

Grants Determination Sub-Committee Tuesday, 6 th February 2018	
Report of: David Tolley, Head of Environmental Health and Trading Standards	Classification: Unrestricted
Tower Hamlets Mayor's Air Quality Fund	

Originating Officer(s)	Muhammad Islam -Team Leader Pollution
Wards affected	All
Key Decision?	No
Community Plan Theme	A Healthy and Supportive Community

Executive Summary

This report refers to the implementation of the Tower Hamlets Mayor's Air Quality Fund (THMAQF).

Poor air quality has an impact on the health and quality of life of all in Tower Hamlets and London generally. The Council has a statutory duty to comply with the London Local Air Quality Management (LLAQM) regime under the Environment Act 1995.

At Council on 22nd February 2017 a Mayoral growth bid was approved as part of the Budget for an air quality fund for £200,000 over a 2 year period of 17/18 and 18/19 for improving air quality in Tower Hamlets.

On 31 October 2017 the Mayor in Cabinet agreed that the fund should be spent as part of the Tower Hamlets Air Quality Action Plan to *“raise awareness and tackle the significant pollutant issues within Tower Hamlets, mainly due to traffic which has resulted in the borough currently breaching the national and EU nitrogen dioxide target”*.

Funding is available in the form of a capital fund for prospective bidders to support activities aligned to council priorities in improving air quality within the borough.

Criteria for the proposed projects were set as

- be related to either reducing emissions of, reducing exposure to or increasing awareness of air pollution;
- be directly relevant to actions in our Air Quality Action Plan (AQAP);
- have a measurable impact; and
- have wider community benefits

The fund will be used to achieve the action plans identified in the recently adopted London Borough of Tower Hamlets AQAP to improve air quality in Tower Hamlets and meet our statutory requirement. Stakeholders are to be invited to apply for grant funding from the THMAQF to implement reduction measures such as provide

monitoring equipment to schools to monitor ambient air pollution, provide charging points for electric vehicles, increase awareness and engagement with residents and promoting anti idling measures across the borough. The grants will be awarded following application to the Council and subject to technical evaluation of the bids.

Recommendations:

The Sub-Committee is recommended to:

1. Agree to implement a grant scheme for promoting measures to improve air quality in the borough subject to meeting the criteria set out in the growth bid i.e.
 - be related to either reducing emissions of, reducing exposure to or increasing awareness of air pollution
 - Be directly relevant to actions in our Air Quality Action Plan;
 - Have a measureable impact; and
 - Have wider community benefits.
2. Delegate to the Corporate Director, Place, or to any officer nominated by him/her, the authority to make grant awards in accordance with the scheme criteria in 1 above, provided that the totality of the grants made does not exceed the available funding for grants. This would be subject to quarterly reports back to the Sub-Committee on grants awarded and monitoring of outcomes.
3. Authorise deferring the award of grant to 2018/19 and 2019/20 from 2017/18 and 2018/19 financial years to enable committed monies to be allocated in preceding years.

1. REASONS FOR THE DECISIONS

- 1.1 Issuance of grants to stakeholders in the borough to implement measures to reduce air pollution and meet our statutory requirement.

2. ALTERNATIVE OPTIONS

- 2.1 Not to issue grants to stakeholders in Tower Hamlets although this would mean that the Council would fail to meet its statutory requirement to reduce air pollution in the Borough.

3. DETAILS OF REPORT

- 3.1 The Council has declared an Air Quality Management Area (LAQM) under the UK Air Quality Strategy as it is exceeding targets for 2 human health related pollutants (Nitrogen Dioxide and Particulate Matter). The Council therefore has a duty to produce an Air Quality Action Plan which details measures on how it is working towards achieving the objectives. In response to this statutory requirement the Council is, in partnership with other stakeholders, implementing a number of projects in the Borough to reduce air pollution.
- 3.2 The aim of the projects is to deliver improvements in local air quality and reduce public exposure to pollution. Subsequently the Council has been declared a Cleaner Air Borough by the London Mayor. The projects currently underpin the current Air Quality Action Plan 2017-2022.
- 3.3 Since the inception of LAQM, DEFRA has provided annual AQ grants to Local Authorities. The value has gradually decreased under the current administration and the Local Authorities are now required to match fund any monies granted.
- 3.4 The Mayor of London also provides an annual AQ fund which boroughs can bid for and these bids must be match funded by the Local Authority.
- 3.5 The directly elected Mayor of Tower Hamlets has allocated a Mayoral priority growth bid which established an air quality fund as part of the last budget. The fund is for £200,000 over a 2 year period of 17/18 and 18/19.
- 3.6 As part of the implementation of this Air Quality Fund it is proposed to operate a grant scheme subject to meeting the following criteria.
- be related to either reducing emissions of, reducing exposure to or increasing awareness of air pollution;
 - be directly relevant to actions in our Air Quality Action Plan (AQAP);
 - have a measurable impact; and
 - have wider community benefits
- 3.7 It is proposed that various stakeholders could apply to the Council for grant to improve air quality within the Borough and that the totality of grants made will not exceed the available funding for grants. A template grant application form, evaluation and monitoring procedure has been developed and is at Appendix 1.
- 3.8 Further that financial reporting is undertaken to external and internal project sponsors as and when required and quarterly reports will be submitted to the Grants Determination Sub-Committee on the grants awarded and monitoring of outcomes.

