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| Commissioner Decision Report 3 rd August 2016 |  TOWER HAMLETS |
| Report of: Debbie Jones, Corporate Director Children's Services | Classification: Unrestricted |
| School Clothing Grants: 2016/17 academic year | |

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| Originating Officer(s) | Terry parkin |
| Wards affected | All wards |
| Key Decision? | Yes |
| Community Plan Theme | A Prosperous Community |

Executive Summary

This report seeks approval for the continuation of the school clothing grant. The policy was formerly approved by Commissioners for 2015/16, and the award agreed for 2015/16. This seeks approval for the school clothing grant for the 2016/17 year.

Recommendations:

The Commissioners are recommended to:

Approve the provision by the Council of school clothing grants in 2016/17 within the budget specified in paragraph 5.1 of this report.

1. REASONS FOR THE DECISIONS

- 1.1 The amount of £201,000 was allocated to the purpose of school clothing grants in this year's budget. This allows the Directorate to direct funds towards areas of identified need, and is the recommended option.
- 1.2 Commissioners are asked to review and renew this aspect of discretionary award scheme with regard to school clothing grants. The policy given in Appendix 1 is as approved on 28th May 2015, updated with an appropriate closure date for 2016 within section 4.1

2. ALTERNATIVE OPTIONS

- 2.1 The policy to disburse these grants was agreed by Commissioners on 28th May 2015. The alternative would be to not provide grants. This would have a negative impact on the ability of families in receipt of welfare benefits in the borough to provide uniform and related items for their children and thereby possibly limit their involvement in the school curriculum.

3. THE DIRECTORATE'S PROPOSED DISCRETIONARY AWARD FOR CLOTHING, 2016/17 ACADEMIC YEAR

3.1 School Clothing Grant Policy

- 3.2 The Council has power under section 518 of the Education Act 1996 and the Local Education Authority (Payment of School Expenses) Regulations 1999 to pay expenses to enable a child attending a maintained school to take part in any school activity. The Council may make such a payment where satisfied that it should be made to relieve financial hardship, but the payment must be related to the means of the child's parents. 2,012 awards were made under this scheme in the 2014/15 academic year: awards were also made under the scheme in the 2015/16 academic year.

- 3.3 The School clothing Grants policy is attached at Appendix 1. A minor revision has been made to paragraph 2.4.1 of the policy to take account of Universal Credit which will begin to be introduced to Tower Hamlets in the 2015/16 financial year.

5. COMMENTS OF THE CHIEF FINANCIAL OFFICER

- 5.1 The funding allocated the school clothing Grant is £201k for the academic year 2016/17 and is available from existing resources.

6. Legal Comments

- 6.1 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. A contract for services is not a grant and therefore, an arrangement which is classified as a contract for services would be outside the remit of the power conferred upon the commissioners to approve.
- 6.2 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.
- 6.3 In this case, the Council is not under a legal duty to provide these payments. The payments are discretionary and therefore considered to be a grant.
- 6.4 The power of the commissioners to make decisions in relation to grants arises from directions made by the Secretary of State on 17 December 2014 pursuant to powers under sections 15(5) and 15(6) of the Local Government Act 1999 (the Directions). Paragraph 4(ii) and Annex B of the Directions together provide that, until 31st March 2017, the Council's functions in relation to grants will be exercised by appointed Commissioners, acting jointly or severally. This is subject to an exception in relation to grants made under section 24 of the Housing Grants, Construction and Regeneration Act 1996, for the purposes of section 23 of that Act (disabled facilities grant).
- 6.5 To the extent that the Commissioners are exercising powers which would otherwise have been the Council's, there is a need to ensure that the Council has the power to make the grant in question. In that regard, section 518 of the Education Act 1996 and the Local Education Authority (Payment of School Expenses) Regulations 1999, the Council can pay expenses to enable a child attending a maintained school to take part in any school activity. The Council may make such a payment where it is satisfied that it should be made to relieve financial hardship, but the payment must be related to the means of the child's parents.
- 6.6 The Council has a duty under 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. This is referred to as the Council's best value duty. Best Value considerations have also been addressed in paragraph 8 of the report.
- 6.7 The Council must operate a fair and open application procedure to process a request to obtain funding. Requests for grant funding should ordinarily be measured against a predetermined set of criteria and the criteria themselves

must be fair and transparent. The School Clothing Grant Policy 2016/17 is at Appendix 1.

- 6.8 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.
- 6.9 All the proposed grants would fall under the *de minimis* threshold for the purposes of European restrictions on State aid.
- 6.10 When making 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.

