Forward Plan reference number: FP/030/03/21

Report title: Funding for Adult Social Care: Allocation of Government Funding – Infection Control and Testing Fund	
Report to: Councillor David Finch, Leader of the Council	
Report author: Nick Presmeg - Executive Director for Adult Social Care	
Date: 31 March 2021	**For:** Decision
Enquiries to: Steve Ede, Head of Procurement – People email steve.ede@essex.gov.uk	
County Divisions affected: All Essex	

1. Purpose of report

1.1. To ask the Leader of the Council to accept the £9.227m received by Essex County Council from the Department of Health and Social Care (DHSC) as part of the Infection Control and Testing Fund and agree how it should be spent, noting that there are restrictions on how it can be spent.

1.2. To note that the funding of £9.227m relates to two distinct allocations of funding:

1.2.1. £5.495m Infection Prevention and Control (IPC) fund; and

1.2.2. £3.732m Rapid Testing Fund (RTF).

1.3. To note this funding allocation covers eligible expenditure from 1 April 2021 and must be fully spent by 30 June 2021.

2. Recommendation

2.1. Agree that, subject to paragraph 2.7, £4.104m of the IPC allocation received from the DHSC is made available to all eligible care homes, including residential drug and alcohol services within the Essex boundary based on the number of Care Quality Commission (CQC) registered beds, in the sum of £340 per bed.

2.2. Agree that, subject to paragraph 2.7, £1.386m of the IPC allocation received from the DHSC is made available to all eligible CQC-regulated community care providers (domiciliary care, extra care and supported living) within the Essex boundary on a ‘per user’ basis, in the sum of £125 per user.

2.3. Agree that subject to paragraph 2.7, the remaining £30,000 IPC allocation is made available to the care market to be used as follows:

2.3.1. To pay a sum of £125 per adult to Mental Health Supported Housing within the administrative area of Essex to eligible providers; and

2.3.2. To pay a sum of £125 per adult to Housing Related Support providers, within the administrative area of Essex.

2.4. Agree that, subject to paragraph 2.7, £3.399 of the Rapid Testing Fund (RTF) allocation received from the DHSC is made available to care homes, including residential drug and alcohol services, in Essex based on the number of Care Quality Commission (CQC) registered beds, in the sum of £290 per bed.

2.5. Agree that subject to paragraph 2.7, the remaining £333,000 RTF allocation received from central government is made available to the market to be used as follows:

2.5.1. To pay a sum of £210 per unit to Extra Care and Supported Living settings within the administrative area of Essex; and

2.5.2. To pay a sum of £210 per adult in Mental Health Supported Housing provision to eligible providers within the administrative area of Essex.

2.6. Agree that any remaining balances on both IPC and RTF funding will be reinvested to those providers who have been accessing their full allocation. Essex County Council may also look to recover reasonable administrative costs associated with distributing and reporting on this funding (capped at 1% of the IPC allocation) should there be monies remaining at the end of the grant period, with prior agreement from the Department of Health and Social Care (DHSC) where needed, as set out in the guidance. Therefore, the per bed, per unit or per adult elements may change after reallocation.

2.7. Agree that the money will be paid immediately to each eligible provider if and when the provider enters a legally binding grant agreement to:

2.7.1. complete and update the national capacity tracker at least twice (two consecutive weeks) at the commencement of the fund and commit to completing the national tracker at least once per week until the conclusion of the fund

2.7.2. only spend the money for the purposes as set out in the grant conditions of the Adult Social Care Infection Control and Testing Grant Determination 2021 to 2022 No. 31/5487.

2.7.3. apply open book accounting methods to demonstrate how the money has been spent. This may include proof that results of Lateral Flow Tests have been registered in line with the testing guidance for staff and residents, and the visitors and visiting professionals guidance.

2.7.4. return any money paid where the providers cannot demonstrate that the money has been spent as permitted by 30 June 2021.

2.7.5. minimise third party charges (for example, costs to avoid the use of public transport).

