

Commissioner Decision Report 24 May 2016	 TOWER HAMLETS
Report of: Debbie Jones, Corporate Director (Children's Services)	Classification: Unrestricted
Tower Hamlets Education Partnership (THE Partnership)	

Originating Officer(s)	Kate Bingham
Wards affected	All wards
Key Decision?	Yes
Community Plan Theme	A Prosperous Community

Executive Summary

This report provides an update on the establishment of Tower Hamlets Education (THE) Partnership. This is intended to be a schools-led partnership to accelerate school improvement by promoting and extending existing joint working. It will cement the successful collaboration – between the schools themselves and between schools collectively and the local authority and other key partners – which has brought such marked benefits to the education of children and young people in the borough over the past twenty years.

The Executive Mayor, in Cabinet, on 10th May 2016 welcomed the establishment of THE Partnership and agreed that an earmarked reserve be created from general fund balances of up to £300,000 per annum for three years, subject to THE Partnership delivering the outcomes outlined in paragraph 3.14.

This report seeks a decision from the Commissioners in respect of the approval of a grant of up to £300,000 per annum, in principle, for three years to enable THE Partnership to become self-sustaining.

In addition, the report seeks a specific decision from the Commissioners in respect of the approval of the first payment of that grant for 2016/17 of £300,000 including services in kind to THE Partnership to cover the costs of the organisation's infrastructure in the first year of operation, as outlined in paragraph 3.8.

Recommendations:

The Commissioners are recommended to:

- Approve, in principle, a grant to THE Partnership of up to £300,000 per annum from the Council for a period of three years to enable it to become self-sustaining and to maintain a tight focus on improvement, as evidenced by progress in the outcomes described in paragraph 3.14;

- Approve a grant to THE Partnership of £300,000 for 2016/17 to cover the costs of the organisation's infrastructure in the first year of operation, as outlined in paragraph 3.8, with £150,000 released (upon appointment of a Finance Director to the Interim Board) to enable the initial set up and recruitment, with a further £150,000 released once the company is established, has a critical mass of members and has produced for approval a robust business plan with defined performance outcomes for each of the three years; and
- Consider a further report in September 2016, regarding THE Partnership's three year business plan and the arrangements for years two and three, prior to the release of the second £150,000 grant funding for the first year.

1. REASONS FOR THE DECISIONS

- 1.1 The decisions sought in this paper will enable THE Partnership to further develop its role in establishing a school-led system of improvement adding value to the whole Tower Hamlets education system and to become self-sustaining. THE Partnership will cement the successful collaboration which has brought considerable benefits to this borough. The Council's support for THE Partnership will be important in giving it time to becoming fully sustainable and keep the focus where it should be, that is, on accelerating improvement so that more children and young people thrive and achieve well in Tower Hamlets.

2. ALTERNATIVE OPTIONS

- 2.1 To do nothing, the risks of which are highlighted in the report. A changing national policy context and the *Education and Adoption Act 2016* provide added impetus for the establishment and support for a schools-led partnership.

3. DETAILS OF REPORT

THE Partnership

- 3.1 The Council recognises that longstanding collaboration between schools and the local authority is a huge strength of education in Tower Hamlets. Headteachers, though primarily concerned with their own schools, have for many years shown a commitment to all Tower Hamlets children and their families.
- 3.2 In the summer of 2015, informal discussions amongst headteachers considered the implications for Tower Hamlets schools of the changing national policy context and the proposed legislation which has now been introduced in the form of the *Education and Adoption Act 2016*. The idea emerged that a schools-led partnership should be established to promote and extend existing joint working and to cement the very successful collaboration – between schools themselves and between the schools collectively and the

local authority and other key partners – which has brought such marked benefits to the education of children and young people in the borough over the past twenty years.

- 3.3 Between January and April 2016 a Steering Group involving representatives from all sectors, including governors, worked intensively on the development of the partnership model, taking into account the specific points made in responses to the initial consultation.
- 3.4 The result of this work is set out in the detailed proposal for the Tower Hamlets Education Partnership (THE Partnership), as reflected in its Prospectus and proposed Operating Model, Governance arrangements (<http://the-partnership.org.uk/>). The detailed proposal was launched with schools on Tuesday, 26 April 2016.
- 3.5 The focus of THE Partnership will be collaboration for school improvement – for all schools, not just for those experiencing difficulties – and on achieving the best educational outcomes for the children and young people of Tower Hamlets. THE Partnership’s vision and values are at one with those of the Council, and its focus on improving outcomes for our children and young people is reflected in a commitment to specific, targeted outcomes. Further, school improvement can be a system-wide endeavour. This proposal would make THE Partnership responsible for school improvement in Tower Hamlets and be accountable for that to wider community.

