

# COMMISSIONERS' INDIVIDUAL DECISION MAKING

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Wednesday, 2 December 2015

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Commissioners' Decision Log No. 036


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1. **MAIN STREAM GRANT RECIPIENTS IN COUNCIL-OWNED COMMUNITY BUILDINGS (Pages 1 - 28)**

If you require any further information relating to this meeting, would like to request a large print, Braille or audio version of this document, or would like to discuss access arrangements or any other special requirements, please contact: Matthew Mannion, Democratic Services  
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# Agenda Item 1

<b>Individual Commissioner Decision</b>  Decision Log No: 036	 <b>TOWER HAMLETS</b>
<b>Report of:</b> Corporate Director, Development & Renewal	<b>Classification:</b> Unrestricted
<b>Main Stream Grant recipients in council-owned community buildings</b>	

<b>Is this a Key Decision?</b>	No
<b>Decision Notice Publication Date:</b>	N/A
<b>General Exception or Urgency Notice published?</b>	Not required
<b>Restrictions:</b>	None

## EXECUTIVE SUMMARY

The Commissioners, when considering a report on the Main Stream Grants 2015/18 Programme in the Commissioners' Decision Making Meeting on 29<sup>th</sup> July 2015, determined that organisations in council-owned properties needed to be in an appropriate form of tenancy as a condition of receiving the grant they had been awarded.

This report demonstrates the progress that has been made toward achieving this and also sets out a way forward that allows the council to secure appropriate tenancies for the range of buildings occupied by these groups, while also allowing the release of some or all of the Main Stream Grant 2015/18 Programme allocation on conclusion of certain interim steps.

Full details of the decision sought, including setting out the reasons for the recommendations and/or all the options put forward; other options considered; background information; the comments of the Chief Finance Officer; the concurrent report of the Head of Legal Services; implications for One Tower Hamlets; Risk Assessment; Background Documents; **and other relevant matters are set out in the attached report.**

## DECISION

The Commissioners are recommended to:

### **Wapping Bangladesh Association**

1. Provide their prior written agreement that the council may extend the leases for 1<sup>st</sup> and 2<sup>nd</sup> Floor, Wapping Youth Club, Tench Street, E1W and 19 Prusom Street, E1W, to the Wapping Bangladesh Association, until 30<sup>th</sup> September 2018 on the existing terms and conditions;
2. Agree that any main stream grants payments that are due to be paid to the Wapping Bangladesh Association on or before 15th January 2016 can be released subject to entering into a payment plan, by 11<sup>th</sup> December 2015, for their arrears of £14,828.70 to the satisfaction of the council with said arrears to be paid by 29<sup>th</sup> February 2016;
3. Agree that any main stream grant payments due to be paid, to the Wapping Bangladesh Association, after 15th January 2016, can be released if the leases extensions described in recommendation 1 have been completed by 15<sup>th</sup> January 2016;
4. Agree that any main stream grants payments due to be paid, to the Wapping Bangladesh Association, after 29<sup>th</sup> February 2016, can be release if the rent arrears of £14,828.70, have been cleared by 29<sup>th</sup> February 2016 and no further arrears have been accrued;
5. Note that any failure on the part of the Wapping Bangladesh Association to comply with any council-established payment plan for their rent arrears will result in suspension of their main stream grants payments and recovery action being taken;

### **Bangladeshi Youth Movement**

6. Provide their prior written agreement that the council may enter into a lease or licence for part of the Christian Street Community Centre, E1, with the Bangladeshi Youth Movement for no less than the open market rental value or, in the case of a licence, a hire charge that is proportionate to the proposed use under the licence and relative to the open market rental value;
7. Agree that any main stream grants payments that are due to be paid to the Bangladeshi Youth Movement on or before 15<sup>th</sup> January 2016 can be released subject to entering into a payment plan, by 11<sup>th</sup> December 2015, for their arrears of £11,056.50 to the satisfaction of the council with said arrears to be cleared by 29<sup>th</sup> February 2016, subject to recommendation 8;
8. Agree that any main stream grants payments that are due to be paid to the

Bangladeshi Youth Movement on or before 15<sup>th</sup> January 2016 can be released subject to the council receiving an undertaking, by 15<sup>th</sup> January 2016, from the Bangladeshi Youth Movement, that they will, by 31<sup>st</sup> March 2016, enter into a lease or licence as described in recommendation 6;

9. Agree that any main stream grant payments due to be paid, to the Bangladeshi Youth Movement, after 31<sup>st</sup> March 2016, can be released if a lease or licence, as described in recommendation 5, has been completed by 31<sup>st</sup> March 2016 and their rent arrears of £11,056.50, have been cleared by 29<sup>th</sup> February 2016 and no further arrears have been accrued;
10. Note that any failure on the part of the Bangladeshi Youth Movement to comply with any council-established payment plan for their rent arrears will result in suspension of their main stream grants payments and recovery action being taken;

