

Commissioner Decision Report

27th May 2015



Report of: Robert McCulloch-Graham

Classification:
Unrestricted

Review of the Discretionary Awards schemes for the 2015/16 academic year

Originating Officer(s)	Kate Bingham
Wards affected	All wards
Key Decision?	Yes
Community Plan Theme	A Prosperous Community

Executive Summary

This report seeks the level of Discretionary Award Determination Commissioners wish to take up and reviews the Council's discretionary awards policies, i.e. the Mayor's Education Award, the Mayor's Higher Education Award, the 16-19 Further Education Transport Policy, School Clothing Grant Policy and Budget Holders Lead Professional Scheme.

Commissioners are asked to note the spread of awards across the Borough based on the Protected Characteristics of Equal Opportunities statute shown in Appendix 6.

Recommendations:

The Commissioners are recommended to:

- 2.1 Agree to the Council making discretionary awards in respect of specified groups of students over compulsory school age in 2015/16 in the areas in respect of which policies are set out in appendices 1 to 5.
- 2.2 Approve the policy in Appendix 1 for the provision by the Council of school clothing grants in 2015/2016 within the budget specified in paragraph 5.2 of this report.
- 2.3 Approve the policy in Appendix 2 for the provision of the Budget Holding Lead Professional Scheme for Attendance Support in 2015/2016 within the budget specified in paragraph 5.2 of this report.
- 2.4 Approve the policy in Appendix 3 for the provision by the Council of discretionary awards in support of education travel in 2015/2016 within the budget specified in paragraph 5.2 of this report.
- 2.5 Approve the policy in Appendix 4 for the provision by the Council of the Mayor's Education Award (MEA) in 2015/2016 if Commissioners wish the scheme to continue and has funds to support it.
- 2.6 Approve the policy in Appendix 5 for the provision of the Mayor's Higher Education Award Scheme in 2015/2016 if Commissioners wish the scheme to continue and has funds to support it.

1. REASONS FOR THE DECISIONS

- 1.1 The Council has power by virtue of section 518 of the Education Act 1996 and in circumstances specified in regulations to grant scholarships, exhibitions, bursaries and other allowances in respect of persons over compulsory school age. The Local Education Authority (Post-Compulsory Education Awards) Regulations 1999 require the Council as local education authority to consider in each financial year whether it will grant scholarships, exhibitions, bursaries and other allowances to persons over compulsory school age and, if so, whether to exercise the power generally or only in respect of persons who satisfy determined criteria. The Council should make its determination annually by the 31st March.
- 1.2 Since 2000/01 the Council has determined to exercise the power only in respect of certain groups of students. This allows the Directorate to direct funds towards areas of identified need, and is the recommended option.
- 1.3 Commissioners are asked to review the discretionary award schemes shown below, and to note the minor change requested in the Mayor's Education Award Policy.

2. ALTERNATIVE OPTIONS

- 2.1 Commissioners have the option not to take up discretionary award powers in which case they might choose to make discretionary awards generally. This means that they would have to accept and consider applications for support for a wide spectrum of courses from diverse residents aged over 16. It is considered that such an approach would not provide an appropriately robust foundation on which to grant or refuse requests. The policies appended to the report are considered to offer the fairest means of disbursing limited funds.

3 BACKGROUND

- 3.1 Commissioners are asked to undertake the review of the discretionary awards schemes taking into account the budget available and any policy changes requested.
- 3.2 The expected budget provision for the 2015/16 financial year is set out below.

Table 1: Funding for each grant scheme 2014/15 and 2015/16

Grant scheme	Budget 2014/15 £'000	Required Budget 2015/16 £'000
School clothing grants	201	201
Budget holding lead professionals scheme	21	21
16-19 further education transport support	5	5
Mayor's Education Award	272	272
Mayor's Higher Education Award	630	630
Total	1,129	1,129

4. THE DIRECTORATE'S PROPOSED DISCRETIONARY AWARDS SCHEMES FOR THE 2015/16 ACADEMIC YEAR

4.1 School Clothing Grant Policy

4.2 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.

4.3 A 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.

4.4 A copy of the draft policy appears at Appendix 1.

5 Budget Holding Lead Professional Scheme for Attendance Support

5.1 This scheme is regarded as being an extremely effective form of targeted intervention that has had a positive effect on the lives of the children supported. No changes are proposed to this scheme which is set out in Appendix 2.

6 16-19 Further Education Travel Policy

6.1 The Council has power under section 508C of the Education Act 1996 to make such school travel arrangements as it considers necessary for the purpose of facilitating a child's attendance at any relevant educational establishment in relation to the child. This power relates to children who are not eligible children within the meaning of Schedule 35B to the Education Act 1996 (and in respect of whom the Council has a duty). The arrangements that may be made include payment of the whole or any part, as the Council thinks fit, of a person's reasonable travelling expenses.

