

Home Decarbonisation Regional Skills Pilot

This executive key decision is of a value and significance for the communities living and working in the City and wider region and needs to be implemented taken before the next meeting of the relevant executive committee justifying the Leader taking the decision as an exception to the usual executive committee decision making route.

The decision concerns receipt by Nottingham City Council (as the accountable body for the Midland Net Zero Hub) of funding for a Home Decarbonisation Regional Skills Pilot. All activity that is eligible for funding must be completed by 31st March 2024 under the terms of the existing draft MOU, which will required amendment prior to signature of the final MOU to take account if the revusd dates agreed with DESNZ.

The Pilot will run-in two phases:

- Phase 1 – Funding provided to support the development of a Net Zero Building Retrofit Skills Plan (“the Plan”).
- Phase 2 – Funding towards a proportion of the costs of the implementation of solutions identified within Plan during Phase 1

Phase 2 to is subject to prior approval of the phase 1 plan by DESNZ.

The funding will be provided to the Council under the terms and conditions of a section 31 of the Local Government Act 2003 grant agreement and Memorandum of Understanding requiring compliance with Home Decarbonisation Regional Skills Pilot Guidance. There will be a single MoU to cover both phases of the Pilot.

In order to receive payment, the MNZH will need to submit completed grant claim forms to the department for work to be carried out through the pilot and delivered in accordance with the MoU. Under the proposed MOU the Plan will need to cover the geographic areas as set out in the MNZH's response to the pre-launch questionnaire issued by the DESNZ on 24 August 2023.

Subject to the correct details in Annex A (Two signed copies of this MOU, A signed copy of the Section 151 Officer declaration and completed Grant Claim Form including Bank Details) of the MOU being provided, DESNZ shall pay to Nottingham City Council a total sum of £900,000 for the intended purposes of the Pilot to two stages:

- Plan Development Budget - £140,000
- Implementation Budget - £760,000

The plan development budget of the grant will be paid following the receipt of the signed MoU, no later than 25th November 2023.

The implementation budget of up to a maximum of £760,000 will be paid (subject to approvals/compliance with the terms of this MoU and the Guidance) after successful approval of the Plan.

Up to 28% of the grant should be made available to MNZH to develop a Plan. This may be used by the Hub to cover staffing and administration costs of the Plan development, and implementation of solutions. Up to 72% can be used to implement solutions identified in the Plan. Payment to the Hub will need to be issued in line with the guidelines below.

- a payment will be made to cover staffing and administration costs associated with plan development.
- subject to the Plan being agreed by the Department, a further payment will be made for implementation costs

In the event that the MNZH does not use all the Grant to secure delivery through the pilot by the 31st March 2024:

- the Council and DESNZ will work together to agree how the Hub will spend any unspent Grant funding in line with the expected outcomes of the Pilot; and
- If they are unable to reach an agreement, the Council agree under the MOU to repay the unspent Grant by 31st May 2024.

Under the MOU Data processing agreements and relevant privacy notices will need to be agreed between the Council and DESNZ, after the Plan has been submitted and reviewed in Phase 1, ahead of moving on to Phase 2. Under the MOU the Council will agree to collect information for evaluation and reporting purposes (referred to below as “the Information” in the MOU) in a way which:

- o Allows it to share the Information with the DESNZ;
- o Allows the DESNZ to share the Information with any of its research or evaluation partners; and
- o Allows the DESNZ to use the Information for research and statistical purposes provided always that the DESNZ complies with the provisions of the Data Protection Act 2018.

In the circumstances the support of the Council’s Information Governance team must be sought to ensure the agreements are entered into in manner that is compliant with the GDPR and the Data Protection Act 2018.

In the event that grant funding is awarded to public sector partners through the scheme appropriate any grant agreements should cascade down relevant provisos of the section 31 Grant Agreement between the Council and DESNZ to ensure the Council can continue to comply with its obligations under the s 31 Grant Agreement. Any breach of the conditions of the s31 Grant Agreement will risk claw back of the funding.

Whilst the MOU is silent on the issue of Subsidy Control, prior to acceptance of the funding the MNZH should work with DESNZ to ensure there is an assessment as to whether the grant comprises a subsidy, whether an exemption applies and if not, is in compliance with the subsidy control principles outlined in the Subsidy Control Act 2022. It is recommended that as the Accountable Authority, the Council adheres to the UK Government Subsidy Control Guidance, liaises and agrees a suitable subsidy assessment approach with DESNZ, to minimise risk of non-compliance with the Subsidy Control Act regime obligations and of clawback and that this is achieved prior to phase 2 implementation with any necessary variation to the MOU being agreed.

Subject to the above when spending the funding in relation to procurement, the Council will need to ensure it meets the legal requirements relating to public procurement under the Public Contract Regulations 2015 and the Council’s own Contract Procedure Rules, which will also ensure it meets its best value duty in this context. Relevant grant condition imposed under the section 31 Grant

Agreement will need to be cascaded down into relevant contracts with suppliers selected following any compliant procurement processes.

In so far as the proposal to create and appoint to the role of Programme Manager, the Council must be in accordance with the Council's Constitutional requirements and associated HR policies and procedures. Subject to approval of the required staffing budget (as an executive decision) sought, the creation the post from within that budget would be a non-executive decision under delegation 16 of the Constitution Scheme of Officer delegations, as noted in the decision to be taken. Whilst the role appears to be temporary in nature with funding ending on the 31st March 2024, should the role require an extension in the term of employment, it should be noted that employment rights under the Employment Rights Act 1996 would accrue to the employee after two years continuous employment.

Richard Bines, Solicitor – Contracts and Commercial Team – 07.11.2023.