


<b>Commissioner Decision Report</b> 5 July 2016	 <b>TOWER HAMLETS</b>
<b>Report of:</b> Zena Cooke, Corporate Director Resources	<b>Classification:</b> Unrestricted
<b>Grants Decision Making – Transitional Arrangements</b>	

<b>Originating Officer(s)</b>	Steve Hill - Head of Benefits Services
<b>Wards affected</b>	All wards
<b>Key Decision?</b>	Yes
<b>Community Plan Theme</b>	One Tower Hamlets

### Executive Summary

The Council's arrangements for allocation of grants lacked rigour in a number of areas which led to weaknesses in internal control and a failure to comply with the council's best value duty. Key concerns included a lack of transparency over the rationale for decision making on grant awards and ineffective governance and scrutiny arrangements.

The Council's Grants' Best Value Action Plan (BVAP) was produced to acknowledge and address the failings that were identified and to respond to the requirements of the Directions issued in December 2014. The purpose of the BVAP was to set out the specific actions that were considered necessary to deliver improvements in the grants decision making arrangements and to provide clarity in terms of the timeframe within which those actions would be delivered.

A key action within the BVAP was the need to put in place a Mayor and cross-party consultation and review forum as a pre-cursor for the Council taking back full responsibility for decision making in this area. This priority action was to ensure and embed open and transparent decision making in the award of grants.

Substantial progress has now been made in implementing the actions contained within the BVAP. Commissioners and the Overview and Scrutiny Committee have endorsed the establishment of the Overview and Scrutiny Grants Sub-Committee as the 'cross party consultation and review forum'. The Sub-Committee has met on three occasions to scrutinise officer recommendations prior to their consideration at a Commissioners' Decision Making Meeting.

At the Commissioners' Decision Making meeting on 24<sup>th</sup> May 2016, Commissioners also agreed arrangements for making decisions on grants once they have withdrawn, where a model of the Executive Mayoral decision in Cabinet would replace the current Commissioners' Decision making meetings. Both the establishment of the grants scrutiny sub-committee and the model of the Executive Mayoral decision in Cabinet promote and ensure transparency and strengthen governance arrangements.

This report sets out for consideration, transitional arrangements for grants' decision making before the recommendations contained in the 24<sup>th</sup> May report are fully implemented.

## **Recommendations:**

The Commissioners are recommended to:

1. Consider and agree the proposed transitional arrangements for Grants Decision Making as set out in paragraphs 3.11 and 3.12 of this report.
2. Agree that the Secretary of State be asked to withdraw the Direction of 17<sup>th</sup> December 2014 in so far as it relates to grants and that, if he considers necessary impose a new Direction returning the grants function to the Council but with Commissioner oversight,

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

- 1.1 The Council has implemented a number of actions to significantly improve the way the Council makes decisions in relation to grant making. This includes a number of actions that will ensure that Members of the Council have timely, transparent and informed input into the decision making process for the allocation of grants.
- 1.2 An Overview and Scrutiny Grants Sub-Committee has been established to oversee grant allocations. The Council is also clear about the processes that will operate once the Commissioners have withdrawn from this area. Together these arrangements provide a cross-party forum for grants scrutiny; ensuring the objectives of the grant schemes are reviewed and are being met; and that a fair geographical distribution of funding and community needs are delivered.
- 1.3 The transitional arrangements will allow the Council to complete delivery of the actions set out in the Best Value Action Plan (BVAP) in relation to governance and decision making and provide the mechanism for the Council to take back full responsibility for grants decision making.

## **2 ALTERNATIVE OPTIONS**

- 2.1 Commissioners may decide to continue with the existing arrangements or suggest alternative or additional approaches.

## **3. DETAILS OF REPORT**

- 3.1 The Council's arrangements for grant making lacked rigour in a number of areas which led to weaknesses in internal control and a failure to comply with the Council's best value duty. Key concerns included a lack of transparency over the rationale for decision making on grant awards and ineffective governance and scrutiny arrangements.
- 3.2 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 ('the Directions'): specifically paragraph 4(ii) and Annex B of the Directions together

provide that, until 31<sup>st</sup> 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). . In addition to this, paragraph 9 of Annex A of the Directions required the Council to provide their views on specific grants as requested by Commissioners. The Commissioners have discharged the functions in relation to grants by establishing a Decision Making Meeting which meets in public and it is at this meeting where the vast majority of grant decisions are made. The exception to this has been emergency funding decisions which require urgent action and details of every decision taken outside the public meeting are now reported to the next public meeting for noting.