Funding

- 3.6 THE Partnership’s sustainable income will come from a number of sources, principally:
 - Membership subscriptions from schools
 - Potential contracts with the local authority for specific purposes
 - Income from traded services
 - Income from bespoke assignments
 - Income from grants or awards
- 3.7 Whilst member subscriptions would represent an investment in the vision and future of THE Partnership as well as entitlement to a range of value for money services, THE Partnership is likely to take some time to grow its business and become sustainable. The Council welcomes the establishment of THE Partnership and the potential of its role in establishing a school-led system of improvement which adds value to the whole Tower Hamlets’ education system. Further, the Council is determined that there should be no slippage in either improvement or attainment levels during this time and has agreed to ensure both improvement and performance continues, to the allocation of funding for a period of three years (including benefits in kind).
- 3.8 This funding would be utilised to cover the costs of the organisation’s infrastructure and in the first year the estimated expenditure to be incurred is outlined below:

Expenditure	£'000
Staffing	114
Administrative support	32
Financial (professional advice)	27
Project management support	26
Recruitment	12
Development	28
Rent (see paragraph 3.9)	16
IT Infrastructure (including website)	20
Publications and marketing	15
Supplies and services	5
Insurance	5
Total	£300

- 3.9 The Council intends to host the organisation at the Professional Development Centre in Bethnal Green. The cost of this space, as an identified sole use room (with other shared facilities) including access to IT, cleaning, and additional venue hire and catering, would be approximately £16,000 per annum.
- 3.10 Upon the approval of the grant to THE Partnership, the Council intends to enter a formal license with the organisation which would be constructed with appropriate break clause and notice periods. Following the agreement of terms with THE Partnership, the Corporate Director (Children's Services) will instruct Asset Management and Legal Services to take this forward, including obtaining the appropriate approval from the Commissioners to agree the specific terms.
- 3.11 Whilst an agreement in principle for three years of seed funding is being sought, it is recommended that the Commissioner's approve a grant to THE Partnership of £300,000 including services in kind, as detailed above, for the first year of operation to enable the establishment of the organisation and to assist it to become self-sustaining and to maintain a tight focus on improvement.
- 3.12 It is further recommended that £150,000 is released upon appointment of a Finance Director to the Interim Board of Directors to enable initial set up and recruitment with a further £150,000 released once the company is established, has a critical mass of members and has produced a business plan, as detailed below in paragraph 3.20.
- 3.13 The Council will put in place specific and detailed monitoring and reporting arrangements to ensure the funding is used as planned, delivers the objectives and targets set and achieves value for money.

Outcomes

- 3.14 As a condition of that grant, as reflected in the Prospectus, THE Partnership intends to deliver the following outcomes:

- All schools to be at least good, as judged by Ofsted, and the proportion of outstanding schools in Tower Hamlets to be amongst the highest in the country;
- Overall progress and attainment levels to be amongst the best in the country;
- Evidence of narrowing the gap by improving outcomes for disadvantaged groups of children and young people;
- Attendance and low exclusion figures in THE Partnership schools - among the best in the country;
- Year-on-year increase of uptake levels for THE Partnership membership with high levels of member participation and satisfaction along with strong staff motivation and commitment in member schools; and
- Evidence of strong satisfaction levels with education amongst local people.

3.15 Further, the Community Plan provides the basis for the improvement outcomes the Council will expect THE Partnership to deliver and the expectation that we would want to see all schools in the borough performing in the top quartile when compared with national benchmarks.

3.16 The Council through its continuing role in education, as enshrined in the Community Plan, and its democratic base will have a unique and special relationship with THE Partnership.

3.17 That unique, special and mutually beneficial relationship would be protected by a Memorandum of Understanding, outlining the structure under which both the Children and Families Partnership Board (CFPB) and THE Partnership work together which, in turn, would form part of the recently re-launched Local Strategic Partnership governance arrangements.

3.18 Further, it is proposed that in the consequent revised terms of reference for the CFPB, a specific sub-committee would be created as an additional layer of accountability to review THE Partnership's progress with an annual performance review built into the accountability framework.

3.19 The role of Scrutiny should become even more important in a system where all or the majority of schools are academies and operating in multi-academy trusts (MATs).

Reporting

3.20 In addition to a comprehensive review of the quality of education in schools in Tower Hamlets, due to be reported to Cabinet in November 2016 by the Interim Board of Directors, an initial three year business plan, including confirmed subscription fees, potential income generation, planned expenditure and specific metrics to measure the outcomes outlined above, will be produced and reported to Commissioners in September 2016 to secure the release of the second tranche of year one funding.

- 3.22 Officers of the Council will expect the business plan to be submitted in sufficient time to ensure robust scrutiny and challenge is undertaken before it is signed off and presented to both the Commissioners and Cabinet.
- 3.21 Years two and three funding allocations will subsequently be released on the production of an annual roll forward business plan outlining the financial performance of the organisation alongside the achievement of targets and outcomes outlined in the initial approved business plan.

