

CARDIFF CAPITAL REGION CABINET

CABINET MEETING 2nd May 2017

GRANT FUNDING TERMS AND CONDITIONS

REPORT OF ACCOUNTABLE BODY - CORPORATE DIRECTOR OF RESOURCES CITY OF CARDIFF COUNCIL

AGENDA ITEM: 3

Reason for this Report

1. To inform Joint Cabinet of the Welsh Government funding terms and conditions relating to the HM Treasury Contribution (£375 million), including the clarification raised and responses agreed with Welsh Government.
2. To discharge the Condition Subsequent within the Cardiff Capital Region City Deal (CCRCD) Joint Working Agreement (Clause 2.3).
3. To recommend that Joint Cabinet approve the Welsh Government funding terms and conditions, whilst noting any residual risks that remain.

Background

4. Between 25th January and 9th February 2017 Full Council approval was received from each of the ten authorities within the Cardiff Capital Region for the establishment of a Cardiff Capital Region Joint Cabinet to deliver the commitments in the City Deal Heads of Terms document.
5. Each Council approved the conclusion of a Joint Working Agreement (JWA) in respect of the City Deal, which establishes the Joint Cabinet, and includes the Assurance Framework and Implementation Plan. The Joint Working Agreement was formally signed by the region's ten local authorities on 1st March 2017.
6. The JWA contains a Condition Subsequent which sets out that the Councils shall consider and, if deemed appropriate, approve the terms of any Welsh Government funding conditions relating to the £375 million HM Treasury funding contribution as a Joint Committee Matter (JWA Clause 2.3), with the prior agreement of the Accountable Body (in consultation with the other Councils).
7. Furthermore, the Affordability Envelope outlined within the JWA is predicated on HM Treasury funding over the next 20 years. The profile of that funding was set-out in a letter from HM Treasury to Welsh Government dated 11th November 2016 is set out in paragraph 10 of this report.

8. Approval of CCRC's Investment Fund was received from Welsh Government on 9th March 2017. The letter highlights that Welsh Government do not intend to impose additional terms and conditions in line with the city deal ethos of local accountability, but fully expect matters to be conducted that ensure financial propriety and good governance. The funding conditions were subsequently detailed in a letter dated 22nd March 2017 (Appendix 1).
9. The funding letter was distributed to all partnering Councils for review and comment and a list of clarification issues' were documented based on the responses received. Officers from the Accountable Body met, proposed and agreed with Welsh Government a number of clarifications to the original funding conditions. The accepted clarifications are set out in (Appendix 2), in line with Condition 20c of its funding letter.

Issues

Funding Profile:

10. The confirmed funding profile reflects the assumptions used in the CCRC financial modelling exercises, considered by Shadow Joint Cabinet in January and February 2017. Specifically, the £375m of HM Treasury funding over 20 years for the purposes of CCRC, profiled as follows:
 - 2016/17 – 2020/21: £10m revenue funding per year (£50m in total during this period);
 - 2021/22 – 2030/1: £22m capital funding per year (£220m in total during this period);
 - 2031/32 – 2035/36: £21m capital funding per year (£105m in total during this period).

Use of Funding:

11. The funding will be paid to the Accountable Body on behalf of the ten CCRC local authorities. The funding must be used solely to support the objectives of CCRC through the implementation of projects and schemes agreed by the Cardiff Capital Region Joint Cabinet in accordance with arrangements set out in its Joint Working Agreement, Wider Investment Fund, Assurance Framework, Implementation Plan and, when agreed, JWA Business Plan.

Gateway Review:

12. An outcome based Gateway Review of CCRC led by HM Treasury will be undertaken in in 2020/21. It is important to note that funding for 2021/22 and beyond is conditional on CCRC successfully passing this Gateway Review, whilst any unspent funding up to this time may be subject to repayment if Gateway Review is not passed.

State Aid:

13. CCRCDC must comply with the European Commission's State Aid Rules. The funding conditions require CCRCDC to comply with all applicable laws or regulations or official directives whether derived from domestic, EU or international law.

Buying Goods and Services:

14. Any goods and / or services bought by CCRCDC must be purchased in a competitive and sustainable way so as to demonstrate best value in the use of public funds.

