


Grants Determination (Cabinet) Sub-Committee Report 14 th February 2017	
Report of: David Tolley, Head of Environmental Health and Trading Standards	Classification: Unrestricted
Zero Emissions Network Project Phase Two	

Lead Member	Cllr Ayas Miah, Lead Member for Environment, Cllr Whitelock Gibbs, Cabinet Member for Health & Adult Services
Originating Officer(s)	Selina Talukdar Zero Emissions Project Officer
Wards affected	Spitalfields and Banglatown
Key Decision?	No
Community Plan Theme	A Healthy and Supportive Community

Executive Summary

This report refers to the implementation of the Zero Emissions Network Project in Phase 2 (ZEN2), covering the period April 2016 – March 2019.

The Zero Emissions Network Project is a partnership project between Hackney, Islington and Tower Hamlets Councils, to improve local air quality. The project was awarded funding from the London Mayor’s Air Quality Fund (MAQF) and match funded by the respective boroughs to implement a business engagement environmental sustainability programme.

The main aim of the programme is to promote the use of sustainable travel and low emission technology to businesses in order to improve local air quality. Half of the budget was used to fund a Zero Emissions Network Officer employed under LBTH terms and conditions. The total size of the MAQF grant allocation for Phase 2 of the Zero Emissions Network in Tower Hamlets is £100,000.

The project has set targets for the number of businesses that are engaged and number of audits of environmental footprints undertaken. Environmental action plans are then submitted to businesses with a range of measures to implement in order to reduce emissions. Businesses are invited to apply for grant funding from the project of up to a maximum of £2,000 to implement reduction measures such as installing cycle racks to encourage staff to travel sustainably. The grants are awarded following application to the Council by, a panel of officers, following technical evaluation of the bids.

Strategic Alignment & Mayoral Priorities

The Tower Hamlets Community Plan provides the vision for the borough, this project

sits comfortable under the main theme of 'a healthy and supportive community'. This grant scheme will assist business to develop whilst recognising and reducing potential impact on the environment.

The scheme contributes to the key Mayoral priority of:

- the environment and public realm,
- older people and health
- creating jobs and supporting the growth of the local community.

Administration

The project will be managed and delivered by the ZEN Senior Project Officer and three supporting staff, based in Hackney. A project board oversees the work of the Team, the board is made up from managers from within the three Local Authorities. The Board is sponsored by Lead Members in each Authority and externally by the Greater London Authority and Transport for London

Monitoring and Evaluation

The measure of success for the project is based on what is achieved i.e. businesses recruited/residences recruited, measures undertaken by businesses, surveys undertaken and on line presence. It must be noted, however, that assessing the impact of the project on behaviour and local air quality levels will be more challenging and modelling will need to be developed.

A progress report will be reported at the end of the financial year and at the end of the project. Each report will include consideration of air quality monitoring data from local air quality monitoring networks, traffic/cycling data and uptake from companies involved in providing incentives and trials.

A robust process for collaborating with air quality concerns

Every small to medium size enterprise that wishes to take part in the scheme and receive a maximum grant of up to £2000 must demonstrate a commitment to reducing the impacts on air quality and undertake a robust grant process, giving written quotations for the work to be undertaken and staff surveys before and after the grant, as detailed in the appendix.

Recommendations:

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

- Agree to implement a grant scheme, as outlined in Appendix 1, for promoting sustainable travel options/low emission technology for businesses in the borough.
- Delegate Authority to the Divisional Director Public Realm to make grant awards in accordance with the scheme in Appendix 1, provided that the

totality of the grants made does not exceed the available funding for grants up to March 2019, that is £67,100.

- To agree that the project reports back as part of the reporting cycle to Members and the Greater London Authority, the project sponsors..

1. REASONS FOR THE DECISIONS

- 1.1 Issuance of grants to businesses in the Borough to implement measures to reduce air pollution.
- 1.2 To enable Tower Hamlets to continue to work with neighbouring boroughs to combat air pollution.

2. ALTERNATIVE OPTIONS

- 2.1 To cease the project and issuance of grants to businesses in Tower Hamlets, this would also mean that the current Officer involved with the projected, funded by the Mayor of London would need to be re-deployed.
- 2.2 To continue with the project offering advice but no financial incentive for businesses to reduce emissions.
- 2.3 To implement a grants scheme, but with decisions on awards taken by the Commissioners rather than officers.

