

<p>Grants Determination Cabinet Sub-Committee</p> <p>12 September 2017</p>	 <p>TOWER HAMLETS</p>
<p>Report of: Zena Cooke, Corporate Director of Resources</p>	<p>Classification: Unrestricted</p>
<p>Extension of Mainstream Grants and Corporate Grants Policy</p>	

<p>Lead Member</p>	<p>John Biggs, The Mayor</p>
<p>Originating Officer(s)</p>	<p>David Freeman, Strategy Manager, Voluntary and Community Sector Emily Fieran-Reed, Service Manager, Community Cohesion, Engagement and Commissioning</p>
<p>Wards affected</p>	<p>All wards</p>
<p>Key Decision?</p>	<p>Yes</p>
<p>Community Plan Theme</p>	<p>A Great Place to Live</p>

REASONS FOR URGENCY

This report is scheduled to be considered by the Grants Determination (Cabinet) Sub-Committee on 12th September 2017. In order to allow the Grants Determination (Cabinet) Sub-Committee the opportunity to take account of the views of this sub-committee in making their decision, it is requested this report is considered by the Grants Scrutiny Sub-Committee at their meeting on 6 September 2017. If the Grants Scrutiny Sub-Committee does not have the opportunity to express their views for the Grants Determination (Cabinet) Sub-Committee to consider at their meeting on 12th September, there is a danger the decision of that sub-committee may be delayed, reducing the time available for the co-production process for the recommissioning of the Council's Mainstream Grants."

Executive Summary

The report seeks the Sub Committee's agreement to extend the Council's Mainstream Grants (MSG) by seven months to 31 March 2019 for those funded projects which are performing satisfactorily. This will allow sufficient time for the successor funding programme to be developed through a process of co-production with stakeholders and will also bring the programme into line with the financial year.

The Voluntary and Community Sector (VCS) Strategy sets out the basis of a new corporate grants policy. This report details, for the Sub Committee to note, proposals for developing this policy through a process of co-production.

The corporate grants policy will be developed alongside and will complement the successor funding programme for MSG and corporate commissioning arrangements as set out in appendix B

Recommendations:

Grants Determination (Cabinet) Sub-Committee is recommended to:

1. Agree that the current three year MSG is extended by seven months to 31 March 2019 for those projects which receive grants and which are also performing satisfactorily, and
2. Note the proposed arrangements to develop a new corporate grants policy through a process of co-production.

1. REASONS FOR THE DECISIONS

1.1 The Sub Committee is asked to agree the extension of the current three year MSG for a further seven months to:

- Enable a thorough and high quality application process to take place for any future funding that succeeds MSG;
- Avoid the risk of vulnerable service users being set at a disadvantage by loss of support from current MSG funded projects if the existing grants come to an end on 31 August 2018 and new services are not in place until 1 April 2019, and
- Bring MSG into line with the Council's financial year and planning cycles.

2. ALTERNATIVE OPTIONS

2.1 The Council could retain the current timetable for MSG and attempt to put in place the successor programme to take effect from 1 September 2018. However, if this option was pursued the Council would not be able to develop the successor programme to MSG through the co-production process as set out in the Council's Voluntary Sector Strategy and would risk losing the potential benefits of this methodology.

2.2 An alternative option would be to allow the current MSG to come to an end at 31 August 2018 as originally anticipated but develop the successor programme through co-production with new services scheduled to commence from 1 April 2019. This would leave a gap in service of seven months and the Council would risk vulnerable service users being set at a disadvantage by loss of support from current MSG funded projects without any alternative provision.

3. DETAILS OF REPORT

Mainstream Grants Programme (MSG)

3.1 The current three year MSG funding is scheduled to end on 31 August 2018. The 2017/18 budget for the programme is £3.1m. One strand of MSG,

Community Engagement, Cohesion and Resilience, ended before the other four strands, on 31 March 2017. This strand of activity has now been recommissioned to 31 August 2018 to coincide with the end of the rest of the MSG programme. The value of the new cohesion commissioned programme is £105,000pa.