2.7.6. confirm that in no circumstances is any element of profit or mark-up applied to any costs or charges to be reimbursed as part of this scheme

2.7.7. return reporting templates, as set out by the Council, to the Council by 10 May 2021 detailing how the money has been spent until 30 April and how it is planned to be spent until 30 June.

2.7.8. return final reporting templates, as set out by the Council, to the Council by 10 July 2021 detailing how the money has been spent up to 30th June 2021.

2.7.9. provide completed final returns for the Infection Prevention and Control Fund (Round 2) and the Rapid Testing Fund which concluded on 31 March 2021 by 8 April 2021.

3. Summary of issue

3.1. It has been of vital importance during the COVID-19 Pandemic to shield our most vulnerable residents as much as possible from the risks of contracting COVID-19. This continues to be important as restrictions begin to lift. One of the key groups to protect are the recipients of Adult Social Care. It is clear that, at least for the time being, we need to continue to support providers of care to make sure that they can continue to take the steps they have been taking with the aim of reducing the risk of virus transmission.

3.2. The Adult Social Care Infection Control Fund was first introduced in May 2020. It was extended in October 2020 with further funding and, by March 2021, had provided over £1.1 billion of ring-fenced funding to support adult social care providers in England for infection prevention and control (IPC). The Essex allocation of this funding was £31 million.

3.3. The Rapid Testing Fund was introduced in January 2021 to support additional lateral flow testing of staff in care homes, to enable indoor, close contact visiting where possible.

3.4. Due to the success of the Infection Control Fund and the Rapid Testing Fund in supporting care providers to reduce transmission of the virus and re-enabling close contact visiting, these funding streams have been consolidated and extended until 30 June 2021, with an extra £341 million of funding nationally.

3.5. This is a new grant, with separate conditions to those of the original Infection Control Fund, the extension to the Infection Control Fund and the original Rapid Testing Fund. This brings the total ring-fenced funding for infection prevention and control to almost £1.35 billion and support for lateral flow testing to £288 million in care settings.

3.6. The purpose of this fund is support adult social care providers, including those with whom the local authority does not have a contract, to:

3.6.1. reduce the rate of COVID-19 transmission within and between care settings through effective infection prevention and control practices and increase uptake of staff vaccination

3.6.2. conduct additional rapid testing of staff and visitors in care homes, high-risk supported living and extra care settings, to enable close contact visiting where possible.

3.7. This funding will be paid as a Section 31 grant, ring-fenced exclusively for the actions that support care homes and CQC-regulated community care providers mainly to tackle the risk of COVID-19 infections and enable close-contact visiting, and is in addition to funding already received.

3.8. It is important that the money is spent on the purposes intended in the determination (see Appendix A). It is therefore proposed that the money be paid only once the provider has entered a legally binding grant agreement setting out the pre-conditions and the measures to be supported by the grant.

3.9. For the Infection Prevention and Control element of the grant, it is proposed to passport 99% of the funding at £340 per bed to care homes and registered residential settings and £125 per adult to CQC-regulated community care providers. It should be noted that the grant conditions mandate that a minimum of 70% of the funding be passported to these organisations. For the remaining 1%, it is proposed to pay the sum of £125 per adult to Housing Related Support and Mental Health Supported Accommodation providers, because they are experiencing similar issues to the CQC registered providers and would benefit from this support.

3.10. For the Testing element of the grant, it is proposed to passport 91% of the funding at £290 per bed to care homes and registered residential settings. It should be noted that the grant conditions mandate that a minimum of 60% of the funding be passported to these organisations. For the remaining 9%, it is proposed to pay the sum of £210 per unit to extra care, supported living and mental health supported accommodation settings, since providers at these settings are experiencing similar issues and would benefit from this support.

3.11. It is important to note that any social care setting, such as Day Care, not receiving funding under the grant allocations will still be able to access the Council's COVID Resilience Fund during the 2021-22 financial year to cover the additional costs incurred as a direct result of COVID, as agreed by decision number FP/978/02/21/ dated 5 March 2021

3.12. It is possible that some providers will not claim or spend the money they have been allocated, in which case we will supplement the 'per bed', 'per user' or 'per unit' rates on a pro-rata basis. In addition, should there be unclaimed infection control monies remaining at the end of the grant term, the Council will look to offset part of the costs incurred in distributing and reporting on this funding, capped at a maximum of 1% of the IPC monies received.

