

Grants Determination (Cabinet) Sub Committee 12 th September 2017	
Report of: Zena Cooke, Corporate Director Resources	Unrestricted
ESF Community Employment Programme – organisations based in Council buildings	

Originating Officer(s)	Steve Hill - Head of Benefits Services
Wards affected	All wards
Key Decision?	Yes
Community Plan Theme	All

REASONS FOR URGENCY

This report is classified as urgent for Grants Scrutiny Sub Committee due to the proposed ESF Community Employment Programme scheme launch in October 2017 and the need to include the requirement for appropriate property agreements as part of the prospectus terms and eligibility requirements for this fund, at the outset of the programme.

EXECUTIVE SUMMARY

The Council is match-funding the European Social Fund (ESF) Community Employment Grants Programme 2016-19 which is being administered by the Greater London Authority (GLA), although day-to-day management and administration of the programme will be undertaken by London Councils. Due to contractual issues there has been a delay in launching the programme, although the launch is expected to take place in October 2017 with the programme now concluding in March 2020.

Commissioners stated that organisations receiving Council grant funding and are based in or using a Council building, must have an appropriate property agreement in place before funds can be released to them. This report seeks clarity on whether this should also be the case for the ESF Community Employment Programme.

RECOMMENDATIONS

Grants Determination (Cabinet) Sub Committee are recommended to:

1. Agree that organisations funded through the ESF Community Employment Programme and are based in or using a Council building must have an appropriate property agreement in place before payments can be released to them, as is the case with all new grant programmes going forward.

1. REASONS FOR THE DECISIONS

- 1.2 A decision is required so it can be included as part of the prospectus and eligibility requirements for this fund. In addition so organisations are aware, before they apply that if they are based in or using a Council building that they must have an appropriate property agreement in place before funding can be released to them.

2. ALTERNATIVE OPTIONS

- 2.1 Grants Determination (Cabinet) Sub Committee could request further information or alter the recommendations.

3. DETAILS OF REPORT

- 3.1 At the 1st March 2016 Commissioners Decision Making Meeting in Public, Commissioners agreed to match-fund the European Social Fund (ESF) Community Employment Grants Programme 2016-19. London's ESF Programme is administered by the Greater London Authority (GLA). However, the day-to-day management and administration of the programme will be undertaken by London Councils. Due to delays in finalising the contractual agreement between the GLA and London Councils, the programme is due to be launched in October 2017 and will now conclude in 2020.
- 3.2 The new programme falls within Investment Priority 1.4 to address the root causes of poverty which create barriers to work so more people move closer to or into employment. It is intended that there will be 3 bidding rounds: one during each year of the programme. Organisations will be able to apply for a grant of up to £20,000 during each bidding round.
- 3.3 ESF money in London is generally targeted at the economically inactive and those who are long term unemployed, particularly groups facing multiple barriers to entering the labour market and have particularly low levels of employment, including, people with long term health conditions and disabilities, women, BAME groups, older people, lone parents and disadvantaged families or workless households.
- 3.4 Rather than simply treating the symptoms, the new ESF programme will help to address the root causes of poverty that are barriers to work and so help more people move closer or into employment. The nature of and issues faced by the most disadvantaged means that barriers to work have to be tackled in a holistic and integrated way.
- 3.5 Outreach activities will be important to reach many in the target group. The programme will implement integrated packages of support that address gaps in provision to disadvantaged groups and reach those who are not currently receiving support. The aim of this priority is to help tackle inactivity, particularly by helping disadvantaged groups overcome barriers, improve their employability and move towards employment.
- 3.6 The barriers faced by the target group may include:
- caring responsibilities

- debt and money management
- digital exclusion
- drug and alcohol dependency
- educational attainment (particularly lack of basic literacy and numeracy and English for speakers of other languages skills)
- family, parenting and relationship problems
- health problems (including mental health)
- gangs
- homelessness
- learning and or physical disabilities
- life skills
- offending

3.7 An indicative range of activities could include one or more of the following being provided to support individual beneficiaries.

- basic skills and ESOL training;
- money management and advice and financial literacy programmes in order to address deep seated debt issues which make moving from benefit into work more challenging;
- digital and internet literacy courses to aid job searching, access to benefits and progress in work
- first contact engagement activities (for example, arrangement events in places people feel comfortable to visit)
- local networks and groups to support people to get a job or access learning to provide
- people providing a safe environment and peer support
- softer skills development
- volunteering, which is generally recognised in general terms as a good way to re-engage those furthest from the labour market

3.8 The council's financial commitment will be £225,000 per year over 3 years. This funding attracts an equal contribution from the European Social Fund thus making a total scheme budget of £1.350m over the 3-year programme period.