- 3.2 128 projects are funded through MSG with a further 8 contracts now being mobilised in the Community Engagement, Cohesion and Resilience programme.
- 3.3 The recent experience of recommissioning the cohesion strand of the MSG programme indicates that, in order to ensure full engagement in the co-production process and to allow adequate time for training in methodology currently unfamiliar to both the Council and the VCS, a period of at least 12 months should be allowed from the announcement of recommissioning intentions to the award of contracts, with a further period for contract mobilisation. Recent work evaluating MSG has also highlighted a need for an adequate timescale for a thorough co-production and application process to take place.
- 3.4 It is now proposed that the current three year MSG is extended by seven months to 31 March 2019 for those projects which receive grants and which are also performing satisfactorily, and also for the services recently commissioned in the Community Engagement, Cohesion and Resilience programme. This would be to enable a thorough and high quality application process to take place for any future funding that succeeds MSG. It would also avoid the risk of vulnerable service users being set at a disadvantage by loss of support from current MSG funded projects if the existing grants came to an end on 31 August 2018 and new services were not in place until 1 April 2019.
- 3.5 This course of action is one which is supported by Tower Hamlets Council for Voluntary Service (CVS) and which would help the Council meet the objectives of the VCS Strategy 2016-19 which sets out a model for designing and commissioning services that focuses on co-production and a collaborative approach with the VCS.
- 3.6 In future commissioning, when experience and expertise of co-production have developed in both the Council and the VCS, it may be possible to reduce the lead in time. However, at present there is a danger that, if the funding is not extended, the VCS may not have the opportunity to become fully engaged in the process and may miss the chance to develop transformational new approaches to meeting community needs through co-production.
- 3.7 Monitoring of the current MSG grants indicates that the majority of organisations are delivering a good service but the extension of individual grants will be subject to the funded projects' continued satisfactory performance. Those projects which are considered to be underperforming may not be extended, may be extended with additional conditions or at a reduced level of funding. Decisions on individual projects will be made through the normal monitoring and reporting process by this Sub Committee.

Making the decision to extend MSG well in advance of the current end date for MSG ensures organisations have good notice of the Council's intentions and can make appropriate plans for their services. It will also allow time to consider any issues which may arise concerning individual projects.

- 3.8 The extension of funding for individual projects would be by mutual consent and there is the possibility that some organisations may choose to decline the Council's offer to extend funding. Where this happens, the Council would have to consider whether to allow the funded project to draw to an end in an orderly way or to seek an alternative provider for the extension period. In the event of this situation arising, a further report will be brought to the Sub Committee.
- 3.9 Extending the current MSG so that its successor programme will commence on 1 April 2019 provides the opportunity to align the commissioning cycle to the financial year. This will help future financial planning both for the organisations funded and the Council and should also make reporting year on year expenditure more transparent and readily understood.

Grants Policy

- 3.10 The Voluntary and Community Strategy 2016-19 sets out ways to redefine and strengthen the Council's relationship with the voluntary and community sector (VCS) in the borough, including the way the authority provides financial support to the sector. Central to this strategy is a transition from traditional funding relationships to a position where the principal type of activity which the Council funds will be activity that is commissioned activity. However, the strategy recognises that grant funding will continue to have an important role to play in supporting the sector in certain circumstances. The relevant section of the VCS Strategy setting out the basis for a new, outcome focused, approach to grant funding is set out at Appendix A for reference.
- 3.11 Officers are now seeking to establish the policy framework and procedures for the new approach by:
- i. Developing the principles set out in the Strategy to define the criteria for grant funding;
 - ii. Developing a corporate grants policy and procedures that meet the criteria for grant funding;
 - iii. Considering which current grant programmes across the Council should be integrated into the new corporate policy and procedures including those funded by non mainstream general fund sources such as s106 funds, and
 - iv. Considering what arrangements may be needed to ensure a smooth transition from the current funding programmes to the new approach.
- 3.12 The VCS Strategy sets out the important role of the VCS in working with the Council to develop the new approach to grant funding and participating in a Grants Review Group. The close involvement of the VCS in this work is crucial to its success and it is therefore proposed to take the work forward

through a process of co-production with the sector. THCVS has indicated its willingness to engage its members in the process, including smaller community groups which do not already have good links with the Council. Engaging with these groups as well as those which the Council has more established relationships with will help to ensure wide involvement of the sector.

