inclusion of a specific principle to minimise negative impacts? If so, what?

See response to question 11 regarding the inclusion of a principle related to market failure

Question 23: Would an additional process for subsidies considered at high-risk of causing harmful distortion to the UK internal market add value to the proposed Subsidy control principle. If so, how should it be designed and what criteria should be used to determine if the subsidy is at high-risk of causing distortion?

Where there is public investment proposed in a sector/business that will have an impact beyond the local market there needs to a process in place to ensure that any investment is compliant with UK regulations and minimises the risk of challenge by non-UK economic actors. This will ensure that the decision-making process leading to the public investment is robust and provide security for the investor and recipient that the investment is compliant.

Before any process is agreed there needs to be a clear definitions(s) of which type of subsidy are not at high-risk of causing distortion

Question 24: Should public authorities be obliged to make competition impact reviews public? If not, why?

On a normal basis such reviews should be made public but there will be circumstances where making such information public would be impact upon commercial confidentiality.

Question 25: Should public authorities be permitted to override competition impact review e.g. in the case of emergencies? If so, why?

The ability to override a competition impact review should be limited to a specific set of scenarios with a requirement to publish the review within a set timeframe after the investment has been made.

Question 26: Should there be additional measures to prevent subsidies that encourage uneconomic migration of jobs between the four nations?

Given the principles and processes set out to manage public subsidies there would not appear to be a requirement for additional measures as long as all investment are subject to transparency, regular scrutiny and challenge where appropriate.

Question 27: Could additional measures help ensure that lower risk subsidies are able to proceed with maximum legal certainty and minimum bureaucracy? What should be included within the definition of 'low-risk' subsidies?

A clear set of definitions, rule and criteria for lower risk investments would be helpful as it would reduce unnecessary bureaucracy, address any risk issues and most importantly, ensure the consistency of public subsidy decision making across the UK internal market. This could support thematic public investment in key areas such as skills development as well business support for identified geographic areas.

Question 28: What guidance or information would be helpful for public authorities to assist on lower risk subsidies?

As referred to in the response to question 27 clear definitions of what constitutes a lower risk subsidy and consistent rules/criteria for decision making

Question 29: Should the specific rules on energy and environment subsidies apply only in so far as they are necessary to comply with trade agreements? Or should they apply under the domestic regime more generally?

There should be further rules related to both energy and the environment to support the move to decarbonisation, the development of renewable energy options and to support actions to mitigate the impacts of climate changes on the environment.

Question 30: Which sectors or particular categories of subsidy (such as for disadvantaged areas, R&D, transport, skills etc) would benefit from tailored provisions or specific guidance on subsidy control? If so, why, and what should the nature, extent and form of the provisions be?

Lancashire County Council considers geographically specific public subsidy control provision a prerequisite for the Government's Levelling Up agenda in order to support business growth, increase employment and tackle disadvantage. These rules should allow for greater flexibility in the level of public investment in order to address market failure, for example higher subsidy thresholds for public investment in SMEs.

A key focus for Lancashire is to build on Lancashire's role as one of the UK's key centres for advanced manufacturing, fully realising the economic potential of Lancashire's advanced engineering and manufacturing sector, including aerospace, and its supply chains, which are among the most significant in the UK. Despite ongoing decline in manufacturing employment across the UK and Europe the sector dominates economic activity and wealth creation in Lancashire and has the ability to develop through export led growth.

Advanced engineering and manufacturing, aerospace, advanced materials and composites and chemicals all feature strongly in the makeup of the economy of the previous Assisted Area with up to 80,000 people are employed in the area, with over 25% of all employment in manufacturing, with many more employed indirectly in support services, compared to less than 9% nationally.