3.9 At the 29th July 2015 Commissioners Decision Making Meeting in Public, Commissioners stated that:

"...Organisations based in Council awarded properties be advised that they need to have entered into an appropriate property agreement for their use and occupation of land and buildings, which covered the entire period of grant award.."

3.10 It was clarified by Commissioners that this included both Council buildings that organisations were based in as well as those that were being used as outreach sites by the organisation. In addition to this an appropriate property agreement includes a lease, license or appropriate booking form for the duration of the property being in use and what within the property is being shared. Moving forward, this will be a criteria for all new grant streams that are developed.

4. COMMENTS OF THE CHIEF FINANCE OFFICER

- 4.1 There are no financial implications for the Council arising from the recommendations within this report.

5. LEGAL COMMENTS

- 5.1 The report recommends that organisations funded through the ESF Community Employment Programme and are based in or using a Council building must have an appropriate property agreement in place before payments can be released to them. This will comply with the Commissioners Decision dated 29 July 2015 referred to in the report. In addition, it will also assist Council in streamlining its processes and policy adopted in respect of terms of use of its buildings ensuring fairness and transparency.
- 5.2 The Council's powers in relation to property disposal is set out in legislation. Having regard to the type of properties held by the council for the purpose of community use, Section 123 of the Local Government Act 1972 ('LGA') and Section 32 Housing Act 1985 ('HA') are most relevant. The HA applies to land held under the Housing Revenue Account.
- 5.3 The LGA provides that the Council may dispose of land, but that where it does so, it must dispose of real property (other than by way of a lease of under 7 years) for a consideration not less than the best that can reasonably be obtained, failing which it requires the consent of the Secretary of State before disposing. The General Consent Order 2003 provides consent for particular circumstances, such that specific consent is not required for the disposal of any interest in land which the Council considers will help it to secure the promotion or improvement of the economic, social or environmental well-being of its area, subject to the condition that the undervalue does not exceed £2,000,000 (two million pounds).
- 5.4 The HA applies whenever a local authority disposes of land held by it for housing purposes; Section 32 states that a local authority may not dispose of any land (including by lease) held by them without the consent of the Secretary of State. The Secretary of State has issued The General Housing Consents 2013 which permit the disposal of land held for housing purposes without the need to obtain express consent in certain circumstances, including disposal of land for a consideration equal to its market value, or where the land is 'vacant' (as defined in the Order).
- 5.5 In addition to powers to grant leases, the Council also has power to enter into licences or ad hoc use arrangements, either under legislation relating to specific functions (for example powers in relation to recreation), or under broader powers, including the general power of competence under Section 1 Localism Act 2011.
- 5.6 The Council's policy is that the rent to be applied for use of Council community buildings is the open market rent, which is to be determined having regard to the D1 planning use. Rent discount may apply in certain circumstances and will be linked to the type of organisation seeking to lease the building, and the

service provided by them. Some organisations may be eligible for grant funding and will be responsible for making such application.

- 5.7 The LGA and HA specifically permit a disposal at less than best consideration/market value as outlined above. Whilst the Directions under which the Commissioners made the original decision have been fulfilled and therefore are no longer binding on the Council, the decision itself is still binding on the Council at this stage. However, when the Directions were agreed to be completed with the Secretary Of State that part of the Council's functions relating to grants became part of the Executive once more. Therefore, the Executive has the discretion to make a new decision in respect of the use of its buildings in respect of some of all of the buildings to be used by grant funded organisations.
- 5.8 It should be noted that where the Council intends to allow the use of its premises for a monetary value which is less than the open market rent the difference between the actual rent charged and the open market rent should be considered to be a grant under the law.
- 5.9 For the purposes of the ESF match funding the Council should consider whether such a grant is part of the Council's overall commitment to match fund the grant.
- 5.10 The Council has the power under section 1 of the Localism Act 2011 to "do anything that individuals generally may do" and that extends to doing things "for, or otherwise than for, the benefit of the authority, its area or persons resident or present in its area". This power is referred to as the general power of competence and includes the award of grants. In as far as the use of the building may be a grant as detailed above, the general power of competence allows the Council to do this.
- 5.11 However, the Council is obliged to allow fair and open access to all its resources. It is therefore necessary to ensure that where the Council intends to make buildings available (and in particular where such availability is determined to be not part of the overall match fund commitment) that there is a fair and open process applied to the determination of the allocation of buildings to organisations very much like the application of a cash award procedure.
- 5.12 The body of the report details how such organisations may use the buildings. In particular there appears to be a business context around some of the services. It therefore, may be considered that the provision of a building at an under value constitutes state aid as it may give the organisation an advantage in the market place. However, the de minimis block exemption may apply. The grant will not constitute state aid where the overall value of the grant does not exceed 200,000 Euros cumulatively over a 3 year period. However, the calculation should also include any monetary grant received from the Council over the same period.