#### **Somali Senior Citizens Club**

11. Provide their prior written agreement that the council may enter into a licence for part of Granby Hall, 37 St Matthew's Row, E2, for a defined time per week, with the Somali Senior Citizens Club, for no less than a hire charge that is proportionate to the proposed use under the licence and relative to the open market rental value;
12. Agree that any main stream grants payments that are due to be paid to the Somali Senior Citizens Club on or before 15<sup>th</sup> January 2016 can be released;
13. Agree that any main stream grant payments due to be paid, to the Somali Senior Citizens Club, after 15<sup>th</sup> January 2016, can be released if a licence, as described in recommendation 11, has been completed by 15<sup>th</sup> January 2016;

#### **Dorset Community Association**

14. Provide their prior written agreement that the council may extend the lease for the Ground Floor, Former Dorset Library, E2, to the Dorset Community Association, until 30<sup>th</sup> September 2018 on the existing terms and conditions;
15. Agree that any main stream grants payments that are due to be paid to the Dorset Community Association on or before 15<sup>th</sup> January 2016 can be released;
16. Agree that any main stream grant payments due to be paid, to the Dorset Community Association, after 15<sup>th</sup> January 2016, can be released if the leases extension described in recommendation 14 has been completed by

15<sup>th</sup> January 2016;

### **Limehouse Project**

17. Provide their prior written agreement that the council may enter into a lease for Cheadle Hall, Copenhagen Place, E14, with the Limehouse Project, for no less than the open market rental value as assessed by a qualified surveyor, on completion of the capital works;
18. Agree that any main stream grants payments that are due to be paid to the Limehouse Project on or before 31<sup>st</sup> March 2016 can be released;
19. Agree that any main stream grant payments due to be paid, to the Limehouse Project, after 31<sup>st</sup> March 2016, can be released if the lease described in recommendation 17 has been completed by 31<sup>st</sup> March 2016;
20. Note that if the lease is not completed by 31<sup>st</sup> March 2016 due to the capital works not being completed, further consent will be sought from the Commissioners.

### **DeafPlus**

21. Note that the Commissioners provided their prior written agreement on 27 August 2015 (Decision Log No. 28) for the council to enter into a lease with the Trustees of DeafPlus for the Trinity Welfare Centre;
22. Agree that any main stream grants payments that are due to be paid to DeafPlus on or before 15<sup>th</sup> January 2016 can be released;
23. Agree that any main stream grant payments due to be paid, to DeafPlus, after 15<sup>th</sup> January 2016, can be released if the lease described in recommendation 21 has been completed by 15<sup>th</sup> January 2016;

### **Stifford TJRS Community Centre**

24. Provide their prior written agreement that the council may enter into a 15-year lease, from 2011, with Stifford TJRS Community Centre, for the Stifford Centre, 2-6 Cressy Place, E1, for £7,500 per annum;
25. Note that back-dated rent for the Stifford Centre will be paid from 2011, over the remainder of the lease, with the first upward only rent review to take place in 2016 and every five years thereafter;
26. Agree that any main stream grants payments that are due to be paid to Stifford TJRS Community Centre on or before 15<sup>th</sup> January 2016 can be released; and

27. Agree that any main stream grant payments due to be paid, to the Stifford TJRS Community Centre, after 15th January 2016, can be released if the lease described in recommendation 24 has been completed by 15th January 2016.

**APPROVALS**

**1. (If applicable) Corporate Director proposing the decision or his/her deputy**

I approve the attached report and proposed decision above for submission to the Commissioners.

Signed  Date 2/12/2015

**2. Chief Finance Officer or his/her deputy**

I have been consulted on the content of the attached report which includes my comments.

Signed  Date 2/12/15

**3. Monitoring Officer or his/her deputy**

I have been consulted on the content of the attached report which includes my comments.

~~(For Key Decision only - delete as applicable)~~

~~I confirm that this decision:-~~

~~(a) has been published in advance on the Council's Forward Plan OR~~

~~(b) is urgent and subject to the 'General Exception' or 'Special~~

~~Urgency' provision at paragraph 18 or 19 respectively of the Access to Information Procedure Rules.~~

Signed  Date 02/12/15

**4. Commissioner**

I agree the decision proposed in paragraph above for the reasons set out in section 1 in the attached report.

Name MAY CALLEJA Signed 

Date 2/12/15

Name ..... Signed .....

Date .....


Name ..... Signed .....

Date .....

Name ..... Signed .....

Date .....



<p><b>Commissioner Decision Report</b> 2 December 2015</p>	
<p><b>Report of:</b> Corporate Director, Development &amp; Renewal</p>	<p><b>Classification:</b> Unrestricted</p>
<p><b>Main Stream Grant recipients in council-owned community buildings</b></p>	

<b>Originating Officer(s)</b>	Service Head, Corporate Property & Capital Delivery
<b>Wards affected</b>	All wards
<b>Key Decision?</b>	No
<b>Community Plan Theme</b>	One Tower Hamlets

### **Executive Summary**

The Commissioners, when considering a report on the Main Stream Grants 2015/18 Programme in the Commissioners' Decision Making Meeting on 29<sup>th</sup> July 2015, determined that organisations in council-owned properties needed to be in an appropriate form of tenancy as a condition of receiving the grant they had been awarded.

This report demonstrates the progress that has been made toward achieving this and also sets out a way forward that allows the council to secure appropriate tenancies for the range of buildings occupied by these groups, while also allowing the release of some or all of the Main Stream Grant 2015/18 Programme allocation on conclusion of certain interim steps.

