

<b>Commissioner Decision Report</b> 1 March 2016	
<b>Report of:</b> Zena Cooke, Corporate Director Resources	<b>Classification:</b> Unrestricted
<b>Tower Hamlets ESF Community Grants Programme 2016/19</b>	

<b>Originating Officer(s)</b>	Steve Hill, Everett Haughton
<b>Wards affected</b>	All wards
<b>Key Decision?</b>	Yes
<b>Community Plan Theme</b>	A Prosperous Community / A Safe and Cohesive Community / A Healthy and Supportive Community

### Executive Summary

The Council provided match-funding and was an active partner in 2011- 2015 European Social Fund (ESF) Co-financing Programme which focussed on delivering employability skills to disadvantaged individuals in Tower Hamlets.

The above programme delivered excellent results and it is therefore proposed that the council also invests in the 2016-2019 Programme.

The council's financial commitment will be £225,000 per year over 3 years. This funding attracts an equal contribution from the European Social Fund thus making a total scheme budget of £1.350m over the 3-year programme period.

London's ESF Programme is administered by the Greater London Authority. However, the day-to-day management and administration of the programme will be undertaken by London Councils.

### Recommendations:

The Commissioners are recommended to:

1. Approve the council's match-funding contribution of £225,000 to be made to London Councils for each of the 3 financial years 2016/17, 2017/18 and 2018/19. The financing mechanism is set out within paragraphs 3.2 & 3.3.
2. Note that the Council will enter into formal contractual arrangements with London Councils to deliver the Tower Hamlets ESF Community Grants Programme 2016/19: as set out in paragraph 3.2 & 3.3.
3. Delegate the authority for the awarding of grants to organisations to the Appraisal Panel which will include the Director of Resources or her nominee as set out in paragraph 3.17.

## **1. REASONS FOR THE DECISIONS**

- 1.1 Tower Hamlets ESF Community Grants Programme will increase the range of skills development and employment opportunities for local people, particularly those furthest from the labour market.
- 1.2 The Programme will also provide a valuable source of funding to local voluntary & community sector organisations. The programme will target those organisations that are not currently supported with council grants to provide employment and skills training. This will help to provide opportunities for organisations that do not already receive funding from the council and will broaden the reach as well.

## **2 ALTERNATIVE OPTIONS**

- 2.1 If proposals for the new programme are not agreed, other options are outlined below.
- a) To not approve the Tower Hamlets ESF Community Grants Programme and therefore not have a programme.
  - b) To fund an alternative programme utilising only the Council's funding.
- 2.2 The alternative options are not recommended as they reduce the total resource available for the borough and its residents and will be more costly to administer.

## **3. DETAILS OF REPORT**

- 3.1 London Councils has previously run a successful Tower Hamlets ESF Community Grants Programme, which closed in November 2014. The following information sets out some of the key performance outcomes / achievements of the previous Tower Hamlets ESF Community Grants Programme.

### **Number of organisations participating Programme:**

- A total of 187 local organisations
- Average of 62 organisations a year

### **Number of participants/beneficiaries:**

- 2539
- Average of 846 participants per year over three years

### **Number of accredited training and normal training**

- 297 accredited training outcomes (basic skills and ICT)
- 766 NVQ level 1-3 training outcomes
- 71 NVQ level 4 or above training outcomes (higher education qualifications)

### **Number of participants reaching capacity building**

- 919 participants moving into further education or training (50%)
- 1637 participants received information, advice and guidance (IAG) (89%)
- 433 participants received ESOL help (24%)
- 581 received help with literacy and numeracy (32%)
- 1064 participants received work readiness training (58%)

### **Numbers into employment**

- 299 (including paid apprenticeships/placements) (16%)

3.2 London Councils have been successful in securing ESF funding for the new ESF programme to run employment programmes on behalf of the 33 London Boroughs. As part of the new ESF Programme £675,000 has been secured specifically for the London Borough of Tower Hamlets to run a 3-year Community Grants Programme covering the period 2016/17 to 2018/19. London Councils are responsible for Programme Managing ESF Programmes in the council will therefore enter into contractual arrangements with London Councils to manage the Tower Hamlets Scheme.

3.3 The council is therefore required to provide a pound-for-pound match of £675,000 to London Councils making a total scheme budget of £1.350m over the 3 years. It is proposed that the council utilises funds from its Corporate Match Funding budget to finance its contribution. London Councils will manage and distribute the funds on behalf of the European Social Fund (ESF). The amount represents a programme size of £450,000 per year.