7. ONE TOWER HAMLETS CONSIDERATIONS

- 7.1 Education is crucial in allowing people to compete successfully in society. The adoption of the power to make discretionary awards will help to ensure equality of opportunity by mitigating financial barriers to education and thereby assisting equality of access to all residents regardless of race, gender, disability, sexual orientation, and religion/beliefs. This will assist the work of building aspiration among Tower Hamlets students at a time when the lack of economic opportunity means that competition for jobs is ever greater.
- 7.2 Equalities Analyses were carried out on the Discretionary Awards Schemes shown in this report for previous academic years and the scheme was found to have an overall positive effect on breaking down barriers to participation and on the protected groups concerned. There is no significant change proposed to the scheme and information gathered during 2015/16 has not suggested any adverse equalities impact. In the circumstances the last equalities analysis is still considered to be relevant.

8. BEST VALUE (BV) IMPLICATIONS

- 8.1 This money is administered by our Benefits team using their established systems and procedures, thereby minimising administration costs. Families will typically already qualify for benefits and so will be known to the staff administering the scheme, ensuring a high degree of reach.

9. SUSTAINABLE ACTION FOR A GREENER ENVIRONMENT

9.1 There are no SAGE issues arising from this report.

10. RISK MANAGEMENT IMPLICATIONS

10.1 The discretionary award policies are cash limited wherever possible and an overspend in one can be compensated by an underspend in another. Reputational risk is guarded against by the annual review of the policies which seeks to ensure that they respond to need.

11. CRIME AND DISORDER REDUCTION IMPLICATIONS

11.1 Cutting crime and anti-social behaviour is about improving quality of life. The discretionary award policies do this by obviating financial need where possible, by allowing young people to fulfil their potential by channelling their energies in a positive way and in some cases by focussing on early intervention.

11. SAFEGUARDING IMPLICATIONS

11.1 There are no safeguarding implications. However, these grants ensure that children from our poorest families are able to afford basics of school uniform, potentially freeing-up family funds for use elsewhere in the family budget.

12. APPENDICES

Appendix 1 – updated School Clothing Grant Policy 2016/17

None

N/A

1 School Clothing Grant

- 1.1 The School Clothing Grant is a single payment of £110 made on one occasion where a pupil transfers from primary to secondary school for pupils from low income families. The grant is made for the academic year in which the pupil reaches the age of 12.
- 1.2 Grants will be made wherever possible in advance of the start of the Autumn term so that parents have access to the money when most needed.

2. Conditions of eligibility

- 2.1 Applicants **must** satisfy the following requirements of the policy to be eligible for a School Clothing Grant:
- age;
 - residence;
 - school;
 - income.

2.1 Age limits

- 2.1.1 Pupils can be considered for a School Clothing Grant for the academic year in which they become 12 years old. Overage and underage pupils may also qualify where their secondary transfer has been approved by the Educational Psychologist and School Development Adviser.
- 2.1.2 The start of the academic year is defined as 1st September.

2.2 Residence requirements

- 2.2.1 The Authority will consider applications from parents and carers living within its area.

2.3 Approved institutions

- 2.3.1 School Clothing Grants will be made to pupils attending courses of secondary education at maintained and private sector secondary schools.

2.4 Benefit requirement

- 2.4.1 To be eligible for a School Clothing Grant the parents or carer must receive one of the following:
- income based Job Seekers Allowance;
 - Income Support;
 - Income related Employment Support Allowance
 - Guaranteed Pension Credit
 - Universal Credit with assessable earnings of less than £16,190 per annum

or

- Have a total income of less than £16,190 (excluding child tax credit and child benefit, but including any Working Tax Credit you may receive).

2.4.2 Pupils whose parents or carers are asylum seekers will be eligible to be considered for a School Clothing Grant where their parents or carers receive NASS (National Asylum Support Service) support under part IV of the Immigration and Asylum Act 1999.

2.4.3 The applicant, their parents or guardians must receive a qualifying benefit at the time of applying.

3. Administration of the payment

3.1 The School Clothing Grant is paid as a single cheque of £110 or bank transfer to the parent or carer of the pupil.

4. Closing dates

4.1 The School Clothing Grant application forms for the academic year must be received by the Housing Benefits Team by **5pm on the last working day of September.**

5 Exceptional circumstances

5.1 Applications for School Clothing Grants received after the closing date will only be accepted in exceptional circumstances where the pupil and family meet all the criteria of this policy other than having made an application on time.

5.2 Parents applying on exceptional grounds will be asked to provide supporting evidence from a relevant professional, for example an Attendance and Welfare Adviser or Lead Professional.

6 Appeals

6.1 Appeals must be made in writing and will be considered by a panel comprised of at least two senior officers from Pupil and Student Services. Appeals must be accompanied by evidence that the parent or guardian was in receipt of an appropriate benefit as described on paragraph 2.4.1 and 2.4.2 at the time of applying.

