


Cabinet Decision 26 July 2016	 TOWER HAMLETS
Report of: Zena Cooke, Corporate Director, Resources	Classification: Unrestricted
Grants Decision Making – Transitional Arrangements	

Lead Member	Cllr Rachael Saunders – Cabinet Member for Education, Children’s Service and Lead for the Third Sector
Originating Officer(s)	Steve Hill - Head of Benefits Services
Wards affected	All wards
Key Decision?	Yes
Community Plan Theme	One Tower Hamlets

Executive Summary

The Grants’ Best Value Action Plan (BVAP) details 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. Substantial progress has been made in implementing the actions contained within the BVAP with the Grants Overview and Scrutiny Sub-Committee being established as the 'cross party consultation and review forum.

At their meeting on 24th May 2016, the Commissioners agreed arrangements for making decisions on grants once they have withdrawn, namely that a model of the Executive Mayoral decision making in Cabinet would replace the current Commissioners’ Decision making meetings. Both the establishment of the Grants Overview and 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 24th May 2016 report can be implemented. The principle of these transitional arrangements was endorsed by Commissioners at their meeting on the 5th July 2016.

Recommendations:

The Mayor in Cabinet is recommended to:

1. Consider and agree the proposed transitional arrangements for Grants Decision Making as set out in paragraphs 3.11 to 3.14 of this report.

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 The Council is also clear about the processes that will operate once the Commissioners have withdrawn from this area.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 The Mayor could choose not to approve the transitional arrangements for grants' decision making set out in this report, but that would impact on the Council's ability to take back responsibility for grants' decision making.

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 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). 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 4th 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 were developed and agreed by the Overview and Scrutiny Grants Committee and noted by the Sub-Committee. Training has been delivered and the Sub-Committee has now met on three (3) occasions to scrutinise officer recommendations prior to their consideration at a Commissioners' Decision Making Meeting. As previously agreed the Sub-Committee is 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 12th 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 also 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 24th 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 These transitional arrangements were presented to Commissioners at their meeting on the 5th July 2016. The principle of the arrangements were endorsed by Commissioners who stated that detailed proposals for the transition be drawn up in consultation with them and should incorporate appropriate record keeping and audit trails. The details proposals are then to be endorsed by elected Members before implementation.

3.14 The proposed transitional arrangements are set out below:

- The Commissioner Decision Making Meeting dates have been published for this year and it is proposed that the meeting be renamed as the Grants Decision Making Meeting and the dates remain unchanged. This will also ensure that the Grants Overview and Scrutiny Committee dates do not need to be changed. The Grants Decision Making meeting will continue to consider the grants contained in the Council's Grants Register, including annual performance reports on grants delegated to officers and other bodies.
- The Mayor (or his delegate) will Chair the Grants Decision Making Meeting in public and this will be a Committee of the Executive and will comprise the Mayor and Deputy Mayor (Cllr Saunders, Cabinet Member for Education, Children's Service and Lead for the Third Sector) and one (1) other Cabinet Member. The Chair of the Grants Overview and Scrutiny Sub-Committee will be invited to attend the meeting to provide the Sub-Committee's feedback on agenda items. Requests from other Members to speak at the meeting, and for representations from others with an interest will be considered and not unreasonably refused. The meeting will take place in the presence of a Commissioner who will be exercising the power of accountability under the directions.
- The meeting will continue to be serviced by Democratic Services with the normal requirements of a Forward Plan, agenda publication with 5 clear days' notice, rules for urgency, recorded decisions and published minutes. The details of officer recommendations and any decisions made that vary the officer recommendation will be fully recorded in the minutes of the meeting, which will provide safeguards for the decision making process previously raised as a concern.
- Pre-agenda planning meetings are in place and minuted and it is proposed that these arrangements should also continue. The minutes will contain a record of any changes or additional information requested.

- The dates of the pre-agenda planning meetings, the Grants Overview and Scrutiny Meeting and the Grants Decision Making Meeting in Public are as follows:

Pre-Agenda Planning Meeting	Grants Overview and Scrutiny Meeting	Grants Decision Making Meeting in Public
Tuesday 6th September 2016	Tuesday 20th September 2016	Tuesday 27th September 2016
Tuesday 18th October 2016	Tuesday 1st November 2016	Tuesday 8th November 2016
Tuesday 29th November 2016	Wednesday 14th December 2016	Tuesday 20th December 2016

- The proposed arrangements seek to ensure that the governance and decision making arrangements build on the existing good practice are transparent and timely and are fully embedded within the Council. These arrangements are further supported by an independent end to end review of the grants function and team that will commence at the end of July and completed during September.

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 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).

- 5.3 The Secretary of State will be required to withdraw that part of the Direction of 17th 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. As it will be an Executive Committee then pursuant to section 9GC of the Local Government Act 2000 it is not to be regarded as a body to which section 15 of the Local Government and Housing Act 1989 (duty to allocate seats to political groups) applies and therefore the proportionality principles do not apply so it does not have to reflect the political make-up of the Council. The proposed membership of the Committee is therefore lawful.
- 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.

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
- **Commissioners Decision Making Meeting 5 July 2016:** Grants Decision Making – Transitional Arrangements

Appendices

- None

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

- None

Officer contact details for documents:

- Steve Hill, Head of Benefits Services
Telephone Number: 0207 364 7252
Steve.Hill@towerhamlets.gov.uk