


<b>Commissioner Decision Report</b>  30 <sup>th</sup> September 2015	 <b>TOWER HAMLETS</b>
<b>Report of:</b> Service Head, Culture, Learning and Leisure	<b>Classification:</b> Unrestricted
<b>The East End Film Festival 2015</b>	

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

### Executive Summary

The East End Film Festival (EEFF) took place between between 1<sup>st</sup> and 12<sup>th</sup> 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 £5,000 to the EEFF 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 relationship with the East End Film Festival (EEFF). The EEFF was started by the Council in 2001 and it has now developed into a fully-fledged independent festival with an excellent local and international reputation.
- 1.2 The funding for commissioning this festival forms part of the core budgets of the Arts, Parks and Events service and comes from income generated from filming activity in the borough. The festival is an annual event which takes place in a variety of venues within the borough and brings a programme of independent films otherwise not readily available and offers showcase opportunities for local filmmakers with a good selection of short film programming. There is also a workshop programme and which offers insight into technique and how to break into the commercial film market.
- 1.3 The EEFF took place between 1<sup>st</sup> and 12<sup>th</sup> July 2015. Payment would normally be made on the basis that there is a rolling Service Level Agreement (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, and could result in reputational damage for the council.

## **3. DETAILS OF REPORT**

- 3.1 The Council has a longstanding relationship with the EEFF. The EEFF was started by the Council in 2001 and it has now developed into a fully-fledged independent festival with an excellent local and international reputation.
- 3.2 The EEFF was started as a vehicle for supporting and encouraging new film makers who were based in the borough. EETF still retains this as a core part of its mission with 533 films submitted for this year's festival, many from this borough.
- 3.3 Funding is made available when the programme for the year has been agreed and is subject to contract. Contract negotiations for this SLA were suspended

until the matter could be considered by the Commissioners on the basis that the funding is considered to be a grant.

- 3.4 The Festival is seen as an important event for the borough and although the festival has become independent in continuing to support it the Council helps it lever in more funds and this benefits the wider resident audience who gain insight into film making as well as access to the film industry in a way not normally available to inner urban communities.
- 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 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 with the Arts, Parks and Events service to fund the £5,000 payment in relation to the East End Film 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 EEFF is an annual cultural highlight in the borough that brings residents together, supports and encourages collaborations and offers opportunities for volunteering and professional development. The Festival is seen as an important event for the borough and in continuing to support it the Council helps it obtain more funds and this benefits the wider resident audience who gain insight into film making as well as access to the film industry in a way not normally available to inner urban communities.

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

- 7.1 The council will be reviewing its current arrangements for commissioning the EEFF 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

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

- None

**Officer contact details for documents:** Steve Murray 020 7364 7910