- 3.13 Some possible areas of future grant funding are set out in the VCS Strategy (see appendix A). These are not intended to be exhaustive but give a clear indication of the type of circumstances where grant funding could be more appropriate than commissioning.
- 3.14 The VCS Strategy describes how the Council will move towards an outcome based and commissioned approach to supporting the VCS in the future to ensure that future commitments align to the outcomes set out in the Community Plan and the Council's Strategic Plan. The Strategy anticipates much of the current mainstream grants programme (MSG) will be commissioned in the future rather than grant funded. The new grants policy will sit alongside the VCS funding programme which is being developed to replace the MSG.
- 3.15 Proposals for the new grants policy will be brought to the Grants Determination Sub-committee for decision in early in 2018. It is proposed that co-production activities will take place during the autumn and winter. Implementation will be aligned with and take account of the commissioning or other arrangements that will follow the MSG and the development of co-produced commissioning across the Council. Indicative timetables for these three activities are set out in appendix B.

4. COMMENTS OF THE CHIEF FINANCE OFFICER

- 4.1 This paper proposes a new approach to grant giving and suggests that the Council move towards commissioning approach where payments are made for outcomes delivered rather than giving grants and invites MAB comments on the approach.
- 4.2 It is envisaged that the new approach will be applied to most areas of grant giving from across the Council including the mainstream grants (MSG) programme and therefore services commissioned through this approach would be funded from existing budgets. Further analysis will be carried out to identify areas in scope and identify areas where there would still be a need to award grants.
- 4.3 The report also seeks agreement to extend the existing MSG programme to 31st March 2019 (a further 7 months) once the current contracts expire on the 31st August 2018. The cost for the additional period will be funded through the annual MSG budgets of £3.1m.

5. LEGAL COMMENTS

- 5.1 The Tower Hamlets Community Plan sets out the vision and priorities for the borough which have been set by the Council and its partners. Having regard to the Community Plan, the Council has developed an updated VCS Strategy and Action Plan and which were approved by the Mayor in Cabinet on 5th April 2016.
- 5.2 The Council has a range of specific statutory powers and duties which provide for partnership and community arrangements. In addition Section 111 of the Local Government Act 1972 permits the Council to do things (whether or not involving the expenditure, borrowing or lending of money or the acquisition or disposal of any property or rights) calculated to facilitate, or conducive or incidental to, the discharge of any of its functions. Section 1 of the Localism Act 2011 gives the Council general power of competence to do anything that individuals generally may do, subject to specified restrictions and limitations imposed by other statutes. It may be considered that development of a Grants Policy to support the VCS is something an individual may do and thus also something that the Council may do. The development and delivery of a Grants Policy to sit alongside the VCS commissioning programme is therefore within the powers of the Council.
- 5.3 As stated, a key part of the strategy is a move from grant funding towards an outcome based and commissioned approach to supporting the VCS in the future. The Strategy anticipates much of the current mainstream grants programme (MSG) will be commissioned in the future rather than grant funded. The new grants policy will sit alongside the VCS commissioning programme which is being developed to replace the MSG,
- 5.4 It is recognised however, that grant funding will be appropriate in some cases where there is a clear case for funding to be provided by grant rather than commissioning and a clear benefit to the service being funded. However, the nature of each scheme will need to be reviewed to ensure that it complies with the law in respect of grants. Broadly speaking where an arrangement allows for a pecuniary interest beyond that of the receipt of the funds themselves this can indicate that either procurement activity is being undertaken or that a concession opportunity is being provided by the Council. In either case such schemes cannot be of their nature grants and must be subject to different and appropriate constitutional and legal procedures.
- 5.5 It therefore follows that a scheme may not be able to be a grant because of its nature (notwithstanding the Council's wishes) and will therefore have to be tendered. This is at the centre of the need to review the existing arrangements
- 5.6 There is no strict legal definition of grant. A grant is a gift and is based in trust law as opposed to the law of contract. However, grants are often given for a purpose so on the face of it the grant appears to be a payment in respect of the recipient performing some actions and so it is sometimes unclear whether a grant has been made or the arrangement is a contract for services or

