

Legal Advice – Asylum Dispersal Grant 2021-22

The decision seeks retrospective approval for the receipt and spend of a Asylum Seeker Dispersal Scheme grant from the Home Office issued under the terms of a Funding Instructions for 2021-22 (Grant 1).

The Secretary for State for the Home Office (“The Authority”) is exercising the power conferred by Section 110 of the Immigration and Asylum Act 1999 and Section 31 of the Local Government Act 2003 to make the award of grant funding to the Council. The instructions each replace any funding instructions previously issued by the Secretary of state in providing funding to support the Asylum Seeker Dispersal Scheme.

The Grant 1 instruction sets out the terms under which funding is available to local authorities in England, Wales, and Scotland for the period 1 April 2021 to 31 March 2022 and to assist with their costs of *supporting requests for properties* made under Asylum Seeker Full dispersal.

It is understood the City Council has made commitments to support the Scheme, and the Authority has agreed to provide Funding to the Council as a contribution to supporting Asylum Seeker Dispersal. Under the Immigration and Asylum Act 1999, the legislative intention was that by distribution across the country no one area would be overburdened by the obligation of supporting asylum seekers. Under the Instructions although there is an element of discretion as to the precisely how funding is to be spent, the funding must only be utilised to further these statutory responsibilities and on eligible expenditure as defined in the Funding Instructions or otherwise permitted by the Home Office.

In any agreements entered into with any future delivery partners involving the use of the grant funding, the Council will need to ensure relevant clauses and obligations from within the Funding Instruction are cascaded into any such agreements, to ensure that the funding is utilised in accordance with the Funding Instructions. In procuring any works, services or goods utilising any of the funding the Council will need to ensure it complies with its own Contract Procedure Rules and provisions of the Public Contract Regulation 2015, if applicable. In any event, the Council must demonstrate value for money, that it has complied with its Best Value Duty and shall act in a fair, open and non-discriminatory manner in all purchases of goods and services to support the delivery of the Scheme.

By accepting the funding, the Council:

- will be acknowledging that grant funded arrangements issued by the Authority may be published on a public facing website and that the Authority shall disclose payments made against this Instruction in accordance with the UK Government’s commitment to efficiency, transparency and accountability.
- undertakes to keep confidential and not to disclose, and to procure that their staff keep confidential and do not disclose any information which they have obtained by reason of the Instruction.
- shall ensure that any personal information concerning any asylum Seeker disclosed to them in the course of delivering these Schemes is treated as confidential and should only be disclosed to a third party in accordance with the provisions of the UK GDPR, (ii) the Data Protection Act 2018 (‘DPA 2018’) to the extent that it relates to the processing of Personal Data and privacy, (iii) all applicable Law about the processing of Personal Data and privacy, and (iv) (to the extent that it applies) the EU GDPR (‘Data Protection Legislation’).

- will become an independent controller of any personal data in that the Council, in delivering the Asylum Seeker Dispersal Scheme, will, at any time determine the purpose and means of the processing of the personal data. In doing so the Council must shall comply with the applicable Data Protection Legislation in respect of their processing of such Personal Data, will be individually and separately responsible for its own compliance and with respect to its processing of Personal Data as independent Controller, implement and maintain appropriate technical and organisational measures to ensure a level of security appropriate to that risk, including, as appropriate, the measures referred to in Clause 32(1)(a), (b), (c) and (d) of the GDPR, and the measures shall, at a minimum, comply with the requirements of the Data Protection Legislation, including Clause 32 of the GDPR
- shall ensure that it has adequate provisions and effective controls in place to manage: 1. data and prevent Data Incidents, 2. the processing of data shared between itself and any Delivery Partner; and 3. compliance with its obligations arising from the Data Protection Legislation.

No aspect of the activity funded by the Authority may be party-political in intention, use or presentation.

The grant payment amount

Grant 1

A grant payment of £250 per asylum seeker in Home Office Supported Asylum Seeker accommodation as of 27 March 2022, based on number of occupied beds in Home Office Supported Asylum Seeker accommodation under the following categories, within the geographical bounds of the local authority:

- Dispersal Accommodation (DA)
- Overflow Dispersal Accommodation (ODA)
- Initial Accommodation (IA)
- Contingency Accommodation – Hotels
- Contingency Accommodation - Other

The Authority will only make one Payment to the Recipient based on the eligibility criteria on 27 March 2022. No further funding will be paid by the Authority to a Recipient under this funding instruction.

The Authority must be notified at the earliest opportunity if the Council expects its Funding requirement to be lower than expected, in order to avoid overpayments. In the event that an overpayment is made, howsoever caused, the Authority must be notified as soon as reasonably practicable. In such instances, the Authority may require immediate reimbursement of the overpayment or may adjust subsequent payment(s) accordingly.

If the Council fails to comply with any of the conditions set out in the Instruction, or if any of the events mentioned in Clause 8.2 of the Instruction occur, then the Authority may reduce, suspend, or withhold payments, or require all or any part of the relevant payments to be repaid by the Recipient. In such circumstances, the Recipient must repay any amount required under this Clause 8.1 within ninety (90) Days of receiving the demand for repayment.

To assist with monitoring and evaluation of the Schemes, the Council must supply the Authority with all such financial information as is reasonably requested from time-to-time, on an open book basis.

In delivering the Scheme must be mindful and apply the spirit of the UK Government's "Code of Conduct for Recipients of Government General Grants" which outlines the standards and behaviours that the government expects of all its Delivery Partners.

Richard bines, Solicitor - Contracts and Commercial Team, Legal Services - 9th Aug 2023.