3.13. Given the legal subsidy control rules and the grant conditions, it is proposed that no money be paid unless the recipient has signed a binding agreement and complied with the terms as set out in paragraph 2.7. We will make this agreement as simple as possible, but clearly it needs a degree of technicality and precision to ensure that we can comply with the requirements of the funding, which are appended to this report.

4. Options

4.1. Option 1. Do nothing (not recommended)

The Government is asking local authorities to passport this grant to providers within 20 working days of receipt, subject to providers meeting the grant conditions, and has indicated that local authorities will receive the funding in April 2021 to secure rapid and adequate response to the COVID-19 pandemic. The grant is ring fenced exclusively for measures that help reduce the risk of COVID-19, its incidence and spread, and are over and above those which care providers would normally be expected to provide.

This would have no resource implications in terms of managing the grant, but does not help support the market with the increased costs associated with undertaking these activities.

4.2. Option 2. To allocate the funding to the care providers as laid out in recommendations 2.1 to 2.7 to the care market as per the guidance of the allocation provided by the DHSC (recommended).

This is in line with the DHSC guidance, which recognises that for providers to deliver increased Infection Prevention and Control and Rapid Testing for all staff and visitors, additional funding is required.

5. Reason for using urgency powers

5.1 On 17 March 2021, the government announced that an additional £341 million will be issued nationally to support care providers to reduce transmission and re-enable close contact visiting. This will be received in a single instalment in April 2021 to cover costs incurred by providers since 1 April 2021. The Government have made it clear that they are asking local authorities to passport this funding to providers no later than 20 working days after receipt; the Circular states that the 'DHSC expects local authorities to transfer the 'direct funding for providers' allocation of this funding within 20 working days' and so an urgent decision is required to enable that to happen. However, the grant determination was not published until 29 March 2021.

6. Financial implications

6.1 The funding to the Council is received as a grant paid under Section 31 of the Local Government Act 2003, ring-fenced exclusively to support providers with Infection Control measures and to roll out the LFD testing in residential settings. The total value of the grant is £9.227m.

6.2 The Determination states that the Council will receive the grant in one instalment in April 2021 and that the Council is required to pass the grant on to

the market as soon as possible, and no later than twenty days from receipt of funds.

6.3 The guidance sets out, for the Infection Control element, that 70% of the funding must be distributed to all eligible registered care home and community providers in Essex on a per bed/unit basis and the Council is to use the remaining 30% of funding to support the care sector with infection prevention and control measures. For the Rapid Testing element, 60% of the funding is for care homes registered in Essex and the remaining 40% is to support the rollout of lateral flow testing in extra care and supported living.

6.4 The amounts set out in recommendations 2.1 to 2.6 fully utilise the grant if all providers identified accept the grant.

6.5 The Council carries the financial risk of fraud, though this is managed via the terms of the grant agreements with providers and we have put in place effective processes to ensure an efficient recovery of funds in the case of fraudulent payments.

6.6 Provided ECC and providers comply with the terms of the fund, there is no net cost of this decision to the Council, as all funds are coming straight from Government and for this specific purpose only. There is a financial risk that if, after payments are made to providers, the DHSC is not convinced that this funding has been spent according to the grant conditions, it subsequently requires repayment of the whole or any part of the grant monies and the Council is unable to claw back those funds from providers. The contractual terms set up with each provider will mitigate, but cannot eliminate, this risk.

7. Legal implications

7.1 The proposals in this report involve making additional payments to suppliers based on claims. These are Government's voluntary payment to the Council on the terms set out in appendix 1 which require money to be paid by the Council to care home owners, some of which have no commercial relationship with the Council, in order to defray additional expenditure they incur in relation to rapid testing in response to the COVID-19 outbreak.

7.2 The legal basis for this payment is Section 1 of the Localism Act 2011 which allows the Council to do anything that a natural person could do. Whilst there are some exceptions to the power, none of them applies here.