3.4 The new programme falls within Investment Priority 1.4 to address the root causes of poverty which create barriers to work so more people move closer to or into employment. It is intended that there will be 3 bidding rounds: one during each year of the programme. Organisations will be able to apply for a grant of up to £20,000 during each bidding round.

### **Target Groups**

3.5 ESF money in London should generally be targeted at the economically inactive and those who are long term unemployed, particularly groups facing multiple barriers to entering the labour market and have particularly low levels of employment, including, people with long term health conditions and disabilities, women, BAME groups, older people, lone parents and disadvantaged families or workless households.

3.6 Rather than simply treating the symptoms, the new ESF programme will help to address the root causes of poverty that are barriers to work and so help more people move closer or into employment. The nature of and issues faced by the most disadvantaged means that barriers to work have to be tackled in a holistic and integrated way.

3.7 Outreach activities will be important to reach many in the target group. The programme will implement integrated packages of support that address gaps in

provision to disadvantaged groups and reach those who are not currently receiving support. The aim of this priority is to help tackle inactivity, particularly by helping disadvantaged groups overcome barriers, improve their employability and move towards employment.

- 3.8 The barriers faced by the target group may include:
- caring responsibilities
  - debt and money management
  - digital exclusion
  - drug and alcohol dependency
  - educational attainment (particularly lack of basic literacy and numeracy and English for speakers of other languages skills)
  - family, parenting and relationship problems
  - health problems (including mental health)
  - gangs
  - homelessness
  - learning and or physical disabilities
  - life skills
  - offending
- 3.9 An indicative range of activities could include one or more of the following being provided to support individual beneficiaries.
- basic skills and ESOL training;
  - money management and advice and financial literacy programmes in order to address deep seated debt issues which make moving from benefit into work more challenging;
  - digital and internet literacy courses to aid job searching, access to benefits and progress in work
  - first contact engagement activities (for example, arrangement events in places people feel comfortable to visit)
  - local networks and groups to support people to get a job or access learning to provide
  - people providing a safe environment and peer support
  - softer skills development
  - volunteering, which is generally recognised in general terms as a good way to re-engage those furthest from the labour market

### **Bidding Rounds**

- 3.10 The first bidding round will be launched in late April 2016, with subsequent rounds being launched in April 2017 and April 2018.
- 3.11 Workshops will take place to promote the programme and go through the application process. Project delivery will last for nine months, with three months given for projects to close their project and submit final paperwork to London Councils. London Councils has the responsibility for:
- publicising the availability of grants
  - managing application and selection processes

- providing support to successful applicants
  - managing funding on behalf of the local authorities in London and ESF
  - making payments to funded organisations
  - monitoring funded organisation
  - any audit requirements by funders and being audited by DWP.
- 3.12 All bids submitted for funding will be carefully assessed by London Councils (against the criteria set out in the guidance and the tender form). Projects will be assessed in terms of outputs, track record and value for money.
- 3.13 Once London Council assessors are satisfied that the project and organisation is eligible for support, the rest of their application will be scored by awarding points against each of the assessment questions. Each bid will be scored separately by two London Council assessors. The bid form sets out the points available for each part of each question
- 3.14 Applications will be subject to a minimum quality threshold on the application as a whole: Projects that score lower than the minimum quality threshold will not be funded, even if there was sufficient funding remaining.
- 3.15 Following scoring, an appraisal panel will be convened to assess each project on the criteria outlined above. The panel will comprise a senior representative from Tower Hamlets Council and London Councils.
- 3.16 The appraisal panel will consider each bid in score order; taking into account further factors such as value for money and the project's fit within the strategic framework set out under the co-financing plan. The appraisal panel will also work to ensure that projects funded under the programme collectively target a whole range of target groups.
- 3.17 In relation to the processes and arrangements set out in paragraphs 3.12 - 3.16 above, the Commissioners are asked to delegate the approval of grant awards to organisations to the Appraisal Panel which will include the Director of Resources or her nominee.
- 3.18 Once organisations have been notified of the outcome of the application, all successful applicants will be invited to a compulsory workshop. The purpose of the workshop will be to go through in detail, the ESF requirements, monitoring arrangements and the claims process. All successful applicants will also be assigned a project officer, who will be responsible for monitoring the project (project visits to check financial and participant paperwork and view training taking place).

#### **Roles and Responsibilities**

- 3.19 The following table outlines the main roles and responsibilities of the London Councils and LBTH Teams.

