

Record of individual Cabinet member decision

Local Government Act 2000 and the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012

Decision made by	Councillor Robin Bennett, Cabinet Member for Economic Development and Regeneration
Key decision?	No, as per paragraph 23 (a) of the South Oxfordshire District Council Constitution Acceptance of the government grant will not commit the council to any other additional unbudgeted expenditure over and above the £125,160 received
Date of decision (same as date form signed)	25 June 2021
Name and job title of officer requesting the decision	Melanie Smans, Economic Development & Active Communities Manager
Officer contact details	Tel: 07801 203542 Email: melanie.smans@southandvale.gov.uk
Decision	To sign the Funding Agreement between the Secretary of State for Housing, Communities and Local Government, and the South Oxfordshire District Council for the Reopening High Streets Safely Fund
Reasons for decision	<p>In June 2020 the Ministry of Housing, Communities and Local Government (MHCLG) launched the Reopening the High Street Safely Fund to support the safe reopening of high streets and commercial areas. The European Regional Development Fund (ERDF) grant funding will allow local authorities to put in place additional measures to establish a safe trading environment for businesses and customers, particularly in high streets, through measures that extend to the end of March 2022. The South Oxfordshire District Council has been awarded a one-off grant of £125,160. The project plan to spend the funding was approved via ICMDs by Cllr Robin Bennett, Cabinet Member for Economic Development and Regeneration, on 13 July 2020 and 22 December 2020.</p> <p>The project plan has been approved by MHCLG. The Funding Agreement has been issued for the council to accept the grant funding and terms of the scheme. Once it has been signed, officers can commence the delivery of the project plan. MHCLG wrote to the council on 11 June 2021 seeking confirmation that the council intends to accept the grant and will sign the Grant Funding Agreement.</p>

Alternative options rejected	If the council does not accept the grant funding, it will be ineligible for a further £125,160 of funding from the Welcome Back Fund.
Legal implications	<p>As per the Financial Procedure Rules in the Constitution of South Oxfordshire District Council and Vale of White Horse District Council – 1 November 2020:</p> <p><i>Claims for grant or subsidy and financial returns</i> 54. <i>Each head of service shall make proper arrangements for claiming grants and submitting associated claims, by the due date, so as to maximise the council's income. (See also the financial procedure rules re Income)</i></p> <p>55. <i>It shall be the duty of each head of service to prepare, and the responsibility of the chief finance officer or nominated deputy to certify and otherwise deal with, all claims for grants or subsidy and other financial returns required by Government departments and other bodies or organisations</i></p> <p>The council's legal team has reviewed the Funding Agreement and advise that the clauses relating to EU law no longer applies and that <i>'The risk is the applicable law is not clear, the courts now have to rely on UK law, but if none covers the area of dispute, the courts can be influenced by the old EU law or depart from it. This issue only becomes a problem if there is a dispute.'</i></p> <p>The response from officers at MHCLG is: <i>'This is a standard Grant Funding Agreement (GFA) that has been issued to all local authorities in England ... These are standard clauses which were agreed through the Managing Authority for this project at the outset of the fund and, as such, we are not able to change the wording or add additional text to the funding agreement provided.'</i></p>
Financial implications	<p>There will be no financial implications for the council as the guidance states 'The costs associated with administering this grant will also be eligible for reimbursement up to four percent of the total grant value. This four percent would be taken directly from the grant itself; no additional funding is being provided to cover these administrative costs'. This will provide £120,153.60 for projects and £5,006.40 for administration costs.</p> <p>Local authorities can spend money on eligible activities from 1 June 2020 until 31 March 2022 and then claim it back from CLGU in arrears, expected to be done quarterly. There is a small risk that expenditure incurred is not reimbursed when the claim is assessed by government if it is felt that it is ineligible. This risk will be mitigated by ensuring that expenditure incurred is in line with scheme</p>