7.3 The Council must comply with all grant funding conditions when accepting and paying out grant monies and no money will be paid to a provider unless and until grant recipients sign a legally binding agreement to comply with those conditions. These conditions and the terms applicable to the payment of this fund are included in the grant agreement between the provider and the Council.

7.4 This measure may constitute a subsidy for the purpose of the UK-EU Trade and Co-operation Agreement (TCA), which is given effect by Section 29 of the

European Union (Future Relationship) Act 2020 with effect from 1 January 2021.

7.5 However, the provisions in the TCA relevant to COVID-19 related subsidies will apply. COVID-19 subsidy schemes put in place after 1 January 2021 that provide compensation for costs incurred as a result of COVID-19 are provided for under Article 3.2(1). These are subject to the provisions on transparency and consultations (not yet determined), but are not subject to the provisions on prohibited subsidies, principles and remedial measures, and as such they are exempt subsidies.

7.6 The Department of Health and Social Care considers that this grant and the measures that it is intended to support are consistent with the UK's international obligations on subsidy control.

7.7 The TCA states that information on relevant subsidies should be made transparent by being made publicly available, on an official website or a public database, within 6 months of granting a subsidy. We also note that this database has not yet been created. However, we can publish as soon as the database is set up and in any event this report is to be published on the ECC website.

7.8 The grant agreement incorporates the conditions set out in paragraph 2.7 of the report as well as including terms aimed at mitigating the financial risk to the Council in terms of potential fraud and/or misuse by providers of the grant (including exclusion of Council's liability, strict reporting requirements, Council's right to inspect accounts and receipts and unilateral and unlimited indemnity from the provider to the Council).

8. Equality and diversity implications

8.1 The Public Sector Equality Duty applies to the Council when it makes decisions. The duty requires us to have regard to the need to:

(a) eliminate unlawful discrimination, harassment and victimisation and other behaviour prohibited by the Act. In summary, the Act makes discrimination etc. on the grounds of a protected characteristic unlawful.

(b) advance equality of opportunity between people who share a protected characteristic and those who do not.

(c) foster good relations between people who share a protected characteristic and those who do not, including tackling prejudice and promoting understanding.

8.2 The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, marriage and civil partnership, race, religion or belief, gender, and sexual orientation. The Act states that 'marriage and civil partnership' is not a relevant protected characteristic for (b) or (c) although it is relevant for (a).

8.3 The recommendations in this report are designed to ensure that the Council meets the need of social care users, most of whom are disabled. In view of the urgency of this decision a full equality impact assessment has not been undertaken but we do not believe that there will be a significant adverse impact on any people with a protected characteristic.

9 List of appendices

Grant conditions issued by Secretary of State for Health and Adult Social Care

10 List of background papers

None

I approve the recommendations set out above for the reasons set out in the report. **Councillor David Finch, Leader of the Council**	**Date** **12 April 2021**

In consultation with:

Role	**Date**
Cabinet Member for Adult Social Care and Health **Councillor John Spence**	12 April 2021
Executive Director of Adult Social Care **Nick Presmeg**	12 April 2021
Executive Director for Finance and Technology (S151 Officer) **Stephanie Mitchener on behalf of Nicole Wood**	12 April 2021
Director, Legal and Assurance (Monitoring Officer) **Paul Turner**	7 April 2021

Exemption from call in

I agree that it is in the best interests of the Council for this decision to be implemented urgently and therefore this decision is not subject to call in (paragraph 20.15(xix) of the constitution applies).

Councillor Mike Mackrory – Chairman of the Corporate Policy and Scrutiny Committee
Dated: 12 April 2021

Appendix 1 – Grant conditions

In this determination:

- ‘an authority’ means an upper tier or unitary local authority identified in Annex B.
- ‘the department’ means the Department of Health and Social Care
- ‘grant’ means the amounts set out in the Adult Social Care Infection Control and Testing Grant Determination 2021
- ‘conclusion of the fund’ means 30 June 2021
- ‘upper tier and unitary local authorities’ means: a county council in England; a district council in England, other than a council for a district in a county for which there is a county council; a London borough council; the Council of the Isles of Scilly; and the Common Council of the City of London.