6.2 No change is proposed in the Further Education Travel Policy. The proposed policy is shown at Appendix 3.

7 The Mayor's Education Award

- 7.1 The Mayor's Education Award commenced in the 2011/12 academic year. Eligible students receive grants of £400 per year paid in two tranches of £200. Approximately 2,300 applications were received and 1,400 students were supported by the Scheme in the 2013/14 academic year.
- 7.2 The MEA scheme was designed to assist student taking courses of full-time education of at least one year's duration. The scheme contributes to the Prosperous Community theme by delivering financial support to families in need, increasing the ability of their young people to take part fully in further education
- 7.3 An updated draft policy for the 2015/16 academic year is shown at Appendix

8. The Mayor's Higher Education Award

- 8.1 The MHEA scheme is designed to give awards of £1,500 to 400 students in the first year of a higher education undergraduate course. The purpose of the scheme is to mitigate the high cost associated with higher education.
- 8.2 The scheme is aimed at young people up to the age of 24, with an exception for students having had an SEN statement up to the age of 16 or 19 as necessary and for students receiving Disability Living Allowance. These two groups of students can apply up to the age of 25.
- 8.3 Over 800 applications were made for the scheme and 400 awards were offered. The first tranche of payments to eligible MHEA students was made in February 2014. The second tranche of their support will be paid in February 2015.
- 8.4 There has been no commitment to the scheme being available to new students in the 2015/16 academic year. However, an updated draft policy for the 2015/16 academic year is shown at Appendix 5 in the event that Cabinet wishes the scheme to continue and has funds to allow it to do so. Paragraphs 4. to 4.4 have been amended to ensure that the scheme has a three month application period from whenever the application period commences.

9. COMMENTS OF THE CHIEF FINANCIAL OFFICER

- 9.1 The funding for these discretionary awards is available at the level indicated in the report in the 2014/15 budget however are not budgeted beyond this, funding will need to be identified for 2015/16.
- 9.2 The Mayor's Education Award scheme has continued in to 2014/15, table 2 summarises the activity and costs of the scheme.
- 9.3 The Mayor's Higher Education Award operates for two academic year from autumn 2013, with the first payment in February 2014. The funding is sufficient to pay for 400 awards per year plus £30k administration costs. The illustration of the activity and costs are in Table 3.

Table 2: Activity and costs on Mayor's Education Award since its introduction.

Financial year	2011/12	2012/13		2013/14		2014/15		Total
Year	Jan-12 Actual 11/12 ay	Apr-12 Actual 11/12 ay	Jan-13 Actual 12/13 ay	Apr-13 Estimate 12/13 ay	Jan-14 Estimate 13/14 ay	Apr-14 Actual 13/14 ay	Jan-14 Actual	
Total eligible	650	889	1,135	1,050	1,400	1,100	1,500	
Admin cost	£0.020m	£0.020m	£0.020m	£0.020m	£0.020m	£0.020m	£0.020m	
Total cost (ie eligible x £200 per instalment)	£0.150m	£0.198m	£0.247m	£0.230m	£0.280m	£0.220m	£0.300m	
Revised Financial Year cost	£0.150m	£0.445m		£0.550m		£0.520m		£1.445m
Budget	£0.150m	£0.445m		£0.410m		£0.410m		£1.415m
Variance	0	0		+£0.110m		+£0.018m		+£0.250m

Table 3: Activity and costs on Mayor's Higher Education Award scheme

Financial year	2013/14	2014/15		2015/16	
Year	Estimated 13/14 ay	Estimated 13/14 ay	Estimated 14/15 ay	Estimated 14/15 ay	
Total eligible	400	400	400	400	
Admin cost	£0.015m	£0.015m	£0.015m	£0.015m	
Total cost (ie eligible x £750 per instalment, or £1,500 per academic year)	£0.300m	£0.300m	£0.300m	£0.300m	
Original Budget allocation	£0.630m	£0.630m		Nil	
Revised Financial Year cost	£0.315m	£0.630m		£0.315m	

10. Legal Comments

- 10.1 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).

