

Legal comments

The receipt and use of the funding will be subject to grant funding conditions with the Government which must be complied with, failing which the grant funding could be subject to clawback. Attention is drawn to the following extract from the Guidance:

"Homes for Ukraine funding - grant conditions

Funding for the Homes for Ukraine grant payments for English councils has conditions attached, which are set out in grant determinations published on gov.uk.

Grant payments in this instance to councils are made in arrears, and are subject to confirmation that guests have arrived and all conditions have been met. Councils must undertake all necessary safeguarding checks in line with the Department's guidance. Relevant inputs, including whether safeguarding checks have been completed, should be entered on Foundry regularly, and at a minimum, weekly. In addition, it is a condition of funding that councils provide regular data returns in relation to the Homes for Ukraine scheme, as set out in guidance, including on the number of beneficiaries in their area.

Importantly, payments will not be made where the Department is not satisfied that councils are fully complying with relevant grant conditions, including the timely return of data in line with guidance. It is critical, therefore, that councils record all necessary information via the Foundry system. In addition, whilst we will continue to collect data relating to the programme via the Foundry system, we also expect councils to maintain accurate records on the number of guests and sponsorship households in their area.

Please find below the conditions that the Department has attached to these grants.

For the £350 thank you grant

Pursuant to section 31(5) of the Local Government Act 2003, the Secretary of State determines that the grant will be paid subject to the following conditions:

1. Payments to sponsors should only be paid in accordance with circumstances set out in the Homes for Ukraine guidance for councils (linked at Annex C) and should not be released until:
 - a. a visit to the sponsoring household property, by the local authority, has been completed; and
 - b. the local authority has confirmed that the accommodation is suitable, that the guest is well and that there are no serious safeguarding or welfare concerns.
2. A recipient authority must ensure thank you payments to eligible sponsoring households who request them are made as soon as practicable.

For the £10,500 tariff grant

Pursuant to section 31(5) of the Local Government Act 2003, the Secretary of State determines that the grant will be paid subject to the following conditions:

1. A recipient authority must use the funding to carry out the activities, as set out in the Homes for Ukraine guidance, including completing all 5 safeguarding and

accommodation checks, including DBS checks, on sponsors and the property in line with the Department's guidance as soon as practicable, and record these 5 checks on the Foundry system.

2. A recipient authority must commission or provide services that ensure guests and sponsors are provided with a source of advice and support to assist with registering for mainstream benefits and services, including where necessary specialist public health services and community integration.
3. In two tier areas, upper tier authorities must agree a plan locally to:
 - a. make payments to lower tier authorities in relation to all the services which they provide to guests under the Homes for Ukraine Scheme, during the full duration of the scheme, including for services such as homelessness assistance for which lower tier authorities are responsible; and
 - b. make an immediate payment to lower tier authorities in relation to any upfront costs.
4. A recipient authority must provide regular data returns in relation to the Homes for Ukraine Scheme, as set out in guidance. For example:
 - a. Entering relevant data on Foundry regularly, and at a minimum, weekly; and
 - b. that Section 151 officers must sign off quarterly returns to the Department which include: MI data to indicate how many people are moving in/out of the area; the number of £350 'thank you' payments made to sponsoring households; and confirmation that conditions have been met.

For both the £350 thank you grant and the £10,500 tariff grant

Where the amount of grant paid to an authority exceeds the authority's actual pressures (based on either the number of legitimate payments to sponsorship households, or the number of guests resident in their area), the difference shall be repaid to the minister. In addition, if the Department for Levelling Up, Housing and Communities is made aware that an authority is in breach of the grant conditions above, it reserves the right to recover funding. There will be a reconciliation process at the end of the relevant financial year."

Any procurement of service contracts proposed to be entered into using the grant funding must be awarded in accordance with the Council Contract Procedure Rules (and Public Contract Regulations 2015) and should flow down any relevant provisions from the Government's funding conditions, such as monitoring and reporting outputs.

Grants, if awarded, are not governed by the Public Contract Regulations 2015 and so whilst a tender process will not be required, a fair open competition process must have been followed to identify who is permitted to receive the funding. Appropriate grant agreement terms should be put in place between the parties in order to reflect this. In addition, appropriate consideration of the Subsidy Control Rules should also be made prior to any awards to ensure compliance.

A subsidy is a financial contribution using public resources which confers a benefit on the recipient that could have a material effect on competition unless it is for a de minimis amount. In this instance the award is likely to meet the minimal financial

assistance exemption (less than £315,000 over three years) on the basis it is one off £80,000 payment, if it is assessed as a subsidy.

The approval to create new internal posts as per recommendations of this report is a non-executive decision to take in accordance with the scheme of delegation (delegation 16) and must therefore be in accordance with the Council's Constitutional requirements and associated HR policies and procedures.

Legal services will support as required.

Richard Bines, Solicitor - 10.10.2022