


Commissioner Decision Report 12 th April 2016	 TOWER HAMLETS
Report of: Debbie Jones, Corporate Director Children's Services	Classification: Unrestricted
Tower Hamlets' Education Award (Higher Education): Post 16 Progression - school-led programme	

Originating Officer(s)	Terry Parkin
Wards affected	All
Key Decision?	No
Community Plan Theme	A fair and prosperous community

Executive Summary

The attached paper has been considered by Cabinet. This paper provides Commissioners an opportunity to concur with Cabinet's decision in accordance with the informal discussions with Commissioners over the last two months. Both finance (Section 4 below) and legal (Section 5) advice is giving within the appended paper.

Recommendations:


The Commissioners are recommended to:

1. Note the recommendations in the Cabinet report at Appendix A
2. Concur with the decision of the Mayor in Cabinet.

REASONS FOR THE DECISIONS

Commissioners have been closely involved in the development of these revised proposals. It was required by the Commissioners and supported by the Mayor that any scheme should have a measurable impact. This scheme meets that requirement by building on the tracking work already undertaken by our schools.

It is appropriate therefore that although the decision is to utilise DSG through a school-led programme, Commissioners are advised of and concur with this arrangement. Because the Cabinet meeting is shortly before the Commissioners' meeting, a verbal update on the outcome of the Cabinet meeting will be provided by the Corporate Director of Resources.

Cabinet 5th April 2016	 TOWER HAMLETS
Report of: Debbie Jones, Corporate Director,	Classification: Unrestricted
Title of Subject Matter: Tower Hamlets' Education Award (Higher Education): Post 16 Progression - school-led programme	

Lead Member	Councillor Saunders, Cabinet Member for Children
Originating Officer(s)	Terry Parkin Service Head Learning and Achievement
Wards affected	All wards
Key Decision?	Yes
Community Plan Theme	A Fair and Prosperous Community

Executive Summary

There is a Mayoral commitment to review the awards formerly known as 'The Mayor's Higher Education Awards'. These were considered to be not fit for purpose as significant sums were being dispersed to students with little or no evidence of impact.

The model proposed below is to provide all our qualifying schools with a sum of money to promote continuation in education and training post-16 and/or post-18 but within a clear framework of accountability. It would also be seen as transitional funding, helping schools to support students as they come to terms with the new funding arrangements and allowing non-statutory opportunities that might otherwise have to be reduced.

This paper was discussed with the Commissioners on Tuesday 1st March 2016. They were content with the proposed way forward detailed below and was consistent with other considerations. The Commissioners advised that they would formally concur with Cabinet's decision at their Commissioners' Decision Making meeting on 12th April 2016. Previously, Commissioners had agreed that:

the allocation of DSG is the 'making of a grant' for the purposes of Directions under section 15(5) and (6) of the Local Government Act 1999 to the Council of LBTH; and

to delegate the operation of the existing arrangements for the DSG to the Corporate Director (Education, Social Care and Wellbeing), whereby the Schools Forum determines the allocation of the ISB [Individual School Budget] and Service Heads approve the allocation of the 'contingency'.

Recommendations:

The Mayor in Cabinet is recommended to:

1. Invite Schools' Forum to cover the costs of this programme from unspent DSG;
2. Agree Cabinet approve a virement of up to £600,000 to reflect actual costs incurred.

1. REASONS FOR THE DECISIONS

- 1.1 The recommendations are consistent with the Mayor's manifesto commitment to continue with support to students on leaving school. The scheme supports a number of outcomes in the Community Plan, including improving education outcomes and employability. It also expands the range of those able to benefit from the scheme (when compared to the previous programme) to those intending to move into further education or apprenticeships on leaving school.
- 1.2 The scheme will allow schools to target interventions specifically at our most vulnerable students post-16 with the aim of increasing numbers in education and training post-school.

