

## **CORPORATE AND COMMUNITIES OVERVIEW AND SCRUTINY PANEL 16 JULY 2019**

### **WORCESTERSHIRE COUNCILLORS' DIVISIONAL FUND**

---

#### **Summary**

1. The Democratic Governance and Scrutiny Manager has been invited to present the annual updating report on the Worcestershire Councillors' Divisional Fund (WCDF) on behalf of the Head of Legal and Democratic Services. The CMR for Transformation and Commissioning has also been invited to attend the Panel meeting.

#### **Background**

2. The WCDF was launched on 1 August 2011 following agreement by both full Council and the Leader to ensure that the Scheme covered both executive and non-executive functions. A regular report to Scrutiny on the operation of the WCDF is required under the Scheme. In the first two years these reports were considered by the Overview and Scrutiny Performance Board (OSPB) and then in April 2015 OSPB asked this Panel to consider these reports.

3. The report sets out the actual expenditure in each Division for 2018/19 together with any issues arising from the operation of the WCDF Scheme.

4. The WCDF Scheme is established under section 236 of the Local Government and Public Involvement in Health Act 2007 and allows Local Members to discharge the Council's functions in relation to the economic, social or environmental well-being of their local electoral Division or those within it. The original statutory 'well-being' powers on which the WCDF was based are now subsumed within the general power of competence within section 1 of the Localism Act 2011. The Scheme was agreed by the Leader of the Council in respect of executive functions and full Council in respect of non-executive functions. It will need updating to reflect organisational redesign issues. It is not part of base budget and is dependent on resource being set aside in the budget for its operation each financial year. The WCDF allocates £10k per member and so £570k pa is set aside for expenditure.

5. Members have considerable discretion in how they allocate funds in a way that would promote or improve economic, social and/or environmental well-being for the benefit of the whole or any part of their Division or those within it. It is the only scheme whereby individual local members take formal decisions on behalf of the Council in relation to their Divisions.

6. The WCDF Scheme has been established in such a way that it is intended to be, as much as possible, a self-regulating scheme with support and guidance provided by the Head of Legal and Democratic Services.

7. Council initially approved the operation of the WCDF Scheme from 1 August 2011 to 31 March 2012 and allocated £10,000 to each member for that financial year. Council has extended the funding for the WCDF Scheme for each financial year since then.

8. As Local Member decisions under the WCDF Scheme are formal decisions on behalf of the Council, a transparent audit trail is essential in order to comply with the legislation and indeed good governance. The individual Member is responsible for ensuring a record is made in writing of any decision or action she or he has taken in connection with this Scheme. A single page proforma is used to cover both the request to process a particular payment and also the record of that decision and reasons for it, to ensure the process is as streamlined as possible.

9. A record of each submission to the Scheme, detailing the amount, payee and brief rationale for each submission, is maintained by the Head of Legal and Democratic Services and published regularly on the Council's website. Records of expenditure under the Scheme (i.e. the request form and background documents) will be held for public inspection on request for 6 years at County Hall.

10. The main points of the year 2018/19 were:

- 742 submissions were authorised for payment
- £568,102 was spent, out of £596,279 made available
- £26,826.63 has been rolled forward to 2019/20

11. The stated purpose of the Scheme is to facilitate 'good works' for the benefit of the local Division whilst focusing on the environmental, economic or social well-being of the Division. The organisations, events, individuals and groups who have benefited from the WCDF are many and varied and cover the breadth of Worcestershire life. They include social and sporting organisations, charities, community organisations and environmental schemes.

12. A full list of applicants and monies allocated is publicly available on the Council's website.

13. Joint submissions by members have also been received to support a community event or organisation which works or supports people across Divisions. Such joint submissions can be done under the WCDF, although of course there needs to be a clear connection with the well-being of each of the Divisions involved.

14. The Scheme requires the Head of Legal and Democratic Services to raise any issues arising from the operation of the scheme. The amount of administration to support submissions for payment should not be under-estimated; since the start of the Scheme 5,502 applications have been processed and £4,486,529 spent.

15. Points to note include:

(i) Code of Conduct

The Members' Code of Conduct applies to the exercise of the Scheme by individual members and the Scheme was updated to reflect the new Code of

Conduct. Members are reminded that they will not be able to act where they have a Disclosable Pecuniary Interest in the matter, or a disqualifying Other Disclosable Interest (ODI). Members must ensure they expressly disclose any such interest on the form (e.g. if they are a governor of a school, or trustee of a charitable trust which is to benefit from a WCDF grant) and be aware that some close interests will disqualify them from involvement on rare occasions.

Some of those interests will not be self-evident to staff or the public, and so it is intended to update the guidance to members to remind them to disclose relevant interests to avoid breaching the Code.

