North Lanarkshire Council
Report

Enterprise and Growth Committee

☐ approval ☒ noting **Ref** LMcM/PK/EW **Date** 29/08/19

EU Funded Employability Programme

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Executive Summary

North Lanarkshire Council has active EU funded programmes within its employability services with significant grant contributions to support Council led activities. These activities have been subject to a series of verifications by the Scottish Government's EU funding team since 2016, with no fundamental irregularities being found. On 24 May 2019 a letter was sent to every local authority in Scotland dealing with EU funds. The letter highlighted concerns raised by the European Commission, that the management of EU funds by the Scottish Government had issues and that until these are addressed, the EU will not pay the Scottish Government on any claims. The report provides an update on the current suspension of payments by the European Commission to the Scottish Government and actions taken by the Council in response.

The report also provides an update on progress within the second phase of the EU funded employability programme which began in January 2019.

Recommendations

It is recommended that the Enterprise and Growth Committee:

(1) Consider and note the contents of this report and accompanying appendices.

The Plan for North Lanarkshire

Priority	Improve economic opportunities and outcomes
Ambition statement	(5) Grow and improve the sustainability and diversity of North Lanarkshire's economy

1. Background

1.1 From 2016 until December 2018 the Council was the Lead Partner in two employability programmes running in tandem. The (YEI) Youth Employment Initiative aimed at 16-29 year olds and the Employability Pipeline aimed primarily at 30 years of age and over. With the agreement of the Scottish Government in November 2018, both of these programmes were combined into the Employability Pipeline, which will operate until December 2022. Both the applications for these funds and their corresponding financial models were agreed by the Scottish Government before being formally approved. In addition, the Council has been subject to two systems checks as well as having claims verified and paid, with no fundamental errors being highlighted.

1.2 In terms of payments, as Lead Partner the Council has been paid £3,867,458 for the period April 2015 to March 2018 but has claims outstanding of £2,249,729 for the period from April 2018 until March 2019. The average turnaround period from submission of claims, verification by the Scottish Government and payment, is 92 days.

1.3 As reported to Committee on 7 February 2019, Phase One of this programme ran from 2016-2018. Final job outcomes were 3,103 against a target of 2,877 with just over 25% of the support in this programme focused on 16 -19 year olds. The outcomes associated with phase two funding are for there to be 9,130 residents supported and 4,100 job outcomes with support aimed at those residents who can evidence at least two barriers to entering the labour market.

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2. Report

2.1 European Commission - Suspension of Payments

In July 2018 the European Commission carried out an Early Preventative System Audit (EPSA) visit to the Scottish Government and a number of local authorities across Scotland, including North Lanarkshire. On 24 May 2019 a letter, attached as Appendix 1, was sent to every local authority in Scotland dealing with EU funds. The letter highlighted concerns raised by the European Commission that the management of EU funds by the Scottish Government had 'serious deficiencies' and that the EU will not pay any claims, either submitted or due to be submitted from the Scottish Government until the issues highlighted in the audit are resolved. The letter then indicated that this would result in an interruption of payments to local authorities until November 2019.

There are a number of potential consequential operational, staffing and financial aspects to an interruption to payments to the Council and the resulting exposure to financial risk. Across the Council, and its ALEO Routes to Work, a total of 82.44 FTE employees are part funded by EU employability funds. Therefore, the Council has written to the Scottish Government to seek clarity on the exact nature of potential financial risk for North Lanarkshire Council and what aspects of the financial model currently used are in question. In addition, the Council's letter expressed the view that, as the Council's programme has been fully compliant with the rules set out by the Scottish Government, it should not have to bear the financial burden arising from the European Commission's findings.

As a national issue which affects the majority of local authorities in Scotland, this has prompted discussions between Scottish Government officials and the officers of COSLA. The matter was discussed at the COSLA Leaders meeting on 28 June 2019. This has resulted in some clarifications from the Scottish Government. They have until

15 November 2019 to resolve the issues raised by the European Commission and are currently working on this as a priority. This will involve the development of a new financial model for delivery of EU funds which satisfies the European Commission regulations. Limited information is known as to what this model will involve but its implementation will require testing and examination at an operational level by delivery staff and finance colleagues to ensure it is viable. Meanwhile the Scottish Government have advised local authorities to continue with the current model and to report on progress and funding as previously.

2.2 **Employability Pipeline Update**

Phase Two of the programme began in January 2019 and, up until June 2019, has supported 511 participants into employment. The programme is on track to meet targets. Through the work of the Routes to Work 'In-work' support team, sustainment of employment at 26 weeks has improved to 74% against a target of 70%.

In line with the commitment to target those participants who face multiple barriers to entering the labour market, a number of developments have taken place. These include:

- increased mental health support to young people entering the programme;
- engagement with Bellshill Mosque and steady registration of participants;
- ongoing work with criminal justice colleagues and an agreement to deliver training in Addiewell Prison via the ESF programme prior to liberation;
- specific support to over 50s due to the rise in numbers seeking support; and
- continued work with Barnardos and Simon Community to engage people who have been recently homeless.

