

Our ref MG/AJH

6th December 2017

Members of the LEP Board, Digital Infrastructure Group and related parties
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BROADBAND REVENUE FUNDING

Further to the last LEP board meeting and the agenda item on the subject of broadband revenue funding, I can now advise on the situation regarding Gainshare once the current contract has completed.

Hopefully this will help partners to decide if this will serve as a means of underwriting the revenue costs that are being asked of them now to facilitate the management of the current project through to Sept 2020.

Buckinghamshire County Council has previously sought independent legal advice to clarify the position regarding the Investment Fund (which is where all Gainshare is paid to) and related contract clauses. I refer to the relevant section of the legal advice below.

Paragraph 12.2 provides "If at the end of the Term (following completion of the processes described in paragraphs 9 to 11) the Investment Fund (IF) remains a positive amount, this shall be returned by BT as soon as reasonably practical in the form of an electronic re-payment (with the payment details to be notified to BT by the HCC). The amounts returned pursuant to this provision or otherwise re-invested from the Investment Fund shall not exceed the total public subsidy received by BT during the Term."

As guidance to the Council with regard to reinvesting the IF with alternative providers other than BT, in the last line of this sub-paragraph the use of the word "or" appears to draw a distinction between a direct return refunded to the Council and amounts otherwise re-invested from the IF. It appears to offer the opportunity to HCC/BCC to spend any returned IF monies on other projects different from the Broadband Network.

We have received further clarification from BDUK. They have said the following.

"The current BDUK position is that if funding returned from a Contract is used for further broadband delivery (through either Change Request or new procurement) BDUK will support this, the Grant Agreement does require written approval for the BDUK proportion of funding to be reused in this way. If however a funding partner chooses to withdraw funds from the programme, which could be through the return of the Investment Fund, the value of the funding would need to be returned to funding partners in line with the project investment ratios as set out within the relevant Grant Agreement associated with the Contract."

In other words, it would appear that any revenue funding provided now, has the possibility of being repaid out of the final Investment Fund pot subject to the amount of Gainshare money accrued and unused at the end of the Gainshare period on 31st March 2023.

For information Gainshare is paid out in 5 instalments over a period of 7 years. These instalment dates are:

- 30th September 2016
- 30th September 2018
- 30th September 2020
- 30th September 2022
- 31st March 2023

It will only be on the last date when a reckoning can finally be made as to whether reimbursement of revenue funds can be made.

Also, for information, BDUK have provided us with a calculation toolkit to estimate the amount of Gainshare we can expect. Whilst it is purely an estimate based on a continued 50% take up rate, it suggests that Buckinghamshire could achieve £2.5m during this period. However, this figure is an estimate and cannot be used in any shape or form as a guarantee.

The LEP has already agreed a contribution of £108,408, if part of an overall settlement, towards the total outstanding revenue costs of £306,071. Chiltern District Council has confirmed its contribution of £12,397.

Please can I now ask both Wycombe District Council and Aylesbury Vale District Council to confirm the contributions they will make towards the revenue budget to cover agreed costs until September 2020. To be clear, we are looking for £106,610 and £49,586 respectively, to be paid over 3 financial years.

The revenue budget will be an important agenda item at the Digital Infrastructure Group meeting that I am chairing next Tuesday, 12th December. A final decision needs to be made at that meeting if we are going to maintain the excellent programme management that has already driven such a high take up and substantial returns in the form of Gainshare.

If any matters require clarification, I would ask that these are raised in advance of the meeting so that there is time to provide answers. This matter has been discussed for at least 9 months and a decision is now required.

Kind regards

Yours sincerely



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