2. ALTERNATIVE OPTIONS

- 2.1 A wide range of alternatives have been explored. This proposal has the benefit of being easy to administer with established systems in place to fund initiatives in schools through DSG, and places the responsibility of securing impact on schools but also with the freedom for them to use the grants creatively.
- 2.2 The main significant alternative is to discontinue the scheme.
- 2.3 Commissioners have looked before at allocations to schools (25th March 2015) and agreed to delegate decisions around the award of sums to schools from DSG and other passported grants, to the relevant Corporate Director (now of Children's).

3. DETAILS OF REPORT

- 3.1 The Mayor made a clear manifesto commitment to support Post 16/Higher Education progression and £600k is set aside in the budget for this programme. That funding is not recurrent and so any extension would require approvals in future years. It is important then that any such arrangement needs to fit with our wider Post-16 aims to:

- raise attainment Post 16 (across all academic and vocational routes, and across the ability range);
- ensure young people become well-rounded adults, committed to learning and development and able to contribute to (local) economic prosperity; and,
- build capacity to support the progression of future students, apprentices and graduates to become successful employees.

3.2 As part of the development of these ideas we have consulted the 14-19 Partnership Board. This Board consists of the main providers of 16+ education and training in the Borough. These proposals are mindful of the thinking at the 14-19 partnership Board that:

- a) sums offered need to be sufficient to influence behaviours and to genuinely assist the young person (headteachers felt the previous scheme failed totally in this regard);
- b) Is inclusive, but aids those most in need of support;
- c) The offer and outcomes need to be coordinated to draw together benefits, and to attempt to discover what works best; and,
- d) Encompasses the concept of something for something – expectations placed on young person receiving the funding to give something back to the community.

3.3 It is hard to predict the future shape of the Council. It was also considered important, therefore, that any programme is sufficiently well defined so that it can be commissioned externally, or run in house. A sum of £30,000 is suggested for the administration of this scheme in Year 1.

3.4 Finally, there was a strong view that any such programme should support all eligible young people leaving school and not just those pursuing a university career. There is significant anecdotal evidence, for example, of young people not taking up apprenticeships as it will reduce family benefits. The proposals then should be consistent with other initiatives under consideration across the Council led by Economic Development.

3.5 **Aims for the Amended Programme**

- a) To support young people to progress into further /higher education, apprenticeships and work.
- b) To promote remaining in education and training post-school or college;
- c) To promote a wider range of university and apprenticeship options post 18 for example by helping students travel to interviews; and,
- d) To utilise funding to build capacity to support schools in preparing future Apprentices, Graduates and Workers

3.6 **Delivery Concept**

3.7 Current thinking on effective decision-making in education focuses on it being as near to the student as possible. In this context, this would suggest schools

should be given the freedom within any scheme to decide how that scheme might work best for its students.

- 3.8 All Tower Hamlets' secondary schools have expressed a desire to have a sixth form and so allocation of any funds to promote Higher Education should include all schools, including academies. An equitable means of distribution would therefore consist of a fixed sum per school along with a per head sum relating to the most disadvantaged pupils, in this case using free school meals as a proxy. However, we would want to focus on our residents and in particular those residents with specific vulnerabilities such as living in a low income home, having special needs or being a looked after child. Appendix 1 details residents at Tower Hamlets schools and colleges who have qualified for free school meals in the last year. The proposal is, therefore, to allocate sums in accordance with appendix 1 using qualification for free school meals as a proxy figure for our most vulnerable residents. Schools would be able to disperse this sum as they see fit but being accountable through an annual return to the Mayor. The budget contains £600,000: this model allocates a little over half of that, and could easily be scaled-up. This would then allow any unallocated sums to be returned as a saving, or to use it for other purposes. £30,000 has been suggested for scheme administration.
- 3.9 The model given at appendix 1 uses residents previously qualified for free school meals, (ie in Y11) and provides a baseline sum along with a weighted amount dependent on numbers. As a consequence, the sums seem not insignificant for any individual school – from a little under £6,000 for Beatrice Tate to around £17,000 for Sir John Cass. A sum is also allocated to Tower Hamlets College as many of our 16 year olds, and particularly those working below level 3 (A Level) and/or with special educational needs, attend the College for their post-16 programme. These sums are considered by headteachers consulted, to be sufficient to have an impact on destinations post-school.
- 3.10 This grant should not be used for purposes funded by other sources such as DSG but should add value. We would expect schools to use the money in the following ways:
- To develop a wider awareness amongst our students of the opportunities available to them on leaving school;
 - To support individuals in attending interviews at distant providers such as universities or colleges of Further Education;
 - To set internal targets with governing bodies for progression post-16 and post-18;
 - Paying travel expenses and other out of pocket expenses to bring alumni back into the school to help build aspirations;
 - To provide a small number of high value bursaries to students attending education or training post-school where these can be shown to have a positive impact on outcomes; and,
 - To help match fund other programmes, for example, through the EBP or other local providers, to support mentoring and other programmes that raise aspirations.