The support for and development of the advanced engineering and manufacturing supply chain underpinned Lancashire's Assisted Area coverage under the previous EU State Aid Regime. We would wish to see a replacement for specific geographic provisions, albeit extended to include other economic opportunities in Lancashire, in order to address issues related to market failure as well as capture economic and employment opportunities. The previous Assisted Area status benefited our predominantly SME base and manufacturing supply chain, enabling existing businesses to invest and grow and attract new high growth firms. It is also part of the longer-term planning for the development of the Lancashire economy, the attached map highlights the key investment priorities for Lancashire and overlays them with previous Assisted Area coverage.

Question 31: Do you agree with the proposed rules on transparency? If not, why?

Yes, the approach seems reasonable, but our final position will depend upon the operational guidance.

Question 32: Do you agree that the thresholds for the obligation on public authorities to submit information on the transparency database should replicate the thresholds set for small amounts of financial assistance given to a single enterprise over a three-year period and for transparency for SPEI?

In this context consistency is important to ensure comparisons are relevant. Maintaining the same levels will ensure that there is no duplicate of effort in the monitoring process.

Question 33: If not, should the threshold be lowered to £175,000 over a three-year period to cover all reporting obligations for Free Trade Agreements, enabling all of the UK's international subsidy transparency obligations to be met through one database?

See answer to question 33

Question 34: Should there be a minimum threshold of £50,000 below which no subsidies have to be reported?

This approach would ease the reporting burden and would seem sensible.

Question 35: Do you agree that the obligation should be to upload information within six months of the commitment to award a subsidy?

Yes

Question 36: What should the functions of the independent body be? Should it be responsible for any of the following:

- Information and enquiries;
- review and evaluations;
- subsidy development advice;
- post-award review; and/or,
- Enforcement.

All the responsibilities set out above are appropriate

Question 37: Should any review of a subsidy by the independent body consider all the principles, and the interaction between them, or only some principles, and if so which ones?

Reviews should be holistic and take into account the interaction of principles as well as the individual principles themselves.

Question 38: What role, if any, should the independent body play in advising public authorities and reviewing subsidies before they have been awarded?

The independent body should provide the framework and be available to provide advice for public authorities and, on specific occasions, act as a regulator for any possible higher risk investments to ensure consistency of decision making.

Question 39: If the independent body is responsible for post-award review, what types of complaints should it be able to receive and from whom?

The Independent Body should be able to receive complaints from any economic actor affected by the subsidy in question and complaints should cover all aspects of the award directly related to the impact of the subsidy.

Question 40: Which, if any, enforcement powers should the independent be given? In what circumstances could the body deploy them? What would be the routes of appeal and the interaction with judicial enforcement?

Enforcement powers should generally seek to ensure continuity with the previous European Union State Aid approach.

Question 41: How should the independent body be established in order to best guarantee its independence and impartiality when exercising its operational functions?

The body should be an arm of central government with the ability to take external advice

Question 42: In addition to the application of time limits, are there any other considerations for implementation of the recovery power?