<b>Task</b>	<b>London Councils ESF Team</b>	<b>LBTH Programme Team</b>
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<b>Task</b>	<b>London Councils ESF Team</b>	<b>LBTH Programme Team</b>
<b>Specification</b>	<ul style="list-style-type: none"> <li>• ESF compliance check</li> <li>• Ensuring alignment to local, regional and national policy and strategies</li> <li>• Provide guidance and finalise specification</li> </ul>	<ul style="list-style-type: none"> <li>• Complete specification</li> </ul>
<b>Procurement</b>	<ul style="list-style-type: none"> <li>• Produce prospectus</li> <li>• Promote opportunity</li> <li>• Hold workshops</li> <li>• Provide application portal</li> <li>• Scoring</li> <li>• Recommendation to panels</li> <li>• Hold Internal/external panel</li> <li>• Manage appeals</li> <li>• Due diligence checks</li> </ul>	<ul style="list-style-type: none"> <li>• Scoring</li> <li>• Attendance at panel meetings</li> </ul>
<b>Pre-contracting and contracting</b>	<ul style="list-style-type: none"> <li>• Draft and finalise funding agreements with project</li> <li>• Facilitate pre-contracting meetings</li> <li>• Design project handbook</li> <li>• Reporting database</li> <li>• Design project documentation</li> </ul>	<ul style="list-style-type: none"> <li>• Sign-off final funding agreement</li> </ul>
<b>Project start-up</b>	<ul style="list-style-type: none"> <li>• Set up reporting systems and train projects to use</li> </ul>	<ul style="list-style-type: none"> <li>• Agree final reporting requirements</li> </ul>
<b>Performance Management</b>	<ul style="list-style-type: none"> <li>• Project evidence auditing and claims processing</li> <li>• Project monitoring visits</li> <li>• Provide quarterly update to borough or lead</li> <li>• Negotiate re-profile if required</li> <li>• Provide on-going daily support</li> </ul>	<ul style="list-style-type: none"> <li>• Work with London Councils on decisions around re-profiles or contract amendments</li> <li>• Lead officer can attend monitoring visits</li> <li>• Support projects with links to local organisations</li> </ul>
<b>Payment</b>	<ul style="list-style-type: none"> <li>• Manage cash flow from Borough</li> <li>• Make payments to projects</li> <li>• Financial reconciliation</li> <li>• Claim to ESF</li> </ul>	<ul style="list-style-type: none"> <li>• Set up cash flow or payment model</li> <li>• Expedite payments in timely manner</li> </ul>
<b>Audit</b>	<ul style="list-style-type: none"> <li>• Manage audit processes performed by all financial parties including ESF and DWP</li> <li>• Quarterly reporting to ESF</li> </ul>	
<b>Programme Closure</b>	<ul style="list-style-type: none"> <li>• Evaluation review</li> <li>• Data storage</li> <li>• Exit strategy</li> <li>• Financial reconciliation</li> <li>• Legal close off</li> </ul>	<ul style="list-style-type: none"> <li>• Input into evaluation from Borough perspective</li> </ul>

#### **4. COMMENTS OF THE CHIEF FINANCE OFFICER**

- 4.1 As detailed within the body of the report, the total value of the Tower hamlets ESF Community Grants Programme is £450k per annum or £1,350k over the three year period from 2016/2019. 50% of the funding for this programme has been secured by London Councils on behalf of the borough and the remaining 50% is required to be match funded through Council resources. A specific Corporate Match Funding budget has been set aside for this purpose.

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

- 5.1 There is no strict legal definition of grant. However, 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 make payment and therefore it is a grant.
- 5.5 As it is a grant then 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).
- 5.6 The proposed grants are 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.

- 5.7 Paragraph 3.5.1 of Part 3 of the Council's constitution confers on the Chief Executive and Chief Officers the power to make decisions relating to any executive function carried out by services under their management other than "key decisions" as defined by Article 13 which are the responsibility of the Mayor or Executive itself, unless specifically delegated by the Mayor or Executive to an Executive Sub Committee or a chief officer.
- 5.8 The definition of a Chief Officer, both statutory and non-statutory, is provided in section 2 of the Local Government and Housing Act 1989 and a non-statutory Chief Officer is:
- (a) a person for whom the head of the authority's paid service is directly responsible;
  - (b) a person who, as respects all or most of the duties of his post, is required to report directly or is directly accountable to the head of the authority's paid service; and
  - (c) any person who, as respects all or most of the duties of his post, is required to report directly or is directly accountable to the local authority themselves or any committee or sub-committee of the authority.
- 5.9 Accordingly, the definition of a Chief Officer includes the Corporate Director of Resources. Ordinarily, therefore, that post holder would have the power to make decisions in respect to grants under paragraph 3.5.1 of the constitution to the extent that it concerns services under their management and it is not a key decision. However, this function has been suspended by virtue of the Directions and, as such a delegation from the Commissioners is required in order for the Corporate Director of Resources or her nominee to exercise the power.
- 5.10 When considering whether or not to delegate the power to Corporate Director of Resources 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 7 below considers this in further detail.
- 5.11 It is also noted that money for the grants is also being matched from the European Social Fund and is specifically ring fenced as part of Tower Hamlets ESF Programme. Applications will be assessed against agreed criteria and will be scored. Only those achieving the set score will go forward for further appraisal before a final decision is made.