concession. A contract for services or a concession is not a grant and therefore would need to be subject to a competitive tender process in line with the Council's constitution and the prevailing law.

- 5.7 However, it is also clear that the gift (grant) to be properly made must be given to another person or organisation. For the purposes of the Council making grants, this therefore, means that the gift has to be made outside the Council's legal identity for a gift to be made. Therefore, a decision to move money from one department to another is not going to be deemed to be a grant.
- 5.8 A grant need not be made to another organisation. A grant may also be a grant if it is given to an individual.
- 5.9 One of the key distinguishing features between a grant and a contract for services is that with a contract for services the recipient of the money has a pecuniary interest beyond that in the receipt of the money itself. This is often in the form of taking a profit from the received money or using the money to have a further money making opportunity.
- 5.10 It is clear that there is a potential that some of the organisations may use a grant in order to provide growth to their business and or give them an advantage in the commercial market place generally This could, therefore, potentially class such grants as "State Aid" which is prohibited under European Law.
- 5.11 However, there is a general block exemption to state aid. State Aid is not applicable where no individual applicant receives more than 200,000 Euros worth of grant within a 3 year period
- 5.12 Any grant scheme which is created out of the new strategy must have a fair and transparent application process where applications are assessed against pre-published criteria.
- 5.13 To this end, the extension of the existing grants may be an issue as the further funds would not have been subject to such an application procedure. However, it is appreciated that the new strategy requires the extension time to be developed and implemented and that individual users who benefit from the organisations who receive the grant would be set at a significant disadvantage in the event that the funding ceases until such time as the new process may be implemented.
- 5.14 However, it is clear that the Council is required to set out a fair and reasonable decision making process based on objective terms when determining which grants may be extended with those objective terms being applied in the same way to each organisation.
- 5.15 The Council needs to ensure that the purpose of each grant is in the furtherance of its functions and duties as a local authority

- 5.16 In reviewing these grants schemes ,the Council must comply with its obligation as a best value authority under section 3 of the Local Government Act 1999 to “make arrangements to secure continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness”.
- 5.17 Also, the Council must ensure that the grant itself achieves best value. Therefore, there must be a robust monitoring system in place against which the performance of an organisation can be measured against the agreed outcomes that form out of the application process. This also means that each grant must be supported by appropriate grant terms allowing for the Council to protect the funds it issues and ensure that appropriate monitoring data is provided
- 5.18 In exercising its functions, the Council must have due regard to the need to eliminate unlawful conduct under the Equality Act 2010, the need to advance equality of opportunity and the need to foster good relations between persons who share a protected characteristic and those who do not. It is noted that a full equality analysis will be carried out as proposals for the new funding arrangements are developed

6. ONE TOWER HAMLETS CONSIDERATIONS

- 6.1 A full equality analysis will be carried out alongside the development of the funding programme which will replace MSG.
- 6.2 With regard to the development of a corporate grants policy, it is important in respect of the Council’s equalities duties to ensure there are appropriate funding arrangements in place to avoid a disproportionate impact on people with protected characteristics and organisations which represent them. These organisations are often small and do not necessarily feel equipped to compete for funding through formal tendering. The new grants arrangements will help ensure that the council’s funding arrangements do meet equalities duties. A full equality analysis will be carried out as proposals for the new funding arrangements are developed.