### **Recommendations:**

The Commissioners are recommended to:

#### **Wapping Bangladesh Association**

1. Provide their prior written agreement that the council may extend the leases for 1<sup>st</sup> and 2<sup>nd</sup> Floor, Wapping Youth Club, Tench Street, E1W and 19 Prusom Street, E1W, to the Wapping Bangladesh Association, until 30<sup>th</sup> September 2018 on the existing terms and conditions;
2. Agree that any main stream grants payments that are due to be paid to the Wapping Bangladesh Association on or before 15<sup>th</sup> January 2016 can be released subject to entering into a payment plan, by 11<sup>th</sup> December 2015, for

their arrears of £14,828.70 to the satisfaction of the council with said arrears to be paid by 29<sup>th</sup> February 2016;

3. Agree that any main stream grant payments due to be paid, to the Wapping Bangladesh Association, after 15<sup>th</sup> January 2016, can be released if the leases extensions described in recommendation 1 have been completed by 15<sup>th</sup> January 2016;
4. Agree that any main stream grants payments due to be paid, to the Wapping Bangladesh Association, after 29<sup>th</sup> February 2016, can be release if the rent arrears of £14,828.70, have been cleared by 29<sup>th</sup> February 2016 and no further arrears have been accrued;
5. Note that any failure on the part of the Wapping Bangladesh Association to comply with any council-established payment plan for their rent arrears will result in suspension of their main stream grants payments and recovery action being taken;

#### **Bangladeshi Youth Movement**

6. Provide their prior written agreement that the council may enter into a lease or licence for part of the Christian Street Community Centre, E1, with the Bangladeshi Youth Movement for no less than the open market rental value or, in the case of a licence, a hire charge that is proportionate to the proposed use under the licence and relative to the open market rental value;
7. Agree that any main stream grants payments that are due to be paid to the Bangladeshi Youth Movement on or before 15<sup>th</sup> January 2016 can be released subject to entering into a payment plan, by 11<sup>th</sup> December 2015, for their arrears of £11,056.50 to the satisfaction of the council with said arrears to be cleared by 29<sup>th</sup> February 2016, subject to recommendation 8;
8. Agree that any main stream grants payments that are due to be paid to the Bangladeshi Youth Movement on or before 15<sup>th</sup> January 2016 can be released subject to the council receiving an undertaking, by 15<sup>th</sup> January 2016, from the Bangladeshi Youth Movement, that they will, by 31<sup>st</sup> March 2016, enter into a lease or licence as described in recommendation 6;
9. Agree that any main stream grant payments due to be paid, to the Bangladeshi Youth Movement, after 31<sup>st</sup> March 2016, can be released if a lease or licence, as described in recommendation 5, has been completed by 31<sup>st</sup> March 2016 and their rent arrears of £11,056.50, have been cleared by 29<sup>th</sup> February 2016 and no further arrears have been accrued;

10. Note that any failure on the part of the Bangladeshi Youth Movement to comply with any council-established payment plan for their rent arrears will result in suspension of their main stream grants payments and recovery action being taken;

#### **Somali Senior Citizens Club**

11. Provide their prior written agreement that the council may enter into a licence for part of Granby Hall, 37 St Matthew's Row, E2, for a defined time per week, with the Somali Senior Citizens Club, for no less than a hire charge that is proportionate to the proposed use under the licence and relative to the open market rental value;
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13. Agree that any main stream grant payments due to be paid, to the Somali Senior Citizens Club, after 15<sup>th</sup> January 2016, can be released if a licence, as described in recommendation 11, has been completed by 15<sup>th</sup> January 2016;

#### **Dorset Community Association**

14. Provide their prior written agreement that the council may extend the lease for the Ground Floor, Former Dorset Library, E2, to the Dorset Community Association, until 30<sup>th</sup> September 2018 on the existing terms and conditions;
15. Agree that any main stream grants payments that are due to be paid to the Dorset Community Association on or before 15<sup>th</sup> January 2016 can be released;
16. Agree that any main stream grant payments due to be paid, to the Dorset Community Association, after 15<sup>th</sup> January 2016, can be released if the leases extension described in recommendation 14 has been completed by 15<sup>th</sup> January 2016;

#### **Limehouse Project**

17. Provide their prior written agreement that the council may enter into a lease for Cheadle Hall, Copenhagen Place, E14, with the Limehouse Project, for no less than the open market rental value as assessed by a qualified surveyor, on completion of the capital works;

18. Agree that any main stream grants payments that are due to be paid to the Limehouse Project on or before 31<sup>st</sup> March 2016 can be released;
19. Agree that any main stream grant payments due to be paid, to the Limehouse Project, after 31<sup>st</sup> March 2016, can be released if the lease described in recommendation 17 has been completed by 31<sup>st</sup> March 2016;
20. Note that if the lease is not completed by 31<sup>st</sup> March 2016 due to the capital works not being completed, further consent will be sought from the Commissioners.