- 5.12 The initial payment to London Council's would not fall under the *de minimis* threshold for the purposes of European restrictions on State aid. The Treaty on the Functioning of the European Union (TFEU), however, provides that certain government activities may be prohibited because they give an advantage in a selective way to certain entities, which might affect competition within the internal market. Those advantages may amount to prohibited state aid, or may be state aid which is either expressly allowed by the Treaty, or which may be allowed, dependent on the circumstances. Certain activities are considered to be compatible with EU law however and which includes "aid having a social character" (see Article 107(2)(a) of TFEU. In this case, the Tower Hamlets ESF Programme would be considered to be "aid having a social character".
- 5.13 When making 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 contribution of VCS Organisations helping to deliver One Tower Hamlets objectives and priorities are explicitly recognised and articulated within the Council's emerging VCS Strategy.
- 6.2 VCS Organisations play a key role in delivering services that address inequality, improve cohesion and increase community leadership. the deliveries of these services are real examples of 'One Tower Hamlets' in practice.
- 6.3 The opportunities offered through the Tower Hamlets ESF Community Grants Programme will play a key role in delivering the aims of One Tower Hamlets.

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

- 7.1 The ESF Community Grants Programme is co-financed by 50% of funding from the European Social Fund and 50% from the LBTH.
- 7.2 90% of the total scheme budget will be available to applicant organisations with only 10% being used to cover Programme Management costs.
- 7.3 There will be a total of 3 bidding rounds – one during each year of the programme. Organisations will be able to apply for up to £20,000 within each bidding round.
- 7.4 The level of awards to organisations will depend on the quality of their individual applications as well as the overall demand for grants during each bidding round. Additionally, the application appraisal process will take into consideration the proposed

levels of outputs and outcomes to be delivered, the organisation's track record and the bid's overall value for money rating.

- 7.5 There will also be ongoing performance management of successful projects to ensure that project interventions meet the required standards; that the evidencing of project achievements and expenditure are accurately recorded and reported. This will ensure that payments to organisations are in line with performance.

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

- 8.1 This funding scheme has a clear focus of developing employment skills for local people who are disadvantaged and perhaps facing multiple barriers to achieving sustainable employment. All participants will be encouraged to consider taking appropriate steps to minimise negative impact on the environment when taking up the opportunities offered within the programme and on an ongoing basis.

## **9. RISK MANAGEMENT IMPLICATIONS**

- 9.1 A number of different risks arise from any funding of external organisations. The key risks are:
- The funding may not be fully utilised i.e. allocations remain unspent and outcomes are not maximised
  - The funding may be used for purposes that have not been agreed e.g. in the case of fraud
  - The organisation may not in the event have the capacity to achieve the contracted outputs/outcomes
- 9.2 As part of the Programme Management arrangements, support will be provided to ensure that all risks are minimised.

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

- 10.1 The activities, services and outcomes that will be targeted through the programme will support the objectives of reducing crime and disorder. Young people involved in, or at risk of involvement in the criminal justice system will be targeted for support through the ESF Community Grants Programme.

## **11. SAFEGUARDING IMPLICATIONS**

- 11.1 As part of the application process organisations will be required to provide details of their safeguarding policy if appropriate. The Grant Agreement that funded organisations will be obliged to comply with has a number of requirements in relation to safeguarding.

- 11.2 Organisations providing services to vulnerable adults and employing staff or volunteers in a position whose duties include caring for, training, supervising or being responsible in some way for them, will be required to fully comply with all necessary safeguarding requirements.
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## **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:**

- Everett Haughton, Third Sector Programmes Manager  
Telephone Number: 0207 364 4639  
[everett.Haughton@towerhamlets.gov.uk](mailto:everett.Haughton@towerhamlets.gov.uk)