

**Joint Response by Pembrokeshire County Council to CMA Consultations  
“Guidance on the operation of the Subsidy Advice Unit” and  
“Draft Statement of Policy in relation to the enforcement by the Subsidy Advice  
Unit of its information-gathering powers”**

**Introduction**

Pembrokeshire County Council is a Welsh unitary local authority in south west Wales. A significant emphasis for the Authority since it was established in 1996 has been to address socio-economic disadvantage in the county. A focus has been to identify and exploit economic opportunities, including establishing a new marine energy industry centred on the Milford Haven waterway and the waters around our coast. A major contribution to this ambition has been the Pembroke Dock Marine City Deal initiative with UK and Welsh Government support. Other important initiatives for us have been the roll-out of high-speed fibre broadband across the county, and the reinvigoration of our town centres, especially Haverfordwest, which is benefitting from a major investment from the Government’s Levelling Up Fund.

The availability of a supportive subsidy control regime is vital if the public sector is to continue to be able to support the economic development of Pembrokeshire in line with the “levelling up” agenda promoted by the UK Government.

**Consultation Questions**

**Guidance on the operation of the subsidy control functions of the Subsidy Advice Unit**

Question 1: Do you agree with the objectives for pre-referral engagement?

Yes.

Question 2: Do you agree with the proposed approach to transparency (including publication of summary information at the time of a referral)?

Our primary concern is the drafting of the summary to be published by the SAU to publicise a referral. If the process is to be transparent, it is vitally important that published information is both accurate and agreed to be accurate. It is not clear whether the summary is to be prepared by the public authority making the referral, or by the SAU. If it is the former, the SAU should confirm that it is an accurate reflection of the referral before publication. If it is the latter, then the public authority should be requested to confirm the summary accurately reflects the information provided in the referral.

Question 3: Do you agree with the proposed approach to the treatment of confidential information?

We are concerned that the public authority will only receive a copy of the SAU report after publication, including publication to the Secretary of State (paragraph 3.28). We hold that it is in the interests of all parties, including the general public interest, that the report is based on a common understanding of the facts. In our view, it is important that the public authority has the opportunity to review a draft report, or possibly a draft report prior to the addition of any conclusions or recommendations, so that any errors of fact can be identified and rectified at an early stage. It is essential that this takes

place before any (potentially) false conclusions are drawn, or the report is placed in the hands of the Secretary of State or published to the world at large.

We have no observations on the approach proposed to the handling of confidential information, but we consider that there are gaps in the information provided. In particular, it is not stated whether, or for how long, or for what purpose, confidential information provided to the SAU in the course of a referral will be retained by the SAU.

It is not clear how the SAU would respond to a request seeking confidential information provided to it in the course of a referral. Nor is it clear how the SAU would protect any personal data covered by the Data Protection Act.

Question 4: What might public authorities, beneficiaries, and other interested parties expect to be included in SAU reports. In particular, how much advice should the SAU give on how to improve the assessment or modify the subsidy or scheme?

We would expect that a report from the SAU would include:

- A summary of the proposed subsidy or scheme, agreed in advance with the public authority.
- An assessment of the quality of the assessment of the proposed subsidy or scheme, structured as set out in paragraphs 4.4 to 4.25, with the conclusion based on the key questions set out in paragraph 4.3.

We consider that the degree of advice offered on improving the assessment or modifying the scheme will depend on the degree to which the SAU considers that the assessment carried out by the public authority provides assurance of compliance with the Subsidy Control Act. If a low level of assurance is provided, the advice will need to be more detailed, extensive, and demanding of improvement than if a high level of assurance is provided. Although the SAU assessment will not provide a pass / fail answer, the SAU should be prepared to advise public bodies about the degree of risk (high / medium / low) they face if the subsidy assessment is relied upon without taking into account SAU's advice for improvement or modification.

Question 5: What might stakeholders find useful to see included in the SAU's monitoring reports?

We would find analysis of the impact of the Subsidy Control Act on a regional basis to be of considerable interest, particularly since it would enable an understanding of the impact of the removal of Assisted Areas as a feature of the subsidy control regime. We would also be interested to see an analysis of the effect and operation of the provisions in the Act and in the statutory guidance related to relocation subsidies, about which we have expressed concern in our responses to BEIS consultations.

Question 6: Do you agree with the SAU's Prioritisation Principles?

In general we agree with the three Prioritisation Principles (Impact, Significance and Resources).. However, in responding to the BEIS consultation on Subsidies and Schemes of Interest and Subsidies and Schemes of Particular Interest, we argued in response to Question 19 ("What is your view on classifying some or all relocation subsidies as either Sol or SoPI?"), that all relocation subsidies should be treated as SoPI and referred to the SAU. We are still of that view. Given that the Government

has yet to respond to that consultation, we consider that if relocation subsidies are regarded as Sol then SAU should prioritise this type of subsidy above others.

**Draft Statement of Policy in relation to the enforcement by the Subsidy Advice Unit (SAU) of its information-gathering powers**

The only observation we wish to make on the draft Statement of Policy relates to the scenario where the SAU believes that a person, business or public body holds information desired by the SAU that the person, business or public body does not in fact hold. How would such situations be resolved?