- 10.2 This report outlines the Council's powers to make discretionary awards, for the purpose of education, in respect of specified groups of students covering schemes applicable to school age and over compulsory school age students. The schemes recommended for approval are set out in the attached appendices.
- 10.3 The Council is empowered by section 518 of the Education Act 1996 to make payments, in circumstances prescribed by regulations, to enable a person to take advantage of educational facilities that are available to them. Such payments may consist of –
- A post-compulsory education award, which may be a scholarship, an exhibition, a bursary or any other allowance.
 - Payment of such expenses of attending a community, foundation, voluntary or special school as may be necessary to enable them to take part in school activities.
- 10.4 The Local Education Authority (Post-Compulsory Education Awards) Regulations 1999 require the local authority to make an annual determination in respect of their powers to make awards to students. The Council must decide whether it wishes to operate an awards scheme and, if so, whether it will do so generally or only in respect of eligible people who satisfy criteria specified by the Council. The proposal is to recommend the Council takes up the power to make discretionary awards in respect of a number of targeted awards schemes, as set out in the Appendices 2, 4 and 5, each specifying the applicable criteria.
- 10.5 The determination referred to in paragraph 10.4 has to be made before the start of the financial year for which the scheme is intended to operate. This means that the Council is late in making its 2015/2016 determination and in breach of the regulatory requirement. The Regulations do not specify a consequence of late determination. In the absence of a statement to the effect that a late determination may not be made, it seems preferable for the required decision to now be taken, in order to regularise the position.
- 10.6 The Local Education Authority (Payment of School Expenses) Regulations 1999 specify that the Council may pay expenses where it is satisfied that such a payment should be made in order to prevent or relieve financial hardship. The proposed school clothing grant policy in Appendix 1 is for the payment of school clothing grants and this contains a relevant eligibility criterion concerning income.
- 10.7 The Council has a separate discretion under section 508C of the Education Act 1996 to make travel arrangements for children other than eligible children. The Council may make such arrangements in relation to a child where it considers them necessary to facilitate the child's attendance at any relevant educational establishment in relation to the child. The travel policy in Appendix 3 outlines the Council's approach to the exercise of its discretion.
- 10.8 The proposed awards may additionally be 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 may support the giving of grants to community groups, provided there is a good reason to do so. There may be a good

reason for giving a grant if it is likely to further the Council's sustainable community strategy under section 4 of the Local Government Act 2000, which is contained within the Tower Hamlets Community Plan.

- 10.9 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". This is not a case where competition is appropriate and the authority must take advice from officers to ensure the duty is met. The proposed policies in appendices 1 to 5 identify the bases for the awards and the report outlines the number of awards which may be made within the budget for each award.
- 10.10 Most of the proposed awards policies contain a requirement for residence in Tower Hamlets as part of the eligibility criteria. This will apply equally to UK and other nationals and there is a good argument that it does not give rise to any indirect form of discrimination contrary to Article 49 of the Treaty Establishing the European Economic Community.
- 10.11 Under section 149 of the Equality Act 2010, before making a decision to opt in or out of discretionary awards and before determining the policies on which it will make discretionary payments, 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. Information is provided in section 11 of the report relevant to these considerations. Age is a protected characteristic within the meaning of the Equality Act 2010, but the grant of education awards is not considered to be the subject of an anti-discrimination obligation under the Act.

11. ONE TOWER HAMLETS CONSIDERATIONS

- 11.1 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.
- 11.2 Equalities Analyses were carried out on the Discretionary Awards Schemes shown in this report for the 2012/13 and 2013/14 academic years and the scheme were 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 2014/2015 has not suggested any adverse equalities impact. In the circumstances the last equalities analysis is still considered to be relevant and is appended for consideration.

12. SUSTAINABLE ACTION FOR A GREENER ENVIRONMENT

- 12.1 There are no SAGE issues arising from this report.

13. RISK MANAGEMENT IMPLICATIONS

13.1 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.

14. CRIME AND DISORDER REDUCTION IMPLICATIONS

14.1 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.

15. BEST VALUE

15.1 The Directorate is concentrating its financial resources on the poorest and most vulnerable members of its community, and tailoring its scheme to ensure that disadvantaged young people are taken into consideration. The assistance given at further education level will increase students' ability to take part in higher education and that given at higher education level will assist young residents to find employment.

15. APPENDICES

- Appendix 1 – proposed School Clothing Grant Policy 2015/16
- Appendix 2 – proposed Budget Holding Lead Professional Scheme for Attendance Support 2015/16
- Appendix 3 – proposed 16 to 19 Further Education Transport Policy 2015/16
- Appendix 4 – proposed Mayor's Education Award 2015/16
- Appendix 5 – proposed Mayor's Higher Education Award 2015/16
- Appendix 6 - Data on the spread of discretionary awards across the Borough in the 2014/15 academic year
- Appendix 7 – Equality analysis

**Local Government Act, 1972 Section 100D (As amended)
List of "Background Papers" used in the preparation of this report**

Brief description of "background papers"	Name and telephone number of holder and address where open to inspection.
None	N/A