### **DeafPlus**

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### **Stifford TJRS Community Centre**

24. Provide their prior written agreement that the council may enter into a 15-year lease, from 2011, with Stifford TJRS Community Centre, for the Stifford Centre, 2-6 Cressy Place, E1, for £7,500 per annum;
25. Note that back-dated rent for the Stifford Centre will be paid from 2011, over the remainder of the lease, with the first upward only rent review to take place in 2016 and every five years thereafter;
26. Agree that any main stream grants payments that are due to be paid to Stifford TJRS Community Centre on or before 15<sup>th</sup> January 2016 can be released; and
27. Agree that any main stream grant payments due to be paid, to the Stifford TJRS Community Centre, after 15<sup>th</sup> January 2016, can be released if the lease described in recommendation 24 has been completed by 15<sup>th</sup> January 2016.



## **1. REASONS FOR THE DECISIONS**

- 1.1 The decisions in this report support the principle of all occupiers of council-owned community buildings being in an appropriate form of property agreement.
- 1.2 The proposals in this report will help achieve the above aim, by finding interim solutions that help facilitate community groups to enter into the agreements described in the body of this report.
- 1.3 They also facilitate the release of some or all of the allocated MSG funds, alleviating any potential cash flow problems that might be faced by the groups concerned, while offering them the time to consider the medium- to long-term implications of the forms of tenancy that they are being offered.
- 1.4 The organisations in question were awarded £1,617k in MSG grant as part of the Main Stream Grants 2015/18 Programme (although £634k of this was awarded to four consortia). The pro-rated amount, for the period ending 31<sup>st</sup> March 2016, due to the organisations listed in this report (excluding consortia) total £130k.
- 1.5 The report also sets out some of the circumstances in which future MSG payments could be suspended if the occupying groups do not comply with the requirements in this report. This will act as an incentive to those groups to conclude negotiations and ensure they enter into the appropriate form of tenancy.

## **2. ALTERNATIVE OPTIONS**

- 2.1 There are two main alternative options to those set out in this report.
- 2.2 The Commissioners could determine that the interim steps set out in this report should not be pursued by the council and formal leases should be insisted on immediately instead.
- 2.3 This is not recommended as the proposals in this report have come about following extensive discussion with the occupying groups. While officers have made it clear that the principle of a lease (or licence where appropriate) will be the basis for occupying property going forward, the interim measures (where proposed) allow the occupying groups some breathing space to assess the implications of such a move on their organisation, in order to determine if they

wish to continue being a tenant.

- 2.4 An alternative option is to rescind the decision taken on 29<sup>th</sup> July 2015.
- 2.5 This is not recommended as the decision taken on 29<sup>th</sup> July 2015 was taken on the basis that a number of council-owned community buildings are occupied on bases that are sometimes unclear and informal and the move towards secure and formal tenancies will be beneficial both for the council and the occupiers and show continued compliance with the council's best value duty.
- 2.6 The move towards formal tenancies is also in line with the council's aspirations as set out in the December 2015 Cabinet report entitled 'Community Buildings: Allocation and Charging Policy'. This report will be followed-up with a further report; setting out more detail on the policy, as well as how the council might recognise the community benefit arising from some of the activities taking place in these buildings. This method of assessing and quantifying community benefit is being explored by the council's Third Sector Team, as part of the process of refreshing the Tower Hamlets Voluntary and Community Sector Strategy. This follow-up report is due to be considered by the authority's executive in Spring 2016.

### **3. DETAILS OF REPORT**

- 3.1 On 29<sup>th</sup> July 2015, the Commissioners, in the Commissioners' Decision Making Meeting, determined:
- 3.2 *That the following 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, within three months of the meeting as a specific condition of payment of any grant monies:*
  - a. *Wapping Bangladeshi Association*
  - b. *Bangladeshi Youth Movement*
  - c. *Somali Senior Citizens Club*
  - d. *Dorsett Community Association*
  - e. *Limehouse Project*
  - f. *Deaf Plus*

*and that future applicants for grants occupying Council facilities be advised that this is a standard condition for the future.*

- 3.3 An addition organisation, Stifford TJRS Community Centre, is also the subject of this report.
- 3.4 While the deadline stipulated by the Commissioners has now passed, some progress has been made towards entering into those property agreements, later clarified by the Commissioners to be leases where appropriate. This has meant that MSG payments have not been made to those organisations. A property-by-property update is set out below, with a proposed way forward.