	guidance and full records of the expenditure are maintained.			
Other implications	As the funding is from the ERDF, the specific ERDF branding requirements need to be followed and the reporting requirements are resource intensive. For example, evidence must be retained to demonstrate that any project expenditure is eligible, that costs have been defrayed and that all procurements are awarded in line with the Public Procurement Regulations. If the reporting and branding requirements are not adhered to, there is a risk that claims may be rejected or partially paid. This will be mitigated by ensuring the spend is in line with guidance and ensuring full records are kept.			
Background papers considered	ICMD by Cllr Robin Bennett, 13 July 2020 ICMD by Cllr Robin Bennett, 22 December 2020			
Declarations/conflict of interest? Declaration of other councillor/officer consulted by the Cabinet member?	Nil			
List consultees		Name	Outcome	Date
	Ward councillors	NA		
	Legal	Pat Connell	As above – minor edit	24.6.2021
	Finance	Kathy Merritt	Support	25/05/2021
	Human resources	NA		
	Sustainability	NA		
	Diversity and equality	NA		
	Communications	NA		
	Senior Management Team	All	Support pending comments from Legal	23/06/2021
Confidential decision? If so, under which exempt category?	No			
Call-in waived by Scrutiny Committee chairman?	No			
Has this been discussed by Cabinet members?	Yes – various ICMDs listed above			
Cabinet portfolio holder's signature To confirm the decision as set out in this notice.	Signature ____ Councillor Robin Bennett _____ Date _____ 25 June 2021 _____			

ONCE SIGNED, THIS FORM MUST BE HANDED TO DEMOCRATIC SERVICES IMMEDIATELY.

For Democratic Services office use only		
Form received	Date: 25 June 2021	Time: 12:00
Date published to all councillors	Date: 25 June 2021	
Call-in deadline	Not applicable as this is not a key decision.	

Guidance notes

1. This form must be completed by the lead officer who becomes the contact officer. The lead officer is responsible for ensuring that the necessary internal consultees have signed it off, including the chief executive. The lead officer must then seek the Cabinet portfolio holder's agreement and signature.
2. Once satisfied with the decision, the Cabinet portfolio holder must hand-sign and date the form and return it to the lead officer who should send it to Democratic Services immediately to allow the call-in period to commence.
Tel. 01235 422520 or extension 2520.
Email: democratic.services@southandvale.gov.uk
3. Democratic Services will then publish the decision to the website (unless it is confidential) and send it to all councillors to commence the call-in period (five clear working days) if it is a 'key' decision (see the definition of a 'key' decision below). A key decision cannot be implemented until the call-in period expires. The call-in procedure can be found in the council's constitution, part 4, under the Scrutiny Committee procedure rules.
4. Before implementing a key decision, the lead officer is responsible for checking with Democratic Services that the decision has not been called in.
5. If a key decision has been called in, Democratic Services will notify the lead officer and decision-maker. This call-in puts the decision on hold.
6. Democratic Services will liaise with the Scrutiny Committee chairman over the date of the call-in debate. The Cabinet portfolio holder will be requested to attend the Scrutiny Committee meeting to answer the committee's questions.
7. The Scrutiny Committee may:
 - refer the decision back to the Cabinet portfolio holder for reconsideration or
 - refer the matter to Council with an alternative set of proposals (where the final decision rests with full Council) or
 - accept the Cabinet portfolio holder's decision, in which case it can be implemented immediately.

Key decisions: assessing whether a decision should be classified as 'key'

The South Oxfordshire and Vale of White Horse District Councils' Constitutions now have the same definition of a key decision:

A key decision is a decision of the Cabinet, an individual Cabinet member, or an officer acting under delegated powers, which is likely:

- (a) to incur expenditure, make savings or to receive income of more than £75,000;**

- (b) to award a revenue or capital grant of over £25,000; or**
- (c) to agree an action that, in the view of the chief executive or relevant head of service, would be significant in terms of its effects on communities living or working in an area comprising more than one ward in the area of the council.**

Key decisions are subject to the scrutiny call-in procedure; non-key decisions are not and can be implemented immediately.

In assessing whether a decision should be classified as 'key', you should consider:

- (a) Will the expenditure, savings or income total more than £75,000 across all financial years?
- (b) Will the grant award to one person or organisation be more than £25,000 across all financial years?
- (c) Does the decision impact on more than one district council ward? And if so, is the impact significant? If residents or property affected by the decision is in one ward but is close to the border of an adjacent ward, it may have a significant impact on that second ward, e.g. through additional traffic, noise, light pollution, odour. Examples of significant impacts on two or more wards are:
 - Decisions to spend Didcot Garden Town funds (significant impact on more than one ward)
 - Changes to the household waste collection policy (affects all households in the district)
 - Reviewing a housing strategy (could have a significant impact on residents in many wards)
 - Adopting a supplementary planning document for a redevelopment site (could significantly affect more than one ward) or a new design guide (affects all wards)
 - Decisions to build new or improve existing leisure facilities (used by residents of more than one ward)

The overriding principle is that before 'key' decisions are made, they must be published in the Cabinet Work Programme for 28 calendar days. Classifying a decision as non-key when it should be a key decision could expose the decision to challenge and delay its implementation.