3. DETAILS OF REPORT

- 3.1 Tower Hamlets is declared an Air Quality Management Area under the UK Air Quality Strategy as we are exceeding targets for two (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 the Council is working towards achieving the objectives. In response to this statutory requirement the Council is implementing a number of projects in the borough to reduce air pollution and greenhouse gases.
- 3.2 One of the projects the Council is implementing is a business engagement programme in Spitalfields & Banglatown, Weavers and Whitechapel areas, called Zero Emissions Network (ZEN). The aim of the project is to reduce pollution from business operations by offering businesses services and advice on low emission technology and sustainable travel options. Phase 1 of the project (June 2014 – March 2016) was an extension of an existing project from Hackney into Tower Hamlets and Islington as identified by a requirement for collaborative working to address trans-boundary air pollution. In April 2016, the project secured £300,000 in the second round of MAQF to continue the project into Phase 2 until March 2019.
- 3.3 The aim of the project is to create a business network with a view to improving air quality by changing businesses behaviour. This is to be achieved by creating a business network with a strong local identity, encouraging the up-

take of lower emission energy and travel options through provision of high quality information, direct engagement, business surveys, enhanced infrastructure, and trials and incentives of low emission technology.

- 3.4 As part of the project it is proposed to operate a grants scheme as outlined in Appendix 1 to the report. It is proposed that each grant will be for a maximum of £2,000 and that the totality of grants made does not exceed the available funding for grants up to March 2019. The evaluation criteria, performance measures and monitoring to be imposed are also summarised in Appendix 1.
- 3.4 Hackney, Tower Hamlets and Islington made a joint bid to the London Mayor's Air Quality Fund in 2013 to extend the project into Tower Hamlets and Islington which was successful in Phase 1.
- 3.5 The funding allocation to Tower Hamlets is £100,000, through the life of the project which is expected to end in March 2019 and has been used to continue the role of a Zero Emissions Network Officer employed under LBTH terms and conditions. This was made available to the Council in the financial year 16/17.
- 3.6 To monitor the success of the ZEN 2, the impact of the scheme on businesses and air quality will be evaluated by:
- Using the grants scheme as a method to attain travel data when first working with a business/residence, and then undertaking a follow up survey after 12 months to compare.
 - Estimating the impact of ZEN2 on modal shift and the likely resulting reductions in air quality emissions for participating businesses
 - Considering whether trends in traffic and air quality data may be apportioned to ZEN2
 - Case studies and qualitative feedback from clients
- 3.6 All boroughs have match-funded the contributions by the MAQF as required by the terms and conditions. The match funding has come from the following internal sources for LBTH:
- Section 106 Funding for sustainable travel
 - Local Implementation Plan
 - DEFRA Air Quality Funding
- 3.7 Match funding will be used for incentives, trials, infrastructure improvements and other costs. All internal match funding has obtained the required authorisations.
- 3.8 Financial reporting is undertaken to external and internal project sponsors as required.

4. COMMENTS OF THE CHIEF FINANCE OFFICER

- 4.1 The joint Boroughs partnership project was awarded a total of £300,000 from the Mayor of London's Air Quality Fund. Tower Hamlets share of the award is £100,000 for the Phase 2 of the Zero Emissions Network, for the purpose of implementing a business engagement environmental sustainability programme up to period ending March 2019.
- 4.2 This report seeks the approval of the Commissioners to delegate to officers the ability to issue grants from the award of up to £2,000 to businesses in the borough to implement air pollution reduction measures
- 4.3 The total required resources required to deliver the programme over the 3 year project are expected to be approximately £192,900. In addition to the business grants awards, there is a Zero Emissions Network Officer post that will continue to be funded for the 3 years at an annual cost of £44,300. It is a requirement of the award that match funding resources are identified. A total of £100,000 has been identified from Section 106 £45,000, Local Implementation Plan funding of £15,000 for each of the 3 years and up to £10,000 available from the Department for Environment, Food & Rural Affairs (DEFRA).

