


<b>Commissioner Decision Report</b> 17th June 2015	 <b>TOWER HAMLETS</b>
<b>Report of:</b> Stephen Halsey	<b>Classification:</b> [Unrestricted or Exempt]
<b>Zero Emissions Network Project</b>	

<b>Originating Officer(s)</b>	David Tolley
<b>Wards affected</b>	Spitalfields and Banglatown
<b>Key Decision?</b>	No
<b>Community Plan Theme</b>	<b>A Healthy and Supportive Community</b>

### Executive Summary

The Zero Emissions Network Project is a partnership project amongst Hackney, Islington and Tower Hamlets boroughs, to improve local air quality. The project was awarded funding from the Mayor of London's Cleaner Air Fund 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 grant budget is £84,725. The grants are awarded following application to the Council by, a panel of officers, following technical evaluation of the bids.

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 £1000 to implement reduction measures such as installing cycle racks to encourage staff to travel sustainably. To date LBTH has received 5 applications since the commencement of the project.

### Recommendations:

The Commissioners are recommended to:

1. Agree to implement a grant scheme, as outlined in Appendix 1, for promoting sustainable travel options/low emission technology for businesses in the borough.
2. Authorise the Service Head Community Service, or delegate, 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 budget for such grants of £18,000.

## **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 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 human health related pollutants (Nitrogen Dioxide and Particulate Matter). We therefore have a duty to produce an Air Quality Action Plan which details measures on how we are working towards achieving the objectives. In response to this statutory requirement we are implementing a number of projects in the borough to reduce air pollution and greenhouse gases.
- 3.2 One of the projects we are implementing is a business engagement programme in Spitalfields 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. This project is 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.
- 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 £1000 and that the total amount available for grants will be £18,000. 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.
- 3.5 The funding allocation to Tower Hamlets is £84,725, through the life of the project which is expected to end in March 2017 and has been used to recruit a Zero Emissions Network Officer employed under LBTH terms and conditions. This was made available to the Council in the financial year 13/14.
- 3.6 All boroughs have match-funded the contributions by the London Mayor's Air Quality Fund 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 - £46k
  - Local Implementation Plan - £36k
  - Contribution through existing projects in the project area - £10k (Cycle Survey)
- 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. Funding of £84,725 has been provided from the Mayor of London's Cleaner Air Fund which has been 'match funded' by the borough as set out in paragraph 3.6. The funding is for the purposes of implementing a business engagement environmental sustainability programme as part of a joint Boroughs partnership project which is in place up to March 2017. This report seeks the approval of the Commissioners to delegate to officers the ability to issue grants of up to £1,000 from the 2015/16 £18,000 allocation. The grants will be made to businesses in the borough for the purposes of implementing measures to reduce air pollution.

#### **5. LEGAL COMMENTS**

- 5.1 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).

- 5.2 To the extent that the Commissioners are exercising powers which would otherwise have been the Council's, there is a need to ensure the Council has power to make the grants in question. The Commissioners will wish to be satisfied that this is the case. It appears from the information provided in the report that the grants are capable of being supported under the Council's powers and, in this regard, the powers set out below appear particularly relevant.
- 5.3 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. It is understood that the Council has designated Tower Hamlets an air quality management area under section 83 of the Environment Act 1995 and that it has made an air quality action plan under section 84 of that Act in pursuit of the achievement of air quality standards and objectives. It is implicit in these requirements that the Council should have power to implement the action plan. To the extent that the report proposes the giving of grants as outlined in Appendix 1 to further the objects of the air quality action plan, this would seem to be within the Council's functions.
- 5.4 By virtue of section 111 of the Local Government Act 1972, the Council has power to do anything which is calculated to facilitate, or is conducive or incidental to, the discharge of any of its functions. This may involve expenditure, borrowing or lending of money or the acquisition or disposal of any property or rights. The incidental power may support the proposed grants regime to the extent that the giving of grants is not itself explicitly provided for in the air quality action plan.
- 5.5 When considering whether or not to make funds available for the purposes specified, the Council should consider whether or not this will be 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).
- 5.6 Having regard to the best value duty, the Commissioners should be satisfied that grants will have an appreciable effect in achieving the air quality action plan. In this regard, it is noteworthy that applicants must demonstrate a percentage change in sustainable forms of travel. Measures should be imposed to ensure delivery of projects in line with the application and any requirements of the approval or the scheme in general. The Council's position should be protected in the event of non-delivery. Robust monitoring requirements should be put in place and appropriate performance related payment mechanisms introduced into the terms of any grant award. These should be reflected in a grant agreement.

- 5.7 When determining its approach to a new grant scheme, 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 don't (the public sector equality duty). Information relevant to these considerations is set out in the One Tower Hamlets section of the report.
- 5.8 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 may indicate 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.
- 5.10 All the proposed grants appear to fall under the *de minimis* threshold for the purposes of European restrictions on State aid.

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

- 7.1 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.

## **8. RISK MANAGEMENT IMPLICATIONS**

- 8.1. 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.

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

9.1 No crime and disorder reduction implications

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

10.1 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 transboundary 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.

## **11. Safeguarding Implications**

11.1 LBTH is required to demonstrate compliance with Part IV of the Environment Act 1995 and avoid potential penalties and improve public health

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## **Linked Reports, Appendices and Background Documents**

### **Linked Report**

- None

### **Appendices**

- Appendix 1 ZEN Project Briefing Note

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

- None

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

- David Tolley