- 3.3 The Council's Grants' Best Value Action Plan (BVAP) was produced to address the failings that were identified and to respond to the requirements of the Directions. The purpose of the BVAP was to set out the specific actions that were considered necessary to deliver improvements in the arrangements for allocating grants and to provide clarity in terms of the timeframe within which the actions would be delivered.
- 3.4 The BVAP on Grants includes within the heading "*Governance Arrangements*" two recommendations that relate specifically to a transparent, executive and cross party decision making process. The two recommendations are as follows:
  1. Ensure and embed open and transparent decision-making
  2. Review arrangements post Commissioners for future executive decision making.
- 3.5 Significant progress has been made in implementing actions which meet these recommendations. At their Decision Making Meeting on 1st March 2016, the Commissioners considered a report on the establishment of governance arrangements that included a "cross-party forum" to review and input to the grants decision making process and agreed the recommendations set out in that report. Subsequently on 4<sup>th</sup> April 2016 the Overview and Scrutiny Committee established the Overview and Scrutiny Grants Sub-Committee as the cross-party forum to review Officers' recommendations on grants prior to their consideration at Commissioners' Decision Making Meetings. Overview and Scrutiny Committee agreed the following:
  - Any decision relating to the composition of the Grants Sub-Committee should be made independently of any political bias;
  - the Grants Sub-Committee should also include in its membership co-opted non-voting members as required;
  - Training would be required to promote and maintain high standards of conduct by Elected and Co-opted Members; and
  - Nominees would be sought from the Leaders of the 3 political groups for members of the Sub-Committee.
- 3.6 Terms of reference have been developed and agreed by the Overview and Scrutiny Grants Committee and noted by the Sub-Committee. Training has

been delivered and the Grants Sub-Committee has now met on three occasions to scrutinise officer recommendations prior to their consideration at a Commissioners' Decision Making Meeting. As previously agreed the Sub-Committee will also be working to the Centre for Public Scrutiny Standards.

- 3.7 Following Overview and Scrutiny Committee's decisions on grants scrutiny arrangements, at the Commissioners Decision making meeting on the 12<sup>th</sup> April 2016, the Commissioners advised that they would be writing to the Mayor to invite the Mayor and/or his delegate to be part of future Commissioners' Decision Making Meetings in a non-voting capacity. In addition, The Chair of the Overview and Scrutiny Grants Sub-Committee was invited to attend in his scrutiny role, to provide feedback from the Grants Sub-Committee arising from the review of officer recommendations on grants.
- 3.8 A further report was also considered and agreed by Commissioners at their Decision Making Meeting on 24<sup>th</sup> May 2016 on the Post Commissioner Grants' Decision Making and Scrutiny Arrangements. The report states that the current arrangements for grant decision making would be maintained once the Commissioners have withdrawn. The Overview and Scrutiny Grants Sub-Committee will continue to provide cross-party pre-scrutiny and feedback on grant recommendations and report back to the Mayor in Cabinet prior to a decision being made to award a grant. This model of Executive Mayoral decisions in Cabinet will replace the current Commissioners Decision making meetings. The arrangements will ensure the continuation of an open and transparent process and will require minimal change in terms of both the governance and administrative arrangements.
- 3.9 As the Overview and Scrutiny Grants Sub-Committee is now established and fully operational and the arrangements for how grants decisions will be made in the future have been set out and agreed, the Council has delivered the actions as set out within the Best Value Action Plan for Grants relating to "*Governance Arrangements*".
- 3.10 The Council now considers it is in a good position to propose transitional grants' decision making arrangements, pending the return to the Council of all powers relating to the making of grants under statutory powers.
- 3.11 The proposed transitional arrangements would see the Mayor (or his delegate) chair the Decision Making Meetings in Public to consider officer recommendations on grants. The meetings would operate as a Committee of the Executive with the Mayor (or his delegate) making the decision in public in the presence of a Commissioner. The Commissioner will not be a formal member of the Committee, but will be given the opportunity to ask questions or make observations prior to the decision being made. The Commissioner will be asked to confirm that the decision taken has been done so to the satisfaction of the Commissioner. The Council also has the ability to call extraordinary Committee of the Executive in public should the need arise.
- 3.12 It is proposed that all decisions will be made in public with the exception of those decisions relating to Emergency Fund applications, as is currently the case. Emergency Fund applications can be made at any time and are considered by officers against a strict set of criteria which are limited to cases of

