


Commissioner Decision Report 30 th September 2015	
Report of: Service Head, Culture, Learning and Leisure	Classification: Unrestricted
Greenwich and Docklands International Festival	

Originating Officer	Shazia Hussain
Wards affected	All
Key Decision?	No
Community Plan Theme	One Tower Hamlets

Executive Summary

The Greenwich and Docklands International Festival (GDIF) took place during late June and early July 2015. The nature of the payment relating to the event has been the subject of discussion regarding whether it is a grant and as such whether it falls within the remit of the commissioners or whether it should be seen as a contractual payment that is dealt with through the council's procurement procedures. The view has been taken that it is a grant..

Recommendations:

The Commissioners are recommended to:

1. Approve the payment of £25,000 to the GDIF event organisers for this year's event.
2. Note that a report setting out the proposed arrangements for future events will be produced for consideration by the end of December 2015.

1. REASONS FOR THE DECISION

- 1.1 The Council has a longstanding commissioning relationship with the Greenwich and Docklands International Festival (GDIF). The festival is a high profile international festival and a major opportunity for the promotion of both South and East London as visitor destinations and cultural centres of excellence. As such it is consistently funded by the Arts Council as a cross borough festival, this year taking place in Greenwich, Tower Hamlets and Newham.
- 1.2 The funding for commissioning this festival sits in the core budgets of the Arts, Parks & Events service. The funding is made available when the programme for the year has been agreed and is subject to contract. The Borough has a rolling Service Level Agreement (SLA) covering the GDIF and a standing commitment to support it.
- 1.3 The GDIF took place during late June and early July 2015. Payment would normally be made on the basis that there is a rolling SLA. However, there has been some discussion regarding whether it is actually a grant and as such whether it falls within the remit of the commissioners. As the payment is due and outstanding, it is considered that the matter should be considered a grant so that a decision is taken now to avoid further delay. A report setting out the future arrangements will be produced by the end of December 2015.

2. ALTERNATIVE OPTIONS

- 2.1 The alternative option would be not to approve the payment, but as the event has already taken place based on previous contractual arrangements Failure to therefore make the grant leaves the Council open to a claim for breach of contract.
- 2.2 Non-payment of the funding may also affect future funding for the event, including from the Arts Council and could result in reputational damage for the council.

3. DETAILS OF REPORT

- 3.1 As part of a commitment to bring high quality, accessible arts and cultural activity to diverse audiences and first time attendees, the Council's Arts & Events team seeks to secure world-class events in the borough. The Arts & Events team have commissioned (GDIF) for a number of years and in the current year commissioned GDIF to deliver the following activity within the borough for the fee of £25,000:

1. A performance in Bethnal Green Gardens of "451" by Periplum and which took place on 27th June 2015

2. Dancing City Isle of Dogs. There were 15 outdoor presentations of dance from twelve companies and which took place between 29th June and 4th July 2015.

3.2 GDIF specialises in bringing international outdoor performance to London and is recognised as a leader in this field, with GDIF Director, Bradley Hemmings, being a joint programmer of the 2012 Paralympics opening ceremony. GDIF secures investment from a variety of sources, including the Arts Council, private companies and other East London boroughs, which allows events within the context of the festival to be commissioned at a lower cost to the Council.

3.3 The council has directly commissioned GDIF to secure benefits going beyond technical event production. These benefits are substantial as set out below:

- Securing local elements of the festival, which also takes place in Greenwich and the Queen Elizabeth Olympic Park, helps to put Tower Hamlets on the cultural map as a place to experience cutting edge international outdoor theatre.

- Promotion of the event at a sub-regional, regional, national and international level by being part of the events guide and Visit London (London tourist board) activity.

- The festival is supported by and forms part of the Great Britain campaign showcasing the best of what the UK has to offer to encourage people to visit, do business, invest and study in the UK. The Great Britain campaign is an ambitious international promotional campaign, uniting the efforts of the public and private sector to generate jobs and growth for Britain. This Festival therefore provides added value to the Council in its efforts to attract inward investment and create local jobs.

- Demonstrating support for the Festival builds working relationships with neighbouring Boroughs who do the same and with organisations such as the Arts Council who also support this initiative.

3.4 The council's annual revenue budget includes £25,000 for the festival and this will be used to make the payment to the event organisers.

3.5 For future events, the intention is to review the existing arrangement to ensure compliance with the council's procurement policy and procedures and its best value duty. A report setting out the proposed arrangements for future events will be produced by the end of December 2015.

4. COMMENTS OF THE CHIEF FINANCE OFFICER

- 4.1 There is sufficient revenue budget to make the £25,000 payment in relation to the Greenwich and Docklands International Festival.

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 recommended to be made in this report are capable of being supported under the Council's powers and, in this regard, the powers set out below appear particularly relevant.
- 5.3. The proposed grants may be supported under a variety of the Council's statutory powers. For example, the Council has power-
- To support the provision of entertainment in the borough under section 145 of the Local Government Act 1972
 - To secure sufficient educational and recreational leisure-time activities for young people in the borough under section 507B of the Education Act 1996
- 5.4. It should also be noted that the grant has already effectively been promised (see paragraph 1.3 of the report). Failure to therefore make the grant leaves the Council open to a claim for breach of contract.
- 5.5. 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 power 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. The Council's strategy is set out in the Tower Hamlets Community Plan, which includes "One Tower Hamlets" as a cross-cutting theme. The eligibility criteria for these grants include a requirement that funded activities contribute directly to

priorities in the Tower Hamlets Community Plan or the Council's Strategic Plan (which is concerned with delivery of the Community Plan).

5.6. The Council has a duty under the Local Government Act 1999 to make arrangements to secure continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness. This is referred to as the Council's best value duty and the following matter is relevant to discharge of the duty –

- Applications are assessed against pre-defined criteria designed to ensure benefits are delivered in Tower Hamlets. Based on this the Council should be able to demonstrate a direct benefit accrued from the money spent under each grant.

5.7. There should be a grant agreement for each grant and provision made to ensure delivery of the projects in line with the application and approval and in the event of non-delivery to protect the Council's position. Such is already in place in respect of this grant. Robust monitoring requirements need to be in place and appropriate performance related payment mechanisms introduced into the terms of any grant award.

5.8. 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.

5.9. The proposed grant falls under the *de minimis* threshold for the purposes of European restrictions on State aid.

6. ONE TOWER HAMLETS CONSIDERATIONS

6.1. The Greenwich and Docklands International Festival is an annual cultural highlight in the borough that brings residents together in the open and supports the council's One Tower Hamlets priority.

7. BEST VALUE (BV) IMPLICATIONS

7.1 The council will be reviewing its current arrangements for commissioning the GDIF to ensure it meets its best value duty.

8. SUSTAINABLE ACTION FOR A GREENER ENVIRONMENT

8.1 There are no direct (SAGE) implications arising from this report.

9. RISK MANAGEMENT IMPLICATIONS

- 9.1 There is a risk that the event organisers could pursue the council for non-payment as the event has already taken place. This will be mitigated if the recommendation to approve the payment is made.

10. CRIME AND DISORDER REDUCTION IMPLICATIONS

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

11. SAFEGUARDING IMPLICATIONS

- 11.1 There are no direct safeguarding implications arising from this report.

Linked Reports, Appendices and Background Documents

Linked Report

- None

Appendices

- None
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Background Documents – Local Authorities (Executive Arrangements)(Access to Information)(England) Regulations 2012

- None

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