4. COMMENTS OF THE CHIEF FINANCE OFFICER

- 4.1 This report seeks approval to allocate the Mayoral Priority Growth funding (MGRO/ CLC/03/17) as grants to support improving air quality in Tower Hamlets. A total of £100,000 is available for revenue one off projects. A further sum of £100,000 will be for capital projects, aligned to council priorities for improving air quality and reducing pollution, such as monitoring equipment, charging points for electric vehicles and other hardware equipment. The funding is allocated equally over a two year period for the financial year 2017-18 and 2018-19.
- 4.2 The criteria for the grants scheme is being developed to support the Air Quality Action Plan aimed at delivering improvements in the local air quality whilst ensuring that the total grants to be approved does not exceed the funding.

5. LEGAL COMMENTS

- 5.1 Whilst there is no strict legal definition of grant, a grant is in the nature of a gift and is based in trust law. However, grants are often given for a purpose so it is sometimes unclear whether a grant has been made or the arrangement is a contract for services.
- 5.2 There will be many grants which are made by the Council for the purpose of discharging one of its statutory duties. However, as a grant is in the nature of a gift, it is considered there must be some element of discretion on the part of the Council as grantor as to whom a grant is made to and whether this is made. If the Council is under a legal duty to provide a payment to a specific individual or organisation, and cannot lawfully elect not to make such a payment, then that should not amount to a grant.
- 5.3 In this case, the Council is not under a legal duty to make the payments and as the payments are discretionary, they are therefore considered to be grants.
- 5.4 There is a need to ensure that the Council has the power to make the grants in question. In that regard, the proposed grants are supported by the Council's general power of competence. Section 1 of the Localism Act 2011 gives the Council a general power of competence to do anything that individuals generally may do, subject to specified restrictions and limitations imposed by other statutes.
- 5.5 When considering whether or not to delegate the power to Corporate Director, Place to make these payments, consideration should be given to the arrangements in place to ensure that the power that is exercised is consistent with its best value arrangements. The Council is obliged 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" (the Best Value Duty). Paragraph 7 below

considers this. This means that the Council will have to ensure that any grant is made under terms that enable monitoring to demonstrate that the money achieves the appropriate outcomes for which it was given.

- 5.6 When implementing the scheme, the Council must ensure that no part of the funds issued represents a profit element to any of the recipients. The inclusion of profit or the opportunity of making a profit from the grant or third parties indicates that the grant is really procurement activity and would otherwise be subject to the Council's Procurement Procedures and other appropriate domestic and European law. This would mean therefore, that the Council would have failed to abide by the appropriate internal procedures and external law applicable to such purchases.
- 5.7 The Council needs to ensure that the application procedure for a grant is fair, open and transparent and each application is assessed in accordance with the published criteria of the fund. This is because the Council funds are held under a fiduciary duty for members of the public generally. Therefore, within the constraints of the rules of the fund, the money should be open to all to make an application. Also, as time goes by and as more funding is granted the Council needs to show that it has a consistent approach to the approval of grants and demonstrate rationality.
- 5.8 When making grants decisions, 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 (the public sector equality duty). A proportionate level of equality analysis is required to discharge the duty and information relevant to this is contained in the One Tower Hamlets section of the report.

6. ONE TOWER HAMLETS CONSIDERATIONS

- 6.1 The fund is to support organisers to tackle elements of air quality as detailed in the set criteria. A Equality Analysis Checklist has been carried out within Appendix Two and has found positive effects in improving air quality across the population.