4. COMMENTS OF THE CHIEF FINANCE OFFICER

- 4.1 The council's Cabinet has approved the allocation of up to £300k per year for three years to support THE Partnership to enable it to become self-sustaining and to maintain a higher focus on school improvement. The funding for the first year will be to meet initial set up costs and ongoing revenue costs of the team and related overheads that will operate the Partnership as set out in 3.8. The council will put in place specific and detailed monitoring and reporting arrangements to ensure the funding is used as planned, delivers the objectives and targets set and achieves value for money. The business plan to be produced by THE Partnership will be assessed and evaluated to ensure that it is robust and deliverable and clearly demonstrates how the organisation will become self-sustaining within the three year period. Specific review dates will also be established to enable the on-going financial and operational assessments to be undertaken and reported before future tranches of the grant funding is released.
- 4.2 The provision of funding for the first three years is considered to support and enable the organisation to firmly establish its finances by maximising the use of its services over the medium term. It should be noted that the up to £900,000 funding for THE Partnership will be provided at the Council's risk as it will not guarantee THE Partnership will successfully secure other funding for the provision of its services.

5. LEGAL COMMENTS

- 5.1. On 17 December 2014 the Secretary of State made directions 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. Therefore, whilst it is appropriate for the Mayor to make the decision for the allocation of money to be used as the seed fund, the decision to make the grant rests with the Commissioners. However, 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. Under section 1 of the Localism Act 2011 the Council has the

general power of competence. This means that the Council has the power to do anything to do what an ordinary human being could do, unless statute specifically restricts the Council for acting in the way it wishes. It appears that there is no specific legislation prohibiting the making of the grant itself. Therefore, it is within the Council's power to issue these grants, subject always to the directions of the Secretary Of State For Communities and Local Government and therefore the decision of the appointed commissioners

- 5.3. However, the Council must satisfy itself that the giving of any such grant would not constitute State Aid for the purposes of European Law. Whilst the grant itself has some of the hallmarks of state aid and would be above the de minimis threshold that applies to State Aid it is unlikely:
 - 5.3.1 That an organisation resident in another member state would be interested in providing services in the UK of a type similar to that which the Company will carry out and
 - 5.3.2 That the Company will be in a position to compete for services advertised in another member state
- 5.4. This means that it is unlikely that there is any "cross border interest" in the giving of the grant and therefore would not constitute state aid for the purposes of European Law.
- 5.5. The Council has a duty to achieve Best Value in respect of its expenditures. This is by virtue of Section 3 of the Local Government Act 1999. This has two impacts on this matter:
 - 5.5.1 The Council must satisfy itself that the giving of any grant represents Best Value. This means that it will have to ensure that any grant is properly made under terms that enable the proper monitoring of outcomes to demonstrate that the money achieves the appropriate outcomes for which it was given.
 - 5.5.2 Where the Council requires services to be provided by the Company to itself in particular then such contract cannot be directly awarded to the Company without competition.
- 5.6. However, it would be permissible for the Tower Hamlets Education Partnership to provide services to the Council where the Partnership has run the procurement and made it clear within the advert that this procurement relates to Council spend in particular.
- 5.7. The Council must also ensure that it fully understands the impact on persons with a protected characteristic that the changes in this report may represent for the purposes of the Equality Act 2010. It may therefore need to undertake desktop evaluations and where appropriate carry out equality consultations also.

6. ONE TOWER HAMLETS CONSIDERATIONS

- 6.1. The aims of THE Partnership to support collaboration and a system which benefits all children in the borough is entirely consistent with One Tower Hamlets aims.

7. BEST VALUE (BV) IMPLICATIONS

- 7.1 The use of the grant will be on the basis that it demonstrates best value.

8. SUSTAINABLE ACTION FOR A GREENER ENVIRONMENT

- 8.1 None identified.

9. RISK MANAGEMENT IMPLICATIONS

- 9.1 Incorporated in main report.

10. CRIME AND DISORDER REDUCTION IMPLICATIONS

- 10.1 None identified.

11. SAFEGUARDING IMPLICATIONS

- 11.1 The Council will retain responsibility for safeguarding children and will have a duty to ensure that schools understand and discharge their safeguarding duties. Discharging this duty in a more fragmented system presents additional risks.

Linked Reports, Appendices and Background Documents

Linked Report

Appendices

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

- Tower Hamlets Education Partnership, Cabinet Report 10th May 2016
<http://modgov.towerhamlets.gov.uk/documents/g6208/Public%20reports%20pack%2010th-May-2016%2017.30%20Cabinet.pdf?T=10>

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