### **Wapping Bangladesh Association**

- 3.5 The Wapping Bangladesh Association occupies two council-owned properties: the 1<sup>st</sup> and 2<sup>nd</sup> floors of the Wapping Youth Club and 19 Prusom Street. Both leases come to an end on 21 April 2018.
- 3.6 It is proposed that the existing leases are extended to 30<sup>th</sup> September 2018, one month after the end of the Main Stream Grants 2015/18 Programme. This will be done by a simultaneous surrender of their existing lease and the grant of a new lease for the extended term. This will be completed by 15<sup>th</sup> January 2016.
- 3.7 The rent account for 19 Prusom Street is currently in arrears of £14,828.70. Failure to agree, and adhere to, a payment plan will result in the rescinding of the payment plan, a demand being made for all outstanding sums and recovery action initiated. Future MSG payments will also be suspended.
- 3.8 The council will propose a payment plan to WBA by 4<sup>th</sup> December 2015, who will have a week to consider it and respond to the council by 11<sup>th</sup> December 2015. Any alternative proposal, from WBA, must ensure that the arrears on the account are cleared by 29<sup>th</sup> February 2016, and no further arrears are accrued (i.e. any rent payments that become due in that period are paid, in full and on time). WBA may, if they wish, choose not to enter into a payment plan but instead pay the full amount of outstanding arrears by 15<sup>th</sup> January 2016.
- 3.9 It is proposed that the MSG payments due before 15th January 2016 can be released subject to the WBA providing an undertaking to have cleared their rent arrears by 29<sup>th</sup> February 2016. Future MSG payments will only be made if the lease extension is completed by 15<sup>th</sup> January 2016 and their rent arrears have been cleared by 29<sup>th</sup> February 2016.
- 3.10 The Commissioners' prior written agreement is being sought for the grant of new leases on the surrender of existing leases, as well as release of the MSG payments due before 15th January 2016, subject to agreement of, and



adherence to, any arrangements to clear their rent arrears by the means described in paragraph 3.8.

- 3.11 Commissioners' consent is also sought to release MSG payments beyond 15th January 2016 if the lease extension is completed and the full payment is received, by 29<sup>th</sup> February 2016, for the outstanding rent arrears and no further arrears are accrued.

### **Bangladeshi Youth Movement**

- 3.12 The Bangladeshi Youth Movement (BYM) currently occupies the Berner Community Centre on a tenancy-at-will. The centre is due to be demolished to allow the completion of estate regeneration works and an electrical substation to be moved.
- 3.13 As part of the estate regeneration works, BYM were offered alternative facilities in the form of part of the Christian Street Community Centre. However, they advised officers that the rent being sought for the property was beyond their reach.
- 3.14 In order to bring this matter to a close, by 24<sup>th</sup> December 2015, BYM will be issued with a notice to quit in their current premises. They will be offered a choice of a lease or a licence for the new facilities in Christian Street. While both the lease and licence would be set at the open market rental value, the council would seek less money for licence as it would only be for the activities that BYM required the property for.
- 3.15 It will be for BYM to indicate, by 15<sup>th</sup> January 2016, by way of an undertaking to the council, which option they wish to pursue. Once this undertaking has been received, it is proposed that the MSG payments due before 15<sup>th</sup> January 2016 can be released, subject to agreeing a payment plan for their rent arrears (see paragraph 3.16). Future payments will only be released if the lease or licence has been completed, with the appropriate agreement to be completed by 31<sup>st</sup> March 2016.
- 3.16 BYM have accrued substantial rent arrears of £11,056.50 on a unit they occupied in the Whitechapel Centre, E1. Future MSG payments will not be released if these arrears are not cleared by 29<sup>th</sup> February 2016.
- 3.17 The council will propose a payment plan to BYM by 4<sup>th</sup> December 2015, who will have a week to consider it and respond to the council by 11<sup>th</sup> December 2015. Any alternative proposal, from BYM, must ensure that the arrears on the account are cleared by 29<sup>th</sup> February 2016, and no further arrears are accrued (i.e. any rent payments that become due in that period are paid, in full

and on time). BYM may, if they wish, choose not to enter into a payment plan but instead pay the full amount of outstanding arrears by 15<sup>th</sup> January 2016.

- 3.18 The Commissioners' prior written agreement is being sought to release the MSG payments due on or before 15<sup>th</sup> January 2016, subject to agreeing a payment plan for their arrears, and on receipt of an undertaking, by 15<sup>th</sup> January 2016, from BYM that they will enter into an agreement for the new facilities by 31<sup>st</sup> March 2016.
- 3.19 Commissioners' consent is also sought to release MSG payments beyond 31<sup>st</sup> March 2016 if the lease or licence is completed and full payment has been received for the rent arrears.

### **Somali Senior Citizens Club**

- 3.20 The Somali Senior Citizens Club currently occupies Granby Hall on the basis of a tenancy-at-will. While a draft lease has been issued, the size of the property means the open market rental value is too high, relative to the organisation's turnover.
- 3.21 It is proposed the council simultaneously terminate the tenancy-at-will and enter into a licence or other appropriate form of property agreement for the specific parts of the building and durations for which the Somali Senior Citizens Club require access to the building. The licence will seek a hire charge that is proportionate to their use of the building.
- 3.22 The council will issue a draft licence to the Somali Senior Citizens Club no later than 8<sup>th</sup> January 2016. The Somali Senior Citizens Club will be expected to sign and return the licence agreement, at which point the tenancy-at-will will be terminated, by 15<sup>th</sup> January 2016.
- 3.23 The Commissioners' prior written agreement is being sought to enter into the licence and to release MSG payments due before 15<sup>th</sup> January 2016, pending completion of the licence agreement.
- 3.24 Commissioners' consent is also being sought to release MSG payments due after 15<sup>th</sup> January 2016, subject to the licence being completed by 15<sup>th</sup> January 2016.

### **Dorset Community Association**

- 3.25 The Dorset Community Association occupies the former Dorset Library on the basis of a lease which expires on 26 July 2017.