- 3.11 As part of this programme we will work with local charities and other providers to ensure all schools know what external support is available, and how to access it, and any return expected from the school will require a minimum of bureaucracy but will be expected to demonstrate the impact of the award.
- 3.12 This then follows-on from the Education Maintenance Allowance paid to qualifying 16-18 years olds. Students selected for the High Education Award would also have either qualified for but not applied, or applied and were successful for the equivalent post-16 award, the Tower Hamlets EMA.
- 3.13 **Reporting Back from Schools**
- 3.14 Although we would want individual schools to work-up their own schemes, to make monitoring consistent we might agree a set of parameters against which all would report, in addition to a basic expenditure account, and being guided by 3.10 above. For example:
- Baseline numbers of students continuing in education or training vs numbers after scheme.
 - Number of agencies working with the school before the programme vs after the programme
 - Opportunities offered to students through the scheme
 - Numbers benefiting from awards – by category eg support for interviews additional mentoring
- 3.15 Note though that any significant impact measure is characterised by its longitudinal nature and this would require an extended commitment to the programme.

4. COMMENTS OF THE CHIEF FINANCE OFFICER

- 4.1 A budget of £600k is available in 2016/17 for the Tower Hamlets Higher Education Award. This budget was agreed by full Council as part of the Budget and Council Tax report on 24th February 2016.

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 In this case, the Council is not under a legal duty to provide these payments. The payments are discretionary and therefore considered to be a grant.
- 5.4 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 31st 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).
- 5.5 The subject of the Dedicated Schools Grant ('DSG') went for Individual Commissioner Decision on 25th March 2015 where it was agreed that-
 - (a) the allocation of DSG is the 'making of a grant' for the purposes of Directions under section 15(5) and (6) of the Local Government Act 1999 to the Council of LBTH; and
 - (b) the operation of the existing arrangements for the DSG to the Corporate Director (Education, Social Care and Wellbeing), whereby the Schools Forum determines the allocation of the ISB [Individual School Budget] and Service Heads approve the allocation of the 'contingency'
- 5.6 The payment of the "Higher Education Award" can be paid out of the DSG and therefore the Corporate Director [now the Corporate Director, Children's Services] has the delegated authority for the operation of such and can therefore allocate monies to schools for specific purposes.
- 5.7 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. Best Value considerations have also been addressed in paragraph 9 of the report.
- 5.8 The grant agreement should include a clear monitoring process against defined parameters in order for the Council to demonstrate either: that delivery is in line with the application and, therefore, the grant achieved its purpose; or provide clear delineation where outcomes were not achieved and the reasons for such failure are apparent.
- 5.9 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 or the opportunity of making a profit from the grant or third parties indicates 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. This would mean therefore, that the Council would have failed to abide by the appropriate internal procedures and external law applicable to such purchases.