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. 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.
- 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 provide these payments. The payments are discretionary and therefore considered to be a grant.
- 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 Paragraph 3.5.1 of Part 3 of the Council's constitution confers on the Chief Executive and Chief Officers the power to make decisions relating to any

executive function carried out by services under their management other than “key decisions” as defined by Article 13 which are the responsibility of the Mayor or Executive itself, unless specifically delegated by the Mayor or Executive to an Executive Sub Committee or a chief officer.

5.6 The definition of a Chief Officer, both statutory and non-statutory, is provided in section 2 of the Local Government and Housing Act 1989 and a non-statutory Chief Officer is:

- (a) a person for whom the head of the authority’s paid service is directly responsible;
- (b) a person who, as respects all or most of the duties of his post, is required to report directly or is directly accountable to the head of the authority’s paid service; and
- (c) any person who, as respects all or most of the duties of his post, is required to report directly or is directly accountable to the local authority themselves or any committee or sub-committee of the authority.

5.7 Accordingly, the definition of a Chief Officer includes the Corporate Director, Place. Ordinarily, therefore, that post holder would have the power to make decisions in respect to grants under paragraph 3.5.1 of the constitution to the extent that it concerns services under their management and it is not a key decision. This would include the power to delegate that function to the Divisional Director Public Realm. However, as this function was suspended by virtue of the Directions made by the Secretary of State on 17th December 2014 pursuant to powers under sections 15(5) and 15(6) of the Local Government Act 1999 (the “Directions”) and as the function relating to grants has only been returned to the Council on 16th January 2017 but under the direction of, and to the satisfaction of, the Commissioners, as such a delegation from Grants Determination (Cabinet) Sub-Committee is required in order for the Divisional Director Public Realm to exercise the power.

5.8 When considering whether or not to delegate the power to the Divisional Director Public Realm 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 in further detail.

5.9 It is also noted that the money for the grants is supplied by the London Mayor’s Air Quality Fund (MAQF) and match funded by the Council to implement the Zero Emissions Network programme and is therefore specifically ring fenced for that purpose and is not available for any other use. The allocation from MAQF is £100,000 and match funded by the Council so that the total amount available for the programme is £200,000. Of that, there is a Zero Emissions Network Officer post that will continue to be funded

for the 3 years at an annual cost of £44,300, totalling £132,900, and meaning that the balance available for grants is £67,100.

- 5.10 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 criteria etc. against which grants will be considered and monitored is at Appendix 1.
- 5.11 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. All the proposed grants however, would fall under the *de minimis* threshold for the purposes of European restrictions on State aid
- 5.12 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. It is considered that the scheme does not require a full equality impact assessment. The scheme is open to participating businesses, which do not themselves have protected characteristics under the Equality Act 2010. All residents and those who work in the jurisdiction of the project area will equally receive the benefits through improved air quality. An improvement in air quality may be particularly beneficial for those with bronchial issues within the area targeted and this may help to promote equality of opportunity. However, the Council has no evidence of any over-representation of any protected characteristic in that group. The scheme encourages innovation and would support proposals that encourage active travel from disabled workers And, to this extent, the scheme may assist to promote equality of opportunity.

7. BEST VALUE (BV) IMPLICATIONS

- 7.1 The Zero Emissions Network Project is an existing project that was initiated and implemented in Hackney. The decision to extend the project into Tower Hamlets and Islington was preceded by the identified need for collaborative working to address trans-boundary air pollution. Suppliers of goods and services were already in place. Some suppliers are ISO 14001 Accredited

and are specialised and therefore uncommon in terms of the type of services offered, but all our providers are local to London. For example electric car clubs and electric bicycles. Efficiencies and effectiveness has been realised by way of the project board structure which also affords the project resilience as well as ensuring business continuity.

8. SUSTAINABLE ACTION FOR A GREENER ENVIRONMENT

- 8.1 The project is an environmental sustainability project which will deliver stepwise reduction in local emissions in the borough. This will be through reduced car usage and replacement of old boilers with low NOx boilers. The project will facilitate the use of sustainable travel modes through the uptake of cycling, walking and low emission travel like electric cars.

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 this project 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 project 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

Linked Reports, Appendices and Background Documents

Linked Report

- None

Appendices

- Appendix 1 ZEN Project Briefing and Grant Process

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

- Zero Emissions Network – Final report to the Greater London Authority

Officer contact details for documents:

- Selina Talukdar