- 3.26 It is proposed that the existing lease is extended to 30<sup>th</sup> September 2018, one month after the end of the Main Stream Grants 2015/18 Programme. This will be done by a simultaneous surrender of their existing lease and the grant of a new lease for the extended term.
- 3.27 It is proposed that MSG payments due before 15<sup>th</sup> January 2016 can be released. Future MSG payments will only be made if the lease extension is completed by 15<sup>th</sup> January 2016.
- 3.28 The Commissioners' prior written agreement is being sought for the grant of a new lease on the surrender of the existing lease, as well as release of the MSG payments due before 15<sup>th</sup> January 2016.
- 3.29 Commissioners' consent is also sought to release MSG payments beyond 15<sup>th</sup> January 2016 if the lease extension is completed.

### **Limehouse Project**

- 3.30 The Limehouse Project is currently in possession of a tenancy-at-will. The property in question, Cheadle Hall, is currently undergoing capital works funded by the Early Years Service in order to provide two-year-old places from the property.
- 3.31 A valuation inspection has been carried out and the council are awaiting the report. The valuation figure will form the basis of the proposed lease, to be entered into on completion of the capital works. It should be noted that the Limehouse Project has accepted the principle of a lease and will be given 8 weeks, following conclusion of the capital works, to complete the lease. If the lease is not completed within that timeframe, the council will examine its options for recovering the property.
- 3.32 Commissioners' consent is being sought to release MSG payments due before 31<sup>st</sup> March 2016. This will allow the council to progress completion of the lease once the valuation report is received. If the Limehouse Project fails to complete the lease by then, MSG payments will be suspended.
- 3.33 Commissioners' consent is also being sought to release MSG payments beyond 31<sup>st</sup> March 2016, if the lease is completed by that date.
- 3.34 The Commissioners' prior written agreement is also being sought, to enter into a lease with the Limehouse Project, on the basis of the open market rental value of Cheadle Hall, as assessed by a qualified surveyor, on completion of the capital works.

## **DeafPlus**

- 3.35 DeafPlus currently occupy the Trinity Welfare Centre on the basis of a proposed five year lease, which is due to expire in 2019.
- 3.36 The Commissioners provided their prior written agreement for this lease at the end of August 2015 and it is currently being progressed by the council's Legal Services department. Completion of the lease is expected by 15<sup>th</sup> January 2016.
- 3.37 Commissioners' consent is sought to release MSG payments for the entirety of the programme. If the lease is not concluded by 15<sup>th</sup> January 2016, MSG payments will be suspended.

## **Stifford TJRS Community Centre**

- 3.38 The Stifford TJRS Community Centre occupies the Stifford Centre and has done so since 1999. Their ten-year lease expired in 2009 and subsequent lease negotiations, which were based on a 15-year lease at £7,500 per annum, have been protracted and a lease has yet to be signed.
- 3.39 The trustees have recently met and informed the council that they are happy to progress the lease as originally envisaged with the rent back-dated to 2011 and with the arrears to be collected over the remaining terms of the lease. There will also be a rent review in 2016.
- 3.40 The Commissioners are asked to provide their prior written agreement to the lease renewal for a 15-year term. It is anticipated that this lease will be completed by 15<sup>th</sup> January 2015.
- 3.41 The Commissioners are also asked to consent to the release of MSG payments due on or before 15<sup>th</sup> January 2016. If the Stifford Centre lease is not completed by 15<sup>th</sup> January 2016, payments will be suspended.
- 3.42 The Commissioners are also asked to consent to the release of MSG payments beyond 15<sup>th</sup> January 2016, if a completed lease is in place.

## **Additional Information**

- 3.43 A table is attached at Appendix 1 that summarises the above proposals for ease of reference.
- 3.44 The Commissioners will be provided with regular informal update reports on progress with the above matters.

- 3.45 A formal report will also be submitted to the Commissioners in March 2016, setting out the position at that point in time.
- 3.46 Any deviations from the consents as determined by the Commissioners in this report, will require a further report to the Commissioners in order to secure any additional or different consents.

#### **4. COMMENTS OF THE CHIEF FINANCE OFFICER**

- 4.1 The Mainstream Grants Programme for 2015-18 was considered at the Commissioners Decision Making Meeting that was held on 29 July 2015. Although approved in principle, it was agreed that various grants to organisations that occupy council assets would only be paid once formal arrangements were put in place for the use and occupation of the land or buildings. This report updates the Commissioners on the progress on achieving this and seeks approval to release the grants.
- 4.2 The occupation arrangements proposed in this report for the various third sector organisations are consistent with the ‘Community Buildings: Allocation and Charging Policy’ report that is being considered by the Mayor in Cabinet on 1 December 2015. As part of the process, arrangements for the letting of buildings will be formalised, with standard leases replacing ‘tenancies at will’ as necessary. This will enable rental charges to be reviewed and set at an appropriate level. The maintenance liability and the responsibility for statutory charges will also be formalised through incorporation into the legal agreements. Although being approved in advance of the introduction of the policy, the recommendations in this report meet its requirements.
- 4.3 Two of the organisations that are seeking a mainstream grant allocation currently have arrears on their existing rent accounts with the borough: the Wapping Bangladesh Association in relation to one of its leases for 19 Prusom Street (paragraph 3.8); and the Bangladeshi Youth Movement in respect of a unit that they occupied within the Whitechapel Centre (paragraph 3.17). In both cases arrangements are proposed to ensure that these arrears, totalling £25,885.20, are recovered, with either full settlement being made or a payment plan being agreed and adhered to. The mainstream grant payments will be withheld or suspended if the agreed arrears repayment arrangements are not met.
- 4.4 The Wapping Bangladesh Association has accrued rent arrears that currently total £14,828.70 (paragraph 3.7). It has been awarded Mainstream grants totalling £83,320 over the period to 31 August 2018.

