


Commissioner Decision Report 2 nd December 2015	 TOWER HAMLETS
Report of: Aman Dalvi Corporate Director Development & Renewal	Classification: Unrestricted
Request to Commissioners to delegate grants decisions in the Housing Options Service	

Originating Officer(s)	Jackie Odunoye/Rafiqul Hoque
Wards affected	All
Key Decision?	No
Community Plan Theme	A Great Place to Live

Executive Summary

This report seeks Commissioners' agreement to delegate authority to the Corporate Director of Development & Renewal or his nominee to agree one-off removal payments to service providers to enable under occupying tenants to downsize. This will release much needed family size accommodation that can be allocated to other applicants on the housing list and tackle the severe overcrowding that exists in Tower Hamlets.

Recommendations:

The Commissioners are recommended to:

1. Delegate the decision making to the Corporate Director of Development & Renewal to define and agree rates for incentives to be made available to tenants wanting to downsize in order to tackle the severe overcrowding that exists in the borough.
2. Delegate to the Corporate Director of Development & Renewal or his nominee the power to award the agreed incentive.

1. REASONS FOR THE DECISIONS

- 1.1 The Council receives DCLG grant of £75,000 each year to tackle overcrowding. The funding has been used to assist council tenants to downsize and release much needed family size homes for allocation to overcrowded tenants on the housing list. Presently we are only providing removal and, where necessary, packaging service for tenants moving from 3 bedrooms or larger size homes. The maximum grant paid per move including packing is £500. The spend against this budget so far this year is £4,327; last year it was £10,362, and the year before it was £16,297. Tenants are usually quite specific in terms of their housing preferences, and some of the vulnerable tenants, won't move without a removal and packaging service

being provided for them.

- 1.2 The demand for social housing in Tower Hamlets is significant with over 19,000 applicants currently registered on the housing list. Over 40% of applicants registered for housing are assessed as being overcrowded under the allocations scheme, many severely overcrowded. Therefore, it is imperative that housing opportunities are maximised for all applicants whether they be overcrowded or live in homes that are under occupied.

2. ALTERNATIVE OPTIONS

- 2.1 The alternative is not to provide any financial assistance by way of removal expense to council tenants wishing to downsize, which will impact on the number of under occupying tenants that move and will increase the length of time some overcrowded applicants have to wait on the housing list for rehousing.

3. DETAILS OF REPORT

- 3.1 The demand for social housing in Tower Hamlets on 2 November 2015 exceeded 19,000 applicants. Over 40% of these applicants - 7045 registered on the housing list are categorised as being overcrowded. A significant number of them - 1291 are considered severely overcrowded lacking 2 or more bedrooms. In contrast, approximately 2000 homes become available to let each year, including relets and new built homes developed by registered providers operating in Tower Hamlets. Clearly, there is inadequate supply to meet the huge demand in the borough for social housing and to tackle the level of overcrowding that exist.
- 3.2 There are 1018 social tenants registered on the housing list classified as under occupying their current homes and assessed as requiring smaller size accommodation, of these 644 tenants are occupying a home with 3 or more bedrooms.
- 3.3 In order to maximise housing opportunities and ensure under occupied homes are released for letting the allocation scheme gives high priority to tenants that registered to downsize. They are placed in Band 1, the highest priority band. Overcrowded applicants are given high priority and placed in Band 2, and are offered advice and assistance on a range of housing options including, homeownership, knock-through, mutual exchanges etc.
- 3.4 The 2013 - 2015 Overcrowding and Under Occupation Statement was approved by Cabinet in July 2013 and has three strategic aims for tackling and reducing overcrowding:
 - Reduce overcrowding in existing housing stock, and put in place preventative measures to reduce future overcrowding
 - Continue to increase the overall supply of housing for local people including a range of affordable, family housing

- Prevent overcrowding and homelessness by providing access to the right housing options at the right time including a set of measures designed to reduce under occupation.

3.5 Under the Overcrowding and Under Occupation Statement the target is to help around 150 under occupying tenants to move to smaller size accommodation; and rehouse a minimum of 860 overcrowded tenants annually.

3.6 In addition to the work under taken by the local housing office, dedicated staff resource is allocated from Lettings to work with tenants who are overcrowded and under-occupying their homes. Regular home visits are carried out and appropriate advice and assistance given to maximise rehousing opportunities for them and where appropriate individual rehousing plans are agreed and implemented. They are assisted with the bidding process to make sure that they are assisted with suitable offers. Homes released by under occupying tenants are offered as chain lets to overcrowded tenants.

4. COMMENTS OF THE CHIEF FINANCE OFFICER

4.1 This report requests that the Commissioners agree to delegate authority to the Corporate Director of Development & Renewal or his nominee the to agree one-off payments for removal expenses to enable under occupying tenants to downsize.

4.2 As identified in the report, there is a severe problem with overcrowding in the Tower Hamlets, and these removal payments help to release family size accommodation for allocation to other applicants on the housing list.