genuine emergency. These applications may require a decision in a very short timeframe. In order to ensure transparency of decision making it is proposed that a written report will be presented to the Mayor setting out the officer recommendation in relation to the Emergency Grant Fund application. The report will also be sent to the Chair of the Grants Sub-Committee. The report will be considered by the Mayor in the normal way and the decision made will be considered and endorsed by the Commissioners. The report and decision will be formally noted at the following decision making meeting in public.

- 3.13 The proposed transitional arrangements for grants' decision will require the Direction of 17<sup>th</sup> December 2014 in so far as it relates to grants to be withdrawn. The Secretary of State can issue a fresh Direction returning the function to the Council but with Commissioner oversight if considered necessary.

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

- 4.1 The Chief Finance Officer has been consulted in the preparation of this report. There are no direct financial implications arising from this report given that the proposed governance arrangements will be undertaken from within existing resources.
- 4.2 However, the value of grants that will be allocated through the proposed process is significant and it is imperative therefore that the arrangements provides the appropriate level of scrutiny and transparency of decision making to demonstrate that Value for Money is being achieved through the grant allocation process.

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

- 5.1 Where the Secretary of State is satisfied that an authority is not meeting its best value duty, the Secretary of State may: (1) direct the authority to take action to bring itself into compliance with that duty; (2) direct that specified functions be carried out by the Secretary of State or a nominee and that the authority follow the Secretary of State's instructions and provide such assistance as may be required.
- 5.2 In accordance with this power the Secretary of State gave directions to the Council and it is from the directions that the power of the commissioners to make decisions in relation to grants derives. Specifically, paragraph 4(ii) and Annex B of the Directions together provide that, until 31<sup>st</sup> 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).
- 5.3 The Secretary of State will be required to withdraw that part of the Direction of 17<sup>th</sup> December 2014 relating to grants and, if considered necessary, to issue a

fresh Direction returning the function to the Council but with Commissioner oversight.

- 5.4 Any Committee where the Mayor is taking a decision will be an Executive Committee of the Council and Terms of Reference for that Committee will have to be prepared and then adopted in the normal way.
- 5.5 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 Council's support of the of the voluntary and community sector through grants contributes to the delivery of One Tower Hamlets priorities and objectives, particularly those relating to reducing inequalities and promoting cohesion. To ensure responsibility for grants decision making returns to the Council promotes the community leadership aspect of One Tower Hamlets.

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

- 7.1 Best value implications are detailed within the report, in particular how the recommendations support the implementation of actions within the Grants Best Value Action Plan.

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

- 8.1 There are no immediate sustainable or environmental issues arising from this report.

## **9. RISK MANAGEMENT IMPLICATIONS**

- 9.1 The recommendations made in this report will minimise the risk of failing to implement the actions agreed in the Best Value Action Plan on grants and the requirements of the Directions made by the Secretary of State.

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

- 10.1 There are no immediate Crime and Disorder reduction implications.

## **11. SAFEGUARDING IMPLICATIONS**

- 11.1 There are no safeguarding risks or benefits from the proposals detailed in the report.

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## Linked Reports, Appendices and Background Documents

### Linked Report

- **Commissioners Decision Making Meeting 1 March 2016:** Initial Proposals for a Cross Party Forum on Grants
- **Overview and Scrutiny Committee 4 April 2016:** Establishment of an Overview and Scrutiny Grants Sub-Committee
- **Commissioners Decision Making Meeting 24 May 2016:** Post Commissioner Grants Decision Making and Scrutiny Arrangements

### Appendices

- NONE

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

- NONE

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