- 4.5 The Bangladesh Youth Movement's rent arrears are currently £11,056.50 (paragraph 3.16). Its Mainstream grants award for the period to 31 August 2018 totals £93,400.

## **5. LEGAL COMMENTS**

### **5.1 Grants**

- 5.2 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.
- 5.3 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.
- 5.4 There are a number of similarities between the mainstream grants process and procurement of public contracts within the meaning of the Public Contracts Regulations 2015. The key features which separate the grants process from the need to comply with the requirements of those Regulations are as follows. Firstly, the payment of money by the Council is to reimburse actual costs incurred by the recipient and not profits. Secondly, the Council pays the amount that it deems appropriate from the funds available rather than paying the most economically advantageous bid price. Thirdly, grants typically proceed from an application process rather than a procurement procedure. A feature of the application process is that the applicant requests funding for a project that it has developed, rather than developing a proposal to the Council's technical specification. When implementing the grants programme, the Council must take care to maintain these points of distinction.
- 5.5 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.
- 5.6 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 31 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).

- 5.7 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.
- 5.8 The proposed grants are supported by others of the Council's statutory powers, such as its 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. This general power of competence supports the Mainstream Grants programme.
- 5.9 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 9 of the report.
- 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.
- 5.11 The grant agreement should include a clear monitoring process against defined parameters in order for the Council to demonstrate either: that delivery is in line with the application and, therefore, the grant achieved its purpose; or provide clear delineation where outcomes were not achieved and the reasons for such failure are apparent. Monitoring should therefore include measuring performance against the expected outcomes.
- 5.12 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.

- 5.13 The Treaty on the Functioning of the European Union (TFEU) provides that certain government activities may be prohibited because they give an advantage in a selective way to certain entities, which might affect competition within the internal market. Those advantages may amount to prohibited state aid, or may be state aid which is either expressly allowed by the Treaty, or which may be allowed, dependent on the circumstances. Certain activities are considered to be compatible with EU law however and which includes “aid having a social character” (see Article 107(2)(a) of TFEU. In this case, the grants are for the provision of social and community facilities and services and are therefore not prohibited.
- 5.14 At their meeting on 29<sup>th</sup> July 2015, the Commissioners determined that organisations in Council-owned properties and who benefited from Mainstream Grants would have to enter into an appropriate property agreement for their use and occupation of the respective properties. Further that until those agreements were entered into, the grant payments were to be suspended. This report is updating on the progress and asking for approval to release of that part of the grant allocation for the period up to 31<sup>st</sup> March 2016. This would be conditional upon the respective associations entering into the agreements as well as clearing any arrears of rent or other charges. It is also intended that the continuation of the grant funding would be conditional upon payment of the rent and other charges.
- 5.15 **Property Agreements**
- 5.16 The Direction issued by the Minister on 17<sup>th</sup> December 2014 requires the Council, until 31<sup>st</sup> March 2017, to “..... *obtain the prior written agreement of the Commissioners **before** [emphasis added] entering into any commitment to dispose of, or otherwise transfer to third parties, any real property other than existing single dwellings for the purposes of residential occupation.*” This report involves the disposal of properties through the granting of leases or extensions of existing leases and accordingly consent is required.
- 5.17 Some of the properties are held under Housing Revenue Account (‘HRA’) powers and whenever a local authority disposes of land held by it for housing purposes it must have regard to section 32 of the Housing Act 1985. Section 32 states that a local authority may not dispose of any land held by them without the consent of the Secretary of State. In order to facilitate the disposal of land held for housing purposes the Secretary of State has issued a series of general consents, which permit the disposal of land held for housing



purposes without the need to obtain express consent. The consents are collectively known as The General Housing Consents 2013.

5.18 In accordance with paragraph A2.2 of the General Housing Consents a disposal includes the grant of a lease of any duration. Paragraph A3.1.1 of the General Housing Consents provides that a local authority may dispose of land for a consideration equal to its market value.

5.19 As to the remaining properties, by virtue of section 123 of the Local Government Act 1972 ('the 1972 Act'), the Council may dispose of its land in any manner that it may wish. However, except in the case of a short tenancy (i.e. leases of less than 7 years) the consideration for such disposal must be the best that can reasonably be obtained. In all cases save for the Lease of the Stifford Centre the leases are less than 7 years but all rents are to be at market value.

#### 5.20 **Public Sector Equality Duty**

5.21 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.

### 6. **ONE TOWER HAMLETS CONSIDERATIONS**

6.1. The proposals in this report will contribute towards the release of MSG payments, which will be used by the tenant groups to deliver services for residents of the borough; some of these service users will share protected characteristics.