The purpose of the grant is to provide support to adult social care providers, including those with whom the local authority does not have a contract, to: (a) reduce the rate of COVID-19 transmission within and between care settings through effective infection prevention and control practices and increase uptake of staff vaccination; and (b) conduct rapid testing of staff and visitors in care homes, high risk supported living and extra care settings, to enable close contact visiting where possible.

Direct funding for providers

This grant includes two distinct allocations of funding - infection prevention and control (IPC) funding and rapid testing funding.

<u>Infection prevention and control (IPC) funding</u>

Local authorities must ensure that 70% of this funding is allocated to:

- care homes within the local authority’s geographical area on a ‘per bed’ basis and
- CQC-regulated community care providers (domiciliary care, extra care and supported living) within the local authority’s geographical area on a ‘per user’ basis

as set out in Annex B.

Local authorities may propose alternative approaches to that set out in Annex B for allocating the funding, in cases where this would help facilitate the allocation of funding. However, any alternative approaches must:

- be consistent with the intention of the funding to provide an equitable level of funding among providers of community care, including those with which the local authority does not have existing contracts
- have been consulted upon with the local provider sector

- be carried out at the local authority's own risk

If a local authority takes an alternative approach, they must notify the department via email.

Local authorities must assure themselves that all direct funding for providers from this allocation is spent on the following infection prevention and control measures:

in respect of care homes:

- ensuring that staff who are isolating in line with government guidance receive their normal wages and do not lose income while doing so. At the time of issuing the grant circular, this includes:
    - staff with suspected symptoms of COVID-19 waiting for a test
    - where a member of the staff's household has suspected symptoms of COVID-19 and are waiting for a test
    - where a member of the staff's household has tested positive for COVID-19 and is therefore self-isolating
    - any staff member for a period of a least 10 days following a positive test
    - if a member of staff is required to quarantine prior to receiving certain NHS procedures (generally people do not need to self-isolate prior to a procedure or surgery unless their consultant or care team specifically asks them to)
- limiting all staff movement between settings unless absolutely necessary, to help reduce the spread of infection. This includes staff who work for one provider across several care homes, and staff who work on a part-time basis for multiple employers in multiple care homes or other care settings (for example in primary or community care). This includes agency staff. Mitigations such as block booking should be used to further minimise staff movement where agency or other temporary staff are needed
- limiting or cohorting staff to individual groups of residents or floors/wings, including segregation of COVID-19 positive residents
- supporting active recruitment of additional staff (and volunteers) if needed, to enable staff to work in only one care home or to work only with an assigned group of residents or only in specified areas of a care home, including by using and paying for staff who have chosen to temporarily return to practice, including those returning through the NHS returners programme. These staff can provide vital additional support to homes and underpin effective infection prevention and control while permanent staff are isolating or recovering from COVID-19
- steps to limit the use of public transport by members of staff (taking into account current government guidance on the safe use of other types of transport by members of staff)

- providing accommodation for staff who proactively choose to stay separate from their families in order to limit social interaction outside work

- costs of PCR testing, including ensuring that staff who need to attend work or another location for the purposes of being tested for COVID-19 are paid their usual wages to do so; any costs associated with reaching a testing facility; and any reasonable administrative costs associated with organising and recording outcomes of COVID-19 tests

- costs of vaccination, including ensuring that staff who need to attend work or another location for the purposes of being vaccinated for COVID-19 are paid their usual wages to do so; any costs associated with reaching a vaccination facility; and any reasonable administrative costs associated with organising COVID-19 vaccinations where these were not being supported by other government funding streams

in respect of CQC-regulated community care providers:

- ensuring that staff who are isolating in line with government guidance receive their normal wages and do not lose income while doing so. At the time of issuing the grant circular, this includes:

    - staff with suspected symptoms of COVID-19 waiting for a test

    - where a member of the staff's household has suspected symptoms of COVID-19 and are waiting for a test

    - where a member of the staff's household has tested positive for COVID-19 and is therefore self-isolating