7. BEST VALUE (BV) IMPLICATIONS

- 7.1 Recent legislation, particularly the Localism Act 2010, has emphasised the role of communities working in partnership with local authorities to help achieve more effective and less costly services to local people. The process of co-production of services delivered by local voluntary and community organisations is a tool now widely recognised as a means to achieving this outcome.

8. SUSTAINABLE ACTION FOR A GREENER ENVIRONMENT

- 8.1 There are no specific implications with regard to sustainability arising from this report.

9. RISK MANAGEMENT IMPLICATIONS

- 9.1 As mentioned in paragraph 3 above, the proposed extension of the MSG will reduce the risk of vulnerable service users being set at a disadvantage by loss of support from current MSG funded projects if the existing grants come to an end on 31 August 2018 and new services are not in place until 1 April 2019.

10. CRIME AND DISORDER REDUCTION IMPLICATIONS

- 10.1 There are no specific implications for crime and disorder reduction arising from this report. However, it is anticipated that there may be organisations supported by the Council through the new funding programmes whose activities will contribute towards crime and disorder reduction.

11. SAFEGUARDING IMPLICATIONS

- 11.1 There are no specific safeguarding implications arising from this report.

Linked Reports, Appendices and Background Documents

Linked Report

None

Appendices

Appendix A Voluntary and Community Sector Strategy 2016-19 p22
Appendix B Timescales

Background Documents – Local Authorities (Executive Arrangements)(Access to Information)(England) Regulations 2012

None

Officer contact details for documents:

N/A

Appendix A

Voluntary and Community Sector Strategy 2016-19 p22

Take a new approach to grant giving

With the move to commissioning, grant funding will only remain in a very narrow set of circumstances, for particular purposes, where there is a clear necessity for funding to be provided by way of a grant rather than commissioning and a clear benefit of the service being funded. All council grant funding will be part of a single, streamlined small grants process which will be open and competitive and based on the needs and priorities articulated in the Community Plan and Strategic Plan. We will work with the sector to jointly identify the circumstances in which grant funding will still be required but it is considered that these might be:

- one-off pump-priming/seed-corn funding to encourage innovation or pilot something new, especially where there is a current gap
- capacity building to enable smaller organisations to participate in commissioning.
- small, flexible, grants to encourage community cohesion, resilience and local action
- reducing social isolation and providing events and cultural opportunities
- where delivery needs to be from the VCS specifically

The guiding principles, strategy and overall forward plan for any remaining grants programme will be formulated in order to be transparent. Cross-party decision making on grant allocations will be based on well-defined criteria that support clear outcomes. Grant monitoring will be more robust at defining outputs and outcomes and measuring and evaluating impact. The shape of the programme will be informed by an interim evaluation of the 2015/18 Mainstream Grants Programme, highlighting lessons to inform the new programme. It is likely that, as part of this, some services currently funded by grants - such as employment services, youth services, adult social care and welfare advice – will be commissioned rather than grant funded. In moving to this approach, the council will work closely with the sector to ensure that their particular experience and expertise is recognised.

It is envisaged that a Grants Review Group made up of council Officers together with VCS representatives is set up to develop proposals for new grants programme.

Capacity building and training with VCS, supporting consortia and partnerships

Commissioning

Autumn 2017
Overview of existing Council grants and contracts

Winter 2017/18
Priorities for grants and contracts identified

Spring 2018
Develop new approach to grants and commissioning including transition plan

Summer 2018
Launch new approach

Autumn 2018
First phase of new commissioning process begins

MSG Commissioning

12 Sept 2017 Grants Determination Sub Decision on extension of MSG and announcement to VCS of intention to commission

Early autumn 2017
Stakeholder engagement & training

Autumn 2017
Co-production of service design

Winter 2017/18
Stakeholder events

Spring 2018
Prospectus drafted & signed off

Summer 2018
Bidding process (3 months)

Autumn 2018
Assessment and decision making

Early 2019
Contract mobilisation process

1 April 2019
New services commence

Grants policy

Autumn 2017
Co-production of policy

Winter 2017/18
Decision making process

Spring 2018
Detailed scheme development

Summer 2018
New scheme launched