The programme will continue to seek opportunities to engage with groups who are furthest from the labour market.

3. Equality and Diversity

3.1 Fairer Scotland Duty

Not required.

3.2 Equality Impact Assessment

Not required.

4. Implications

4.1 Financial Impact

This is still to be confirmed as the letter from the Scottish Government (see Appendix 1) lacks the level of detail required. However, the key impact relates to the possible hiatus in payment of claims. The financial position is as outlined in section 1.2 of the report.

4.2 HR/Policy/Legislative Impact

Potential HR impact is as set out in section 2.1 of the report.

4.3 Environmental Impact

None.

4.4 Risk Impact

No additional risk impacts.

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5. Measures of success

5.1 Successful introduction of a financial model that meets the needs of the European Commission and local authorities delivering employability support.

5.2 Continued effective implementation of Phase Two of the employability pipeline.

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6. Supporting documents

6.1 Appendix 1 ESF - 2014-2020 - Pre-suspension letter to Lead Partners - 24 May 2019.

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24 May 2019
Sent by email

European Structural Funds Lead Partner

Dear Lead Partner,

PROCEDURE TO SUSPEND EUROPEAN STRUCTURAL FUND INTERIM PAYMENTS
(Article 142 of Regulation (EU) No 1303/2013) United Kingdom - ESF Scotland (CCI: 2014UK05M9OP002)

We advised you in the March e-bulletin that the EC had initiated a pre-suspension procedure for interim payments of the European Structural Funds Scotland programme. This followed an interruption to the payment request submitted to the EC in December 2018 and more recently in April 2019. This means that the EC will not pay any claims, either already submitted or due to be submitted from Scottish Government until the issues found as a result of the Early Preventative System Audit (EPSA) carried out in July 2018, have been resolved.

The EPSA report highlighted issues with the Managing Authority, and serious concerns with the quality of information and evidence that we receive from lead partners, relating to the European Social Fund. The report also highlights potential non-compliance with the regulations as a result of the funding for some operations being treated as competitive grants, rather than as public procurements.

For the avoidance of doubt, the Scottish Government cannot afford to fund programmes of this size without the ability to reclaim the full costs from the EC.

EC Reasons for Introducing pre-suspension procedure

The EC report states that there are “serious deficiencies in the management and control system” which have **“**put at risk the Union contribution to the programme”. The EC highlight the specific areas as follows:

“These deficiencies are linked to the key requirement 4 of the management and control system of the programme in question, which is not functioning effectively”.

The final EPSA report follows from the conclusion of their draft audit report that the management verifications were deficient due to:

- **Inadequate verification of public procurement procedures** and related expenditure: The management verifications of public procurement procedures were inadequate to detect insufficiencies in essential elements of the procurement procedure, to ensure that declared expenditure was actually incurred and paid by the Final Beneficiary and that the ESF contribution was calculated on total public expenditure.

- **Lack of verification whether declared costs actually relate to delivered services/achievements.**

- **Insufficient checks on correct implementation of flat rates on direct staff costs**: For operations where a flat rate of up to 40% of the eligible direct staff costs was used in accordance with Art.14.2 of ESF Regulation (EU) 1304/2013, the management verifications did not ensure that no other expenditure than the direct staff costs was declared for (the relevant part of) the operation."

The review of the procedures put in place by the Managing Authority and the findings for the audited operations indicated that these deficiencies have a systemic nature. Although the precise impact cannot be established at this stage, the Commission considers that such systemic and serious deficiencies in Key Requirement 4 have a "significant impact on the legality and regularity of the declared expenditure."

The managing and audit authorities met with EC desk officers and auditors and are working through the recommendations and detailed findings. This includes updating processes, implementing them and working with Lead Partners to generate a robust body of evidence for the audit authority to report to the EC.

We are exploring the use of different methods of claiming expenditure from the EC.
For example, one method agreed in principle is the use of standard unit costs under the Social Fund programme, which will require you to produce robust participant records containing evidence of engagement, actions, achievement and exit.

As well as interrupting the payment of the December 2018 claim, all payments made in respect of the 2017-2018 accounts which are affected by the audit finds have been withdrawn from the accounts. These are due to be repaid to the EC unless they can be reintroduced in a manner that is 'legal and regular'.

Next steps

As the Managing Authority, we are working hard to address the points raised as quickly as possible. There is a significant amount of work to scrutinise the operations which are affected by these findings, to inform which funds already paid can be claimed back from the EC. You as our lead partners will have a key role in producing the information and evidence. It is for you to ensure that any evidence provided can be verified and will withstand robust scrutiny.

Not all operations are affected by the issues and we continue to make payments where we can. Whilst we are working to resolve the issues, it is likely that the interruption to the submitted payment requests, and the non-payment of future payment requests will continue until late 2019.

We are aware that this may impact on the pace of your claims but would request your full cooperation to bring these issues to a positive conclusion as soon as possible.

Yours sincerely

Hilary R Pearce

Hilary Pearce
Head of the Managing Authority
Deputy Director, European Structural Funds and State Aid Division