7. BEST VALUE (BV) IMPLICATIONS

- 7.1 The air quality fund will help the Council in achieving the air quality objectives and demonstrates to external regulators that the Council is committed to improving air quality within its area. The fund is appropriately monitored to ensure that organisations use the funding on agreed initiatives.

8. SUSTAINABLE ACTION FOR A GREENER ENVIRONMENT

- 8.1 The Tower Hamlets Mayor's Air Quality Fund creates an opportunity for organisations to assist in developing a greener environment. The fund and the associated Air Quality Action Plan are central to this objective.

9. RISK MANAGEMENT IMPLICATIONS

- 9.1 The European Commission has begun infraction proceedings against the UK in February 2014 for being in breach of obligations to comply with limit values for nitrogen dioxide in the EU Air Quality Directive. Tower Hamlets is within the UK and EU exceedance zones for pollution and the entire borough is declared an Air Quality Management Area under the UK Air Quality Strategy and Environment Act 1995. The implementation of the THMAQF satisfies the requirements and demonstrates compliance with the provisions of the UK Environment Act 1995 by the borough and compliance with the EU directive by DEFRA. Non-compliance could result in an infraction fine which could potentially be passed down to Tower Hamlets through the Localism Act 2011. The Council therefore needs to implement this fund to demonstrate compliance with working towards achieving the air quality objectives and improving public health.

10. CRIME AND DISORDER REDUCTION IMPLICATIONS

- 10.1 No crime and disorder reduction implications

11 SAFEGUARDING IMPLICATIONS

- 11.1 The improvement of air quality within the Borough is likely to have a direct positive effect on the health of children and vulnerable adults. The provision of the Tower Hamlets Mayor's Air Quality Fund will have a positive beneficial effect on safeguarding across the community.

Linked Reports, Appendices and Background Documents

Linked Report

- None

Appendices

- Appendix 1 – THMAQF Grant Application and Monitoring & Evaluation Process
- Appendix 2 – Equalities Action Checklist

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

- None

Officer contact details for documents:

- Muhammad Islam

Tower Hamlets Mayor's Air Quality Fund- Issuance of Grants

Background

Tower Hamlets is declared an Air Quality Management Area (LAQM) under the UK Air Quality Strategy as we are exceeding targets for two human health related pollutants (Nitrogen Dioxide and Particulate Matter). The Council has a duty to produce an Air Quality Action Plan which details measures on how we are working towards achieving the objectives. In response to this statutory requirement the Mayor of Tower Hamlets allocated a Mayoral priority growth bid which established an air quality fund of £200,000 to be spent over two financial periods 17/18 and 18/19 to tackle poor air quality in the borough.

Aim of Tower Hamlets Mayor's Air Quality Fund

The aim of the fund is to *“raise awareness and tackle the significant pollutant issues within Tower Hamlets, mainly due to traffic which has resulted in the borough currently breaching the national and EU nitrogen dioxide target”* and help contribute towards achieving the action plans identified in the recently adopted London Borough of Tower Hamlets AQAP to improve air quality in Tower Hamlets and meet our statutory requirement.

Prospective bidders could apply to the fund to support activities aligned to the Council's air quality priorities.

Grants Application, monitoring & evaluation process

The THMAQF enables stakeholders/organisations (internal and external) to apply for funding to help them implement measures aligned to the Council's air quality priorities as established in the AQAP.

A maximum grant of £10,000 will be available per applicant/organisation per year from a budget of £100,000 for 2018/19 and then a further £100,000 for 2019/20. There will be a minimum grant value of £5,000.

Applications for grant from the THMAQF will be evaluated against the following criteria:

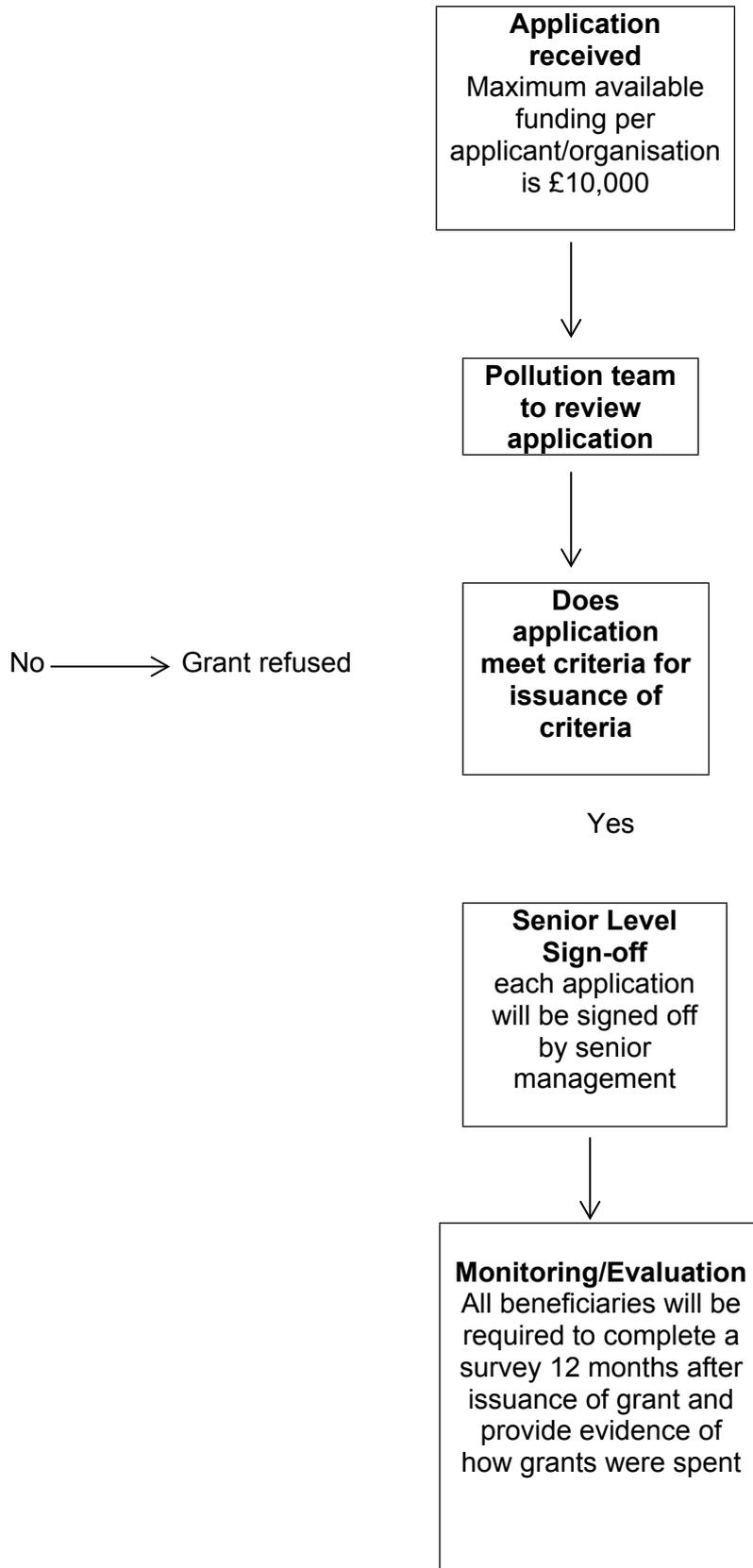
- be related to either reducing emissions of, reducing exposure to or increasing awareness of air pollution;
- be directly relevant to actions in our Air Quality Action Plan;
- have a measureable impact;
- have wider community benefits

Application will be made on the template grant application form (attached).

All applications for grant funding will be signed off by the Divisional Director Public Realm or their delegate at a senior level.

All beneficiaries will be required to evidence in their application how the implementation of the project will be monitored, success measured and the project evaluated.

The decision making process for the issue of grants from the Tower Hamlets Mayor's Air Quality Fund



Tower Hamlets Mayor's Air Quality Fund Grant Application form

1. Applicant name /address/email and phone number

2. How much funding are you requesting including details/evidence of any match funding?

Maximum 150 words

3. Please detail the aims and objectives of the proposed project

Maximum 300 words

3. Please detail the proposed initiative or measures to improve air quality

Maximum 300 words

4. Please detail how your project meets the Tower Hamlets Mayor's Air Quality Fund criteria i.e.

- reducing emissions of, reducing exposure to or increasing awareness of air pollution
- relevant to actions in our Air Quality Action Plan
- have a measureable impact
- have wider community benefits

*Maximum 300 words - **must demonstrate meeting at least 1 criteria***

5. How will implementation of the project be monitored, success measured and the project evaluated?

Maximum 250 words