4.3 This expenditure will be funded from within existing Housing Options budgets, specifically from a DCLG grant of £75,000 that the Council receives each year. The Overcrowding and Under Occupation Statement includes a target of helping 150 under-occupying tenants to move to smaller accommodation and rehouse a minimum of 860 overcrowded tenants annually, however, the spend against this budget so far this year is £4,327, therefore the full amount of budget provision may not be needed in 2015/16.

4.4 It is understood that the removal expenses are paid directly to one of three removal companies and are not paid to the individual tenants.

5. LEGAL COMMENTS

5.1 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.

- 5.2 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.
- 5.3 One of the key distinguishing features between a grant and a contract for services is that with a contract for services the recipient of the money has a pecuniary interest beyond that in the receipt of the money itself. This is often in the form of taking a profit from the received.
- 5.4 In this case, the Council is not under a legal duty to provide one-off removal payments to service providers to enable under occupying tenants to downsize. The payments are discretionary and therefore considered to be a grant.
- 5.5 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). Para 4(iii) of the Directions provides that the Council shall comply with any instructions of the Commissioners in relation to the exercise of the functions listed in paragraph B which includes the making of grants. The Council shall also provide such information and assistance as the Commissioners may require for the purposes of exercising these functions. It is therefore open to the Commissioners to make arrangements for the decisions regarding these grants to be taken by the Corporate Director Development & Renewal or his nominee.
- 5.6 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. In that regard, the proposed grants would be supported by the Council's 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 would support the payment of one-off removal payments to service providers to enable under occupying tenants to downsize.

- 5.7 When considering whether or not to delegate the power to the Corporate Director Development & Renewal to make these payments, consideration should be given to the arrangements in place to ensure that the power that is exercised is 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). Paragraph 9 below considers this in further detail.
- 5.8 It is also noted that the money for the grants is funded from a DCLG grant of £75,000 that the Council receives each year to tackle overcrowding. This funding has been used to assist council tenants to downsize and release much needed family size homes for allocation to overcrowded tenants on the housing list.
- 5.9 The proposed grants would falls under the *de minimis* threshold for the purposes of European restrictions on State aid.
- 5.10 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.

6. ONE TOWER HAMLETS CONSIDERATIONS

- 6.1. The impact of overcrowding is always most acutely felt by young children. Independent research has shown that the health, education and well-being of children growing up in overcrowded homes are all markedly lower. For example, youngsters sharing three or four to a bedroom are much more likely to suffer from infectious diseases. Their performance in school is affected by the lack of quiet space to study and having their sleep disrupted by other siblings at night. The lack of private space is particularly unfair on teenage girls sharing a bedroom with their brother.
- “Living in overcrowded accommodation can, both directly and indirectly, have a devastating effect on families. Older children may spend more time outside the home, on the streets, simply to find privacy and space. Overcrowding may exacerbate stress, depression and in the worst cases domestic violence or breakdown of relationships.”* (Tackling overcrowding in England, An action plan – CLG Dec 2007).
- 6.2. According to the demand statistics of 2 November 2015 73% of Asians, 10 % white and 9% of blacks are assessed as living in overcrowded housing. In contrast 30% of Asians, 44% White and 8% black social tenants are assessed as under-occupying their current tenancies. In order to ensure this disparity is

addressed as far as possible, it is essential to maximise housing opportunities for all residents in the borough, particularly those living in overcrowded conditions to mitigate the impact overcrowding living conditions has on health and education.

- 6.3. Available homes are offered through the choice based lettings scheme operated by the borough. Residents bid for them and are considered in accordance with their priority on the housing list as assessed under the Allocation Scheme.

7. BEST VALUE (BV) IMPLICATIONS

- 7.1 The council will not be able to maximise housing opportunities for its residents and make best use of the limited resource that is available.

8. SUSTAINABLE ACTION FOR A GREENER ENVIRONMENT

- 8.1 N/A

9. RISK MANAGEMENT IMPLICATIONS

Under the Allocations scheme overcrowded applicants and tenants under occupying their social tenancies are prioritised for rehousing and will assist accordingly. There is also scope within the Allocation Scheme to address any risk that might arise taking into consideration extenuating circumstances and ill health of housing applicants registered on the housing list. There is a risk that this grant may be lost, in which case the council will have to explore if alternative finance can be made available to continue providing incentives to under occupying tenants.

10. CRIME AND DISORDER REDUCTION IMPLICATIONS

- 10.1 N/A

11. SAFEGUARDING IMPLICATIONS

- 11.1 N/A

Linked Reports, Appendices and Background Documents

Demand and Lets statistics available on Homeseekers website
www.thhs.org.uk

2013-15 Overcrowding and Under Occupation Statement is available on Council's website www.towerhamlets.gov.uk

Linked Report

- None

Appendices

None

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

- None

Officer contact details for documents:

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