6.2. In addition, by ensuring tenants are in appropriate property agreements, and paying a rental value or hire charge, the council will generate income which can be used to contribute towards the delivery of Strategic Plan and Community Plan objectives, including those objectives under the One Tower Hamlets theme.

### 7. **BEST VALUE (BV) IMPLICATIONS**

- 7.1 The proposals in the report contribute towards the council's best value duty. By entering into the transactions described in this report, the council will be transitioning towards moving all tenants in council-owned property onto formal tenancy agreements. The proposed transactions represent an efficient and effective use of the Council's estate while also helping provide a smoother transition for the local third sector organisations who are tenants in those buildings.

## **8. SUSTAINABLE ACTION FOR A GREENER ENVIRONMENT**

- 8.1 There are no immediate sustainability implications arising from this report.

## **9. RISK MANAGEMENT IMPLICATIONS**

- 9.1 There remains some risk that where interim measures have been proposed, the organisations do not complete the final steps. This will be managed by making clear to the organisations that the continuation of the status quo is not acceptable and that any interim measures will only apply for a limited time.
- 9.2 As a result of the release of funding being delayed, affected projects may fail to achieve their targeted outputs and outcomes resulting in underperformance within the overall programme. However, appropriate steps within the project and programme monitoring arrangements will be taken to mitigate this; depending on the extent of delays, this may require the re-profiling of project targets.
- 9.3 In addition, it will be made clear to organisations that MSG payments will be suspended until the organisations comply with the decision of the Commissioners.
- 9.4 The council may also seek to take possession of the buildings in question. This may have implications for local services, delivered by the tenants, from those properties.

## **10. CRIME AND DISORDER REDUCTION IMPLICATIONS**

- 10.1 There are no immediate crime and disorder reduction implications arising from this report.

## **11. SAFEGUARDING IMPLICATIONS**

- 11.1 There are no immediate safeguarding implications arising from this report. Where groups will be carrying out activities with young people or vulnerable adults, they will be expected to comply with any requirements in relation to safeguarding (including the requirement for DBS checks) that may form part of the grant agreement and the pre-offer letter.
- 11.2 Compliance with such requirements will be monitored and checked by the council's Third Sector Team and the relevant service directorate.
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## **Linked Reports, Appendices and Background Documents**

### **Linked Report**

- Commissioners' Decision Making Meeting; 29<sup>th</sup> July 2015; Item 5.4; Main Stream Grants 2015/18 Programme.

### **Appendices**

- Appendix 1: Summary Table.

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

- None.

### **Officer contact details for documents:**

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## Appendix 1: Summary Table

Organisation/property	Pre-July 2015 position	Interim Activity	Release 15/16 MSG?	Anticipated position by end of 15/16
Wapping Bangladeshi Association  (19 Prusom Street and Wapping Youth Club)	Leases already in place but expiring, on 21 April 2018, before end of MSG programme	Simultaneous surrender/grant to take place, in order to extend the term of the current lease by 5 months.	✓ <sup>1</sup>	Leases will be in place for duration of MSG programme and rent arrears will be cleared
Bangladeshi Youth Movement  (Berner Community Centre) <sup>2</sup>	Tenancy-at-will in place.	Issue draft licence and lease for Christian Street. BYM to advise basis on which to occupy new premises (will impact the rent due).	When Christian Street agreement in principle reached <sup>3</sup>	Building recovered and licence or lease in place, for duration of MSG programme, for alternative facilities in Christian Street.
Somali Senior Citizens Club  (Ranby Hall)	Tenancy-at-will in place.	Draft lease has been issued but the open market rent is too high relative to the organisation's turnover. Licence to be issued for specific activities instead.	✓	Building recovered and licence issued for duration of MSG programme.
Dorset Community Association  (Former Dorset Library)	Lease already in place but expiring, on 26 July 2017, before end of MSG programme	Simultaneous surrender/grant to take place, in order to extend the term of the current lease by 14 months.	✓	Lease will be in place for duration of MSG programme
Limehouse Project  (Cheadle Hall)	Organisation issued with tenancy-at-will but not signed.	Issue lease based on new valuation once capital works have been completed. The principle of a lease has been accepted by the tenant.	✓ <sup>4</sup>	Lease will be in place for duration of MSG programme

<sup>1</sup> Rent arrears to be paid or payment plan established

<sup>2</sup> Building scheduled for demolition

<sup>3</sup> Rent arrears to be paid or payment plan established

<sup>4</sup> MSG payments may be placed on hold and building recovered if lease not entered into following conclusion of capital works.

Organisation/property	Pre-July 2015 position	Interim Activity	Release 15/16 MSG?	Anticipated position by end of 15/16
DeafPlus (Trinity Welfare Centre)	Tenancy-at-will in place; notice served to terminate. Lease issued for completion.	Lease to be concluded by Legal Services	✓	Leases will be in place for duration of MSG programme
Stifford Centre (Stifford Centre)	Tenant holding over following expiry of lease in December 2009. No rent paid and lease negotiations stalled.	Lease negotiations have led to a proposal for a 15 year lease with backdated rent to be paid from 2011.	✓	Lease will be in place with some backdated rent to be paid.