No

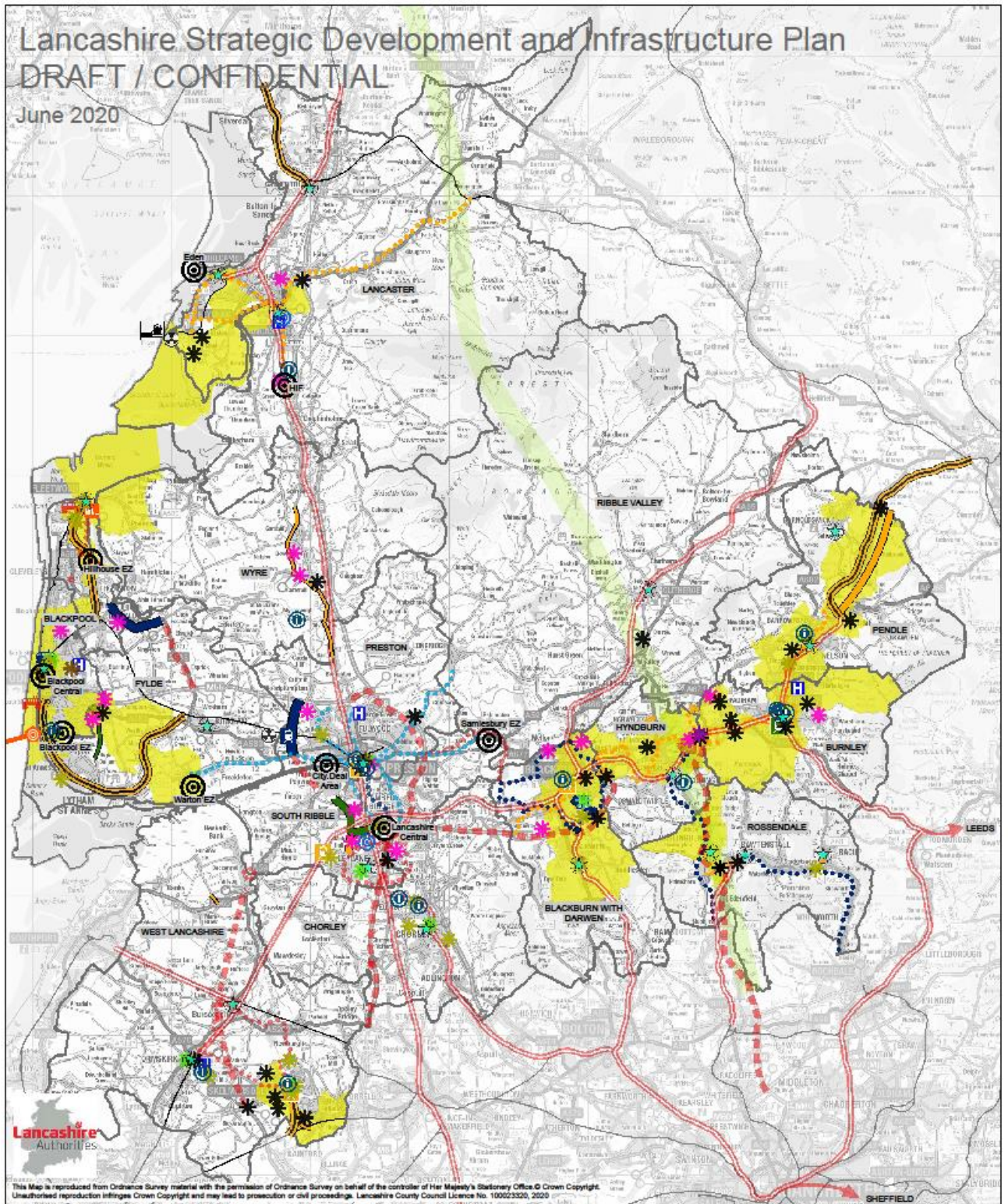
Question 43: Should a specialist judicial forum such as the Competition Appeals Tribunal hear challenges to subsidy schemes and awards? If not, why?

Yes

Lancashire Strategic Development and Infrastructure Plan

DRAFT / CONFIDENTIAL

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Lancashire
Authorities

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Rail Line Schemes	Major Road Schemes	Sustainable & Public Transport	Economic Development	Development Sites	Key Locations
In Development	In Delivery	TCF Corridor	Major Project	Employment	Nuclear Port
Aspiration	Business Case	LCWIP Area	Town Centre Scheme	Housing	Nuclear Site
Rail Station Schemes	Other Road Schemes				
In Delivery	Aspiration	Regional Park	Innovation Centre	Leisure	Major Hospital
Business Case	In Delivery	Route In Delivery	Business Park	Mixed Use	United Utilities Works
In Development	In Delivery	Route In Development	Potential Barrage	Retail	Digital/FTTP Broadband Coverage
Aspiration	Business Case	Route Aspiration		Community Facility	North Atlantic High Speed Data Cable
	In Development	Tram Extension In Delivery		Rail Freight Terminal	<1% coverage (District)
	Aspiration	Tram Extension Aspiration			>10% coverage (District)
					Full Fibre Network