    - any staff member for a period of at least 10 days following a positive test

    - if a member of staff is required to quarantine prior to receiving certain NHS procedures (generally people do not need to self-isolate prior to a procedure or surgery unless their consultant or care team specifically asks them to)

- steps to limit the number of different people from a home care provider providing care to a particular individual, or steps to enable staff to perform the duties of other team members/providers (including, but not limited to, district nurses, physiotherapists or social workers) to reduce the number of carers attending a particular individual

- meeting additional costs associated with restricting workforce movement for infection prevention and control purposes. This includes staff who work on a part-time basis for multiple employers or in other care settings, particularly care homes. This includes agency staff (the principle being that the fewer locations in which members of staff work the better)

- costs of PCR testing, including ensuring that staff who need to attend work or another location for the purposes of being tested for COVID-19 are paid their

usual wages to do so; any costs associated with reaching a testing facility; and any reasonable administrative costs associated with organising and recording outcomes of COVID-19 tests

- costs of vaccination, including ensuring that staff who need to attend work or another location for the purposes of being vaccinated for COVID-19 are paid their usual wages to do so; any costs associated with reaching a vaccination facility; and any reasonable administrative costs associated with organising COVID-19 vaccinations where these were not being supported by other government funding streams

- steps to limit the use of public transport by members of staff (taking into account current government guidance on the safe use of other types of transport by members of staff)

If a provider in a local authority's geographical area refuses this funding or is unable to use all of its allocation, the local authority may add unallocated IPC funding to their 30% discretionary allocation. If a local authority decides to do this, they must notify the department. Any funding reallocated in this way must still be spent before the conclusion of the fund.

Rapid testing funding

Local authorities must ensure that 60% of this funding is allocated to care homes within the local authority's geographical area on a 'per bed' basis, as set out in Annex B.

Local authorities must assure themselves that all direct funding for providers as part of this allocation, passed on to care homes as part of the 'per bed' allocation, is spent on the following measures:

- paying for staff costs associated with training and carrying out lateral flow testing, including time to:
    - attend webinars, read online guidance and complete an online competency assessment
    - explain the full LFT process to those being tested, and ensure that they understand all other infection prevention and control (IPC) measures
    - ensure that any LFTs are completed properly, including overseeing the self-swabbing process, processing tests and logging results and
    - wait for results, if staff are taking tests prior to their shift
- supporting safe visiting, including:
    - welcoming visitors
    - gaining consent to conduct lateral flow testing

  - overseeing that PPE is correctly donned
  - additional IPC cleaning in between visits and
  - alterations to allow safe visiting, such as altering a dedicated space

- costs associated with recruiting staff to facilitate increased testing
- costs associated with the maintenance of a separate testing area where staff and visitors can be tested and wait for their result. This includes the cost of reduced occupancy where this is required to convert a bedroom into a testing area, but only if this is the only option available to the setting. We expect that most costs will have been covered by the first Rapid Testing Fund.
- costs associated with disposal of LFTs and testing equipment

If a provider in a local authority's geographical area refuses this funding or is unable to use all of its allocation, the local authority may add unallocated rapid testing funding to their 40% discretionary allocation. If a local authority decides to do this, they must notify the department. Any funding reallocated in this way must still be spent before the conclusion of the fund.

Conditions to be imposed on care providers

A local authority must ensure that funding which it allocates for a measure described above is allocated on condition that the recipient care provider:

- uses it for those measures only
- will spend their allocation by 30 June 2021
- will provide the local authority with a statement certifying that that they have spent the funding on those measures at reporting point 2 (30 July 2021)
- if requested to do so will provide the local authority or the department with receipts or such other information as they request to evidence that the funding has been so spent. This may include proof that results of LFTs have been registered
- provide the department or the local authority with an explanation of any matter relating to funding and its use by the recipient as they think necessary or expedient for the purposes of being assured that the money has been used in an appropriate way in respect of those measures
- will return any amounts which are not spent on those measures or are unspent at the conclusion of the fund (30 June 2021) and
- has completed the Capacity Tracker at least twice (two consecutive weeks) and has committed to completing the Tracker at least once per week until the conclusion of the fund

The grant must not be used for fee uplifts, expenditure already incurred or activities for which the local authority has already earmarked or allocated expenditure, or for activities that do not support the primary purpose of this grant.