Notification Events and their consequences

15. CCRCDC must notify the Welsh Government immediately if a Notification Event (listed within the Schedule attached to the funding terms and conditions letter from Welsh Government dated 22nd March) has occurred or is likely to occur. Examples of Notification Events include: non-approval of the JWA Business Plan, repayment of any part of the funding is required under European Law (whether under State Aid rules or otherwise), failure to comply with the funding terms and conditions, the funding, in full or in part, is not being used for the purpose, there is suspicion of fraudulent activity involving the use of CCRCDC funding etc.
16. If a Notification Event occurs which is not capable of remedy, if the remedial actions are not implemented or are implemented but not successful, the Welsh Government reserves the right to take any of a range of defined actions. These include withdrawal of the award of funding; and / or repayment of all or part of the funding; and / or suspension or cessation of further funding payments.

Clarification Issues

17. As outlined above, the Accountable Body on behalf of the project has engaged with Welsh Government to seek clarification on a number of issues raised by partnering Councils. The key points are summarised below.
18. Whilst the Welsh Government funding terms and conditions letter covers the first 5 years to 2020/21, totalling £50 million, there is no intention from Welsh Government to restrict CCRCDC commitments (in respect of HM Treasury funding) to this sum. It is important to note that it will be a matter for the committee to determine how any monies committed in advance of receipt of HM Treasury monies will be funded, noting the potential risk referred to above; i.e. funding for 2021/22 and beyond is conditional on CCRCDC successfully passing the Gateway Review
19. Subsequent funding letters will also cover periods of 5 years, subject to the scheduled Gateway Reviews being passed at those intervals. It is important to note that whilst Welsh Government have confirmed that it has no intention to vary the conditions that will apply to future funding letters, until future funding conditions are confirmed in writing, a residual

risk remains that future conditions could be different to those set-out within the current funding letter.

20. The funding letter sets out that Welsh Government will pay each annual instalment of funding within the first 6 months of the beginning of each financial year. The project has asked Welsh Government to explore whether these payments can be made earlier than this. The project has requested that payments in respect of 2016/17 and 2017/18 is received by the 1st June 2017, and future years' payments are received at the beginning of each financial year or within 10 working days of Welsh Government receiving monies from HM Treasury, whichever is later. Welsh Government have agreed to consider these requests.
21. Until the above point is confirmed, or otherwise, it remains possible that the 2016/17 and 2017/18 funding may not be received until 1st September 2017, which could represent a risk to any projects or schemes that require early investment. If Cardiff Capital Region Joint Cabinet determine that CCRCD scheme(s) require early investment, this must be pursuant to the terms of the Assurance Framework and the Annual Business Plan.
22. Welsh Government have confirmed that in any year, where funds have been committed and / or there is a clear intention to spend, carry forward of funding to future years will be permitted. Carry forward in respect of the final year (2020-21), will also be permitted providing that the Gateway review is passed.
23. As set out in clause 2.3 of the JWA the funding terms and conditions will need to be approved by Joint Cabinet with the prior agreement of the Accountable Body (in consultation with the other Councils). This consultation was carried out and agreement and approval was received from all ten authorities.

Reasons for Recommendations

24. To enable CCRCD to spend and / or commit funds from the Wider Investment Fund, as outlined in the CCRCD Joint Working Agreement.
25. To discharge the Condition Subsequent within the CCRCD Joint Working Agreement (Clause 2.3).

Financial Implications

26. The financial implications are primarily set out in the main body of the report. However, it is explicit that any project agreed and approved by the CCRCD Joint Cabinet must comply with the terms of the Assurance Framework and the Annual Business Plan in order to eliminate the risk of grant being reclaimed.

Legal Implications

27. The legal implications are set out in the main body of the report.

RECOMMENDATIONS

It is recommended that the Cardiff Capital Region Joint Cabinet:

- a) Consider and if deemed acceptable, approve the Welsh Government funding terms and conditions, including the clarifications formally agreed, which terms and clarifications are set out in Appendix 2.
- b) Authorise the Section 151 Officer of the CCRCDC Accountable Body to formally sign acceptance of the Welsh Government funding terms and conditions on behalf of the Cardiff Capital Region Joint Cabinet.

Christine Salter
25th April 2017

The following appendices are attached:

- Appendix 1:** Welsh Government Funding Terms and Conditions Letter (22nd March 2017).
- Appendix 2:** Clarifications to the Welsh Government funding terms and conditions, dated 11th April, formally accepted and signed by Welsh Government.