6. ONE TOWER HAMLETS CONSIDERATIONS

- 6.1. The contribution of VCS Organisations helping to deliver One Tower Hamlets objectives and priorities are explicitly recognised and articulated within the Council's emerging VCS Strategy.
- 6.2 VCS Organisations play a key role in delivering services that address inequality, improve cohesion and increase community leadership. the deliveries of these services are real examples of 'One Tower Hamlets' in practice.
- 6.3 The opportunities offered through the Tower Hamlets ESF Community Grants Programme will play a key role in delivering the aims of One Tower Hamlets.

7. BEST VALUE (BV) IMPLICATIONS

- 7.1 The ESF Community Grants Programme is co-financed by 50% of funding from the European Social Fund and 50% from the LBTH.
- 7.2 90% of the total scheme budget will be available to applicant organisations with only 10% being used to cover Programme Management costs.
- 7.3 There will be a total of 3 bidding rounds – one during each year of the programme. Organisations will be able to apply for up to £20,000 within each bidding round.
- 7.4 The level of awards to organisations will depend on the quality of their individual applications as well as the overall demand for grants during each bidding round. Additionally, the application appraisal process will take into consideration the proposed levels of outputs and outcomes to be delivered, the organisation's track record and the bid's overall value for money rating.
- 7.5 There will also be ongoing performance management of successful projects to ensure that project interventions meet the required standards; that the evidencing of project achievements and expenditure are accurately recorded and reported. This will ensure that payments to organisations are in line with performance.
- 7.6 In addition to the above, to ensure that organisations have an appropriate agreement in place for the use of Council buildings ensures best value consideration of its buildings portfolio.

8. SUSTAINABLE ACTION FOR A GREENER ENVIRONMENT

- 8.1 This funding scheme has a clear focus of developing employment skills for local people who are disadvantaged and perhaps facing multiple barriers to achieving sustainable employment. All participants will be encouraged to consider taking appropriate steps to minimise negative impact on the environment when taking up the opportunities offered within the programme and on an ongoing basis.

9. RISK MANAGEMENT IMPLICATIONS

- 9.1 A number of different risks arise from any funding of external organisations. The key risks are:
- The funding may not be fully utilised i.e. allocations remain unspent and outcomes are not maximised
 - The funding may be used for purposes that have not been agreed e.g. in the case of fraud
 - The organisation may not in the event have the capacity to achieve the contracted outputs/outcomes
- 9.2 As part of the Programme Management arrangements, support will be provided to ensure that all risks are minimised.

10. CRIME AND DISORDER REDUCTION IMPLICATIONS

- 10.1 The activities, services and outcomes that will be targeted through the programme will support the objectives of reducing crime and disorder. Young people involved in, or at risk of involvement in the criminal justice system will be targeted for support through the ESF Community Grants Programme.

11. SAFEGUARDING IMPLICATIONS

- 11.1 As part of the application process organisations will be required to provide details of their safeguarding policy if appropriate. The Grant Agreement that funded organisations will be obliged to comply with has a number of requirements in relation to safeguarding.
- 11.2 Organisations providing services to vulnerable adults and employing staff or volunteers in a position whose duties include caring for, training, supervising or being responsible in some way for them, will be required to fully comply with all necessary safeguarding requirements.

Linked Reports, Appendices and Background Documents

Linked Report:

- Tower Hamlets ESF Community Grants Programme 2016/19, Commissioners Decision Making in Public, 1st March 2016
- Printed Decisions, Commissioners Decision Making Meeting, 29th July 2015

Appendices:

- **None**

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

- None

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