(ii) Financial viability of recipient

It is for the Member to consider the financial viability of a potential recipient (such as a local voluntary body). There is no benefit in handing public money over to an organisation which ceases to function before the benefit can be delivered. Members are encouraged to seek advice from the Chief Financial Officer should there be any cases of uncertainty or concern.

The guidance will also be updated to remind members to check whether the recipient is VAT-registered as this affects the net value of the payment made.

(iii) Completion of the WCDF Proforma

Positive feedback has been received as to the ease and simplicity of completing the single page proforma. Members can (and are encouraged to) complete the form electronically and send it via their Council email account. They can complete it by hand if they prefer, but it is better to reduce unnecessary spend on paper/post and operate a 'digital by design' approach.

Members are, however, reminded that a clear rationale needs to be included as to how the monies will help improve or promote the economic, environmental or social well-being of the Division or those in the Division. It is a formal decision of the Council and the discretion must be exercised lawfully. Each form is checked, and if the rationale is not clear, the submission will have to be returned to the local Member for revision, introducing additional administration and delay. It is proposed to underline this in the updated guidance to members.

(iv) Monitoring and Evaluation

These are Member decisions and officers do not actively monitor or evaluate the monies allocated from the Scheme to the recipients. The WCDF is completely clear that **the Member** has the responsibility for ensuring that the public monies have been spent in the way intended and as indicated on the proforma.

Any proposed change in spend from the original purpose would need to be agreed by the member **in advance** and the updated position noted appropriately on the original proforma and on the public record - or the grant recovered. The WCDF guidance advises that payments are made for specific elements of broader projects for greater transparency, although this will not always be practicable, particularly for events with various sources of funding.

It is not for the recipient to spend the money on something different or indeed to retain the money. This issue arose during 2018/19 in relation to a WCDF payment made several years previously by a former county councillor. Media

reports indicated that the money had not in fact been spent. The Head of Legal and Democratic Services made enquiries of the previous councillor and the recipient organisation, and discovered that the WCDF had not in fact been spent by the recipient but set aside. With a change of management, the money was repaid to the Council and the matter was amicably resolved.

It is intended to update the guidance to underline to members that the WCDF is clear that it is their responsibility to ensure the money has been spent on the approved purpose, and to introduce sampling to check with members that it has been.

(v) Cross-Division Applications

Councillors may support joint applications for organisations (or similar) or events which lie outside the geographical boundary of their Division provided that their own Division will benefit, to ensure that it is a decision in relation to it. In order to comply with the Scheme and the law, it is important that the proforma's rationale articulates clearly how people from within the Councillor's Division would benefit from the monies being spent in another Division.

The councillor cannot involve him or herself as a local member in any matter relating to another councillor's electoral Division without his/her prior knowledge and consent. This would apply to use of the WCDF to improve eg highway infrastructure in another Division. However, this would not prevent supporting an event taking place in a particular location with a wider benefit to those from other Divisions (eg commemorative events). An example of cross-divisional boundary spend includes events for Looked-After Children supported by a number of members in individual district areas of the county.

(v) Benefit

It is for the individual member to consider and be accountable for the proportionate benefit to local business or residents arising from the spend from the public purse, or indeed a decision not to spend. It is not for officers or indeed other members to weigh up the pros and cons of that exercise of discretion, but officers will ensure that the decision is lawful and compliant with the WCDF Scheme.

(vi) Purdah

Members are reminded that no decision can be taken or spend made during purdah, which effectively freezes the operation of the WCDF in the 6 weeks or so before County elections. This freeze includes District Council purdah where the member is likely to be a district candidate. There is nothing which prevents member candidates accounting for their WCDF decisions which have been taken as part of their record, but members must avoid appearing to offer illegal inducements to vote by offering or providing WCDF payments or products as part of electioneering.

## **Purpose of the Meeting**

The Panel is asked to:

- consider and comment on the operation of the WCDF
- discuss whether allocating funding to Members is an effective and efficient use of the Council's resources
- determine whether it wishes to make any comments on the WCDF.

In doing so, Members may wish to consider:

- how decisions are made on where to allocate funding
- is giving money to Councillors the best way to allocate public funds?

## **Supporting Information**

Details of the scheme and payments made under it published on the Council's [website](#)

## **Contact Points**

Specific Contact Points for this report

Alyson Grice/Samantha Morris, Overview and Scrutiny Officers Tel: 01905 844962/844963

Email: [scrutiny@worcestershire.gov.uk](mailto:scrutiny@worcestershire.gov.uk)

Simon Mallinson, Head of Legal and Democratic Services Tel: 01905 846670

Email: [smallinson@worcestershire.gov.uk](mailto:smallinson@worcestershire.gov.uk)

## **Background Papers**

In the opinion of the proper officer (in this case the Head of Legal and Democratic Services) the following are the background papers relating to the subject matter of this report:

Worcestershire County Council [Divisional Fund Scheme and guidance](#)