The local authority should not make an allocation of this grant to a care provider that has not completed the Capacity Tracker at least twice (two consecutive weeks).

Local authorities must make it a condition of the provision of the direct funding for providers that the cost of any specific infection prevention and control measures or rapid testing measures are met by providers on the basis that:

8.1.1. there is no increase in any relevant rates (except those relating to hourly rates of pay to ensure staff movement from one care home to another care home is minimised) from the existing rates

8.1.2. third party charges (for example, of costs to avoid the use of public transport) are paid at the normal market rates and

8.1.3. in no circumstances is any element of profit or mark-up applied to any costs or charges incurred

Local authorities must make it a condition of allocation of funding that providers must be able to account for all payments paid out of the direct funding for providers' allocation and must keep appropriate records.

If, at the end of the fund, a provider has not used the entirety of the 'direct funding to providers' allocation in pursuit of the IPC and rapid testing measures outlined, any remaining funds must be returned to the local authority. Local authorities must ensure that appropriate arrangements are in place to enable them, if necessary, to recover any such overpayments.

None of the 'direct funding to providers' funding is to be used for any purpose other than the IPC and rapid testing measures specified in Annex C. If a local authority finds that a provider has used the 'direct funding for providers' allocation to pay for measures not outlined in Annex C, they should take all reasonable steps to recover the misspent amounts.

Local authority obligations

This grant includes two distinct allocations of funding – infection prevention and control (IPC) funding and rapid testing funding.

Infection prevention and control (IPC) funding

Local authorities must pass on 70% of the IPC funding to care providers in their geographical area.

Local authorities must use 30% of the IPC funding to support the sector to put in place other COVID-19 infection prevention and control measures, but this can be allocated at their discretion. This can include providing support on the infection prevention and control measures to a broader range of care settings (for instance, community and day support services), supporting providers who face increased infection control costs as a consequence of their individual circumstances or due to effects of the pandemic, and other measures that the local authority could put in place to boost the resilience and supply of the adult social care workforce in their area to support effective infection control.

Local authorities may use a small amount of this funding (capped at 1% of their total IPC allocation) for reasonable administrative costs associated with distributing and reporting on this funding.

Rapid testing funding

Local authorities must pass on 60% of the rapid testing funding to care homes within their geographical area.

Local authorities must use 40% of the rapid testing funding to support the sector to operationally deliver lateral flow testing, but this can be allocated at the local authority's discretion. 40% of the rapid testing allocation is being provided to support the rollout of lateral flow testing in extra care and supported living, and we expect local authorities – who have been referring and approving settings

for this purpose – to use this funding to support testing in those settings. This can include providing support for extra care and supported living settings.

Conditions imposed on local authorities

To be compliant with the conditions of this fund a recipient local authority must:

- make the 'direct funding for providers' allocation directly to care providers (care providers include local authorities who provide care directly, care homes with self-funding residents; care homes with which local authorities do not have contracts, CQC-regulated community care providers with self-funded clients, and community care providers with which local authorities do not have contracts, other organisations providing care)

- report on their spending

- ensure any support made to a care provider is made on condition that the provider has completed the Capacity Tracker at least twice (that is two consecutive weeks) and has committed to do so on a weekly basis until 30 June 2021

- ensure that payments to the care provider are made on condition that the provider will repay the money to the local authority if it is not used for the infection control purposes for which it has been provided, or if it is not spent by the provider by 30 June 2021

- provide the department with two returns on how providers and the local authority have spent this funding, to be returned on 19 May 2021 (reporting point 1) and 30 July 2021 (reporting point 2)

- provide the department with a statement as per Annex D, certifying that that they have spent the funding on those measures at reporting point 2 (30 July 2021)

- return to the department any amounts unspent at the conclusion of the fund by either the local authority, or providers in the local authority's geographical area. The local authority must provide a final value of unspent funding by no later than 30 September 2021, after which time the local authority may no longer amend this value.