

CORPORATE AND COMMUNITIES OVERVIEW AND SCRUTINY PANEL 20 JULY 2021

WORCESTERSHIRE COUNCILLORS' DIVISIONAL FUND

Summary

1. The Democratic Governance and Scrutiny Manager has been invited to present the annual update report on the Worcestershire Councillors' Divisional Fund (WCDF) on behalf of the Assistant Director for Legal and Governance. The Cabinet Member with Responsibility (CMR) for Corporate Services and Communication has also been invited to attend the 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. A record of the Panel's most recent discussion on 21 July 2020 is available here: [Agenda for Corporate and Communities Overview and Scrutiny Panel on 21 July 2020](#)

4. The report sets out the total expenditure for 2020/21 together with any issues arising from the operation of the WCDF Scheme.

5. 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 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.

6. 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.

7. 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 Assistant Director for Legal and Governance.

8. 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.

9. 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 they have 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.

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

11. The main points of the year 2020/21 were:

- 556 submissions were authorised for payment
- £570,592 was spent out of £600,994 made available
- £18,138 has been rolled forward to 2021/22; in this exceptional year, following discussion with the S151 Officer and Leader of the Council, the following changes have been made to the operation of the Divisional fund scheme on a temporary basis due to Covid-19:
 - If members had allocated funds in 2019-20 or 2020-21 to an event or initiative which did not proceed due to the Coronavirus restrictions, then the allocation, once refunded, could be brought back into this year's fund, and be reallocated. This was pursued in Redditch North and Bromsgrove Central Divisions
 - As the uncertainty of the pandemic led to community events being cancelled or not held, the amount which could be carried forward from 2020-21 to this financial year was increased to £2,000. This has happened in Redditch South, Hallow, Arrow Valley West, Redditch North, Worcester St Peter, and Redditch South Divisions.

12. 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.

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

14. 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.

15. The Scheme requires the Assistant Director for Legal and Governance 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 6,761 applications have been processed and £5.6m spent.

16. 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 the guidance to members has been updated 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 Finance Officer should there be any cases of uncertainty or concern.

The guidance has also been updated to remind members to check whether the recipient is VAT-registered as this affects the 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. This generally worked well during this last year when officers were not working in the office and members were also not visiting County Hall.

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.

Updated guidance has been issued to members which emphasises this and gives some pointers on 'do's and don'ts'. This was circulated to all Councillors in 2020 and was included in the induction information for new Councillors after the elections in May this year.

(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.

(v) Cross-Division Applications

A Councillor 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 e.g., 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 (e.g., commemorative events). An example of cross-divisional boundary spend includes Worcestershire Pride which has been supported by a number of members across the county.

(vi) 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.

(vii) Pre-election period

Members are reminded that no decision can be taken or spend made during the pre-election period, which effectively freezes the operation of the WCDF in the 6 weeks or so before County elections. This freeze includes District Council pre-election periods 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](#)

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Background Papers

In the opinion of the proper officer (in this case the Assistant Director for Legal and Governance) the following are the background papers relating to the subject matter of this report:

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

[Agenda and Minutes for Corporate and Communities Overview and Scrutiny Panel on Tuesday, 21st July, 2020](#)