- 5.10 The Treaty on the Functioning of the European Union (TFEU) 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 grants would be to provide "aid having a social character" and are therefore not prohibited.
- 5.11 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 By targeting young people resident in the borough and who qualified for free school meals, we have a good proxy for those living in the greatest poverty. We know students from such backgrounds have some of the lowest access and completion rates and so this would directly seek to address that need.
- 6.2 Equality: The award is targeted at students from our most vulnerable households using free school meals as a proxy. There is good evidence that those from more affluent households also have access to wider support networks and often familial experience of continuing in education post-16. This award will allow schools to bridge those gaps, supporting those most at risk of not continuing in education and training.

7. BEST VALUE (BV) IMPLICATIONS

- 7.1 It would be for individual schools to demonstrate the impact of this grant. Should there be a decision to continue it in future years; the Mayor would want to take note of the practice in schools where the greatest impact on our young people was seen.

8. SUSTAINABLE ACTION FOR A GREENER ENVIRONMENT

- 8.1 N/A

9. RISK MANAGEMENT IMPLICATIONS

- 9.1 By making schools accountable, we are ensuring the decisions taken are as near to the students who will benefit as possible. This reduces any possible confusion around purpose, and we will ensure there are clear accountability measures in place so that all monies are carefully tracked.

10. CRIME AND DISORDER REDUCTION IMPLICATIONS

- 10.1 It is established that those out of education, employment or training show a greater likelihood of becoming engaged in illegal activities, and/or a draw on the resources of the State. If successful, this scheme has the potential for more young people to remain for longer in education, training and employment, reducing the risk of antisocial behaviours.

11. SAFEGUARDING IMPLICATIONS

- 11.1 It is often said that one of the best safeguarding actions is to ensure all young people achieve five good GCSEs. This takes that further and aims to support students from the most vulnerable circumstances fulfil their academic potential and build for themselves and their family a sustainable future.

Linked Reports, Appendices and Background Documents

Linked Report

Previous reports to Commissioners: A resolution for the EMA element was agreed on 16th September, 2015

Appendices

Appendix 1 - Proposed Costings – based on £300k dispersed in Year:

- Table 1 Free School Meal by School by Residential Qualification

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

None

Officer contact details for documents:

N/A

APPENDIX 1

Proposed Costings – based on £300k dispersed in Year

Table 1 Free School Meal by School by Residential Qualification

All Pupils	Year12_Total			Lump sum	Weighted sum £90/pupil	Per school
	FSM	% FSM	Total Pupils			
Bethnal Green Academy	36	56%	64	10000	£3,240	£13,240
Bishop Challoner Girls	13	9%	137	10000	£1,170	£11,170
Bow	13	41%	32	10000	£1,170	£11,170
Central Foundation	69	36%	190	10000	£6,210	£16,210
George Green's	13	18%	71	10000	£1,170	£11,170
Langdon Park	29	63%	46	10000	£2,610	£12,610
Morpeth	53	30%	179	10000	£4,770	£14,770
Mulberry	98	43%	229	10000	£8,820	£18,820
Oaklands	45	40%	113	10000	£4,050	£14,050
Raine's Foundation	33	40%	83	10000	£2,970	£12,970
Sir John Cass	71	28%	257	10000	£6,390	£16,390
St Paul's Way	23	32%	71	10000	£2,070	£12,070
Stepney Green	32	46%	70	10000	£2,880	£12,880
Swanlea	72	55%	132	10000	£6,480	£16,480
Tower Hamlets College	389			10000	£35,010	£45,010
Beatrice Tate	7	78%	9	5000	£630	£5,630
Bowden House	1	100%	1	5000	£90	£5,090
Ian Mikardo	4	100%	4	5000	£360	£5,360
Phoenix	5	63%	8	5000	£450	£5,450
Grand Total	1,006	59%	1,696	170000	£90,540	£260,540

NB Small numbers of students resident in the borough and who qualify for free school meals attend the London Enterprise College. This provider has been approached for its qualifying numbers but has yet to respond. We might want to set aside £11,000 for this provider.