

Commissioner Decision Report 27 September 2016	
Report of: Zena Cooke, Corporate Director Resources	Classification: Unrestricted
Emergency Funding – Revised Criteria	

Originating Officer(s)	Everett Haughton – Third Sector Programmes Manager Mohammed Ahad – Community Programmes Officer
Wards affected	All wards
Key Decision?	Yes
Community Plan Theme	One Tower Hamlets

Executive Summary

The current Emergency Funding Programme was established in October 2014. Since then, the Council has been through a number of changes – in particular around how grant decisions are made. It is felt that the existing application and decision making processes together with the current criteria and guidance for applicants requires revision.

This report sets out a number of proposed changes in an effort to meet the emerging needs of the local Voluntary and Community Sector and to ensure a clear understanding of the Programme and consistency in the approach to assessing applications and the awarding of grants.

Recommendations:

Commissioners are recommended to:

1. Consider and agree the revised process and criteria for the Emergency Funding as detailed in paragraphs 3.9 and 3.10 of this Report.
2. Agree that a report detailing feedback on the revised scheme be submitted to the Commissioners three (3) months following implementation of the revised process, taking account of the views of the Third Sector Advisory Board (TSAB).
3. Agree to revise the arrangements for decision making as detailed in option 2 in paragraph 3.9 of this Report.
4. Consider and agree the examples of matters that are likely and unlikely to be funded through the programme as detailed in the table at paragraph 3.12 of this Report.
5. Note and comment on the issues relating to Reserves as set out in paragraphs 3.13 to 3.17 of this Report.
6. Agree the revised application, assessment forms and FAQs at Appendices A, B and C respectively.

1. REASONS FOR THE DECISIONS

- 1.1 Revised processes and criteria are required for the Emergency Funding Programme as the existing process and criteria, which were agreed by the Corporate Grants Programme Board (CGPB) in September 2014, are no longer fit for purpose going forward in terms of the funding pressures, needs and priorities being faced by local organisations.
- 1.2 A revised criteria and process would allow a clear and consistent approach to funding organisations through the Programme and to ensure efficiency in how the programme is delivered. A review is also required to ensure that 'lessons learnt' since the programme's inception are implemented to ensure effective support to those organisations delivering activities and services which meet the Council's strategic priorities.

2 ALTERNATIVE OPTIONS

- 2.1 Commissioners may decide to continue with the existing process and criteria or suggest changes to the revised proposals.

3. DETAILS OF REPORT

- 3.1 Historically, the Council has had emergency funding arrangements in place enabling local third sector organisations to apply for what was often referred to as "life-and-limb" support to tackle unforeseen emergencies.
- 3.2 The current Emergency Funding Programme was approved by Mayoral decision on 23 October 2014. This followed a detailed report on the need to re-introduce a programme which was presented to the Corporate Grants Programme Board (CGPB) in September 2014. The programme was established with a one-off allocation of £250,000 from the Corporate Match Funding budget. The maximum available grant to community organisations is £20,000 (within a rolling 12-month period).
- 3.3 Since the inception of this Programme in October 2014, funding has been approved to 18 organisations totalling £154,000. This leaves a remaining budget of £96,000. Of the 18 approval decisions, 6 are currently still live.
- 3.4 The report to the CGPB in September 2014 agreed the process and criteria for the Programme. The early applications were therefore considered by that body and funding decisions made based upon its understanding of the scheme and its interpretation of the criteria etc.
- 3.5 Since that time however, the Programme has been reported on as part of the PwC review as well as now being subject to the Directions made by the Secretary of State. Whilst the processes, arrangements, and criteria have remained unchanged; the decisions being made are significantly different. Consequently, this has led to a lack of clarity and understanding among Voluntary and Community Sector Organisations in terms of: whether they

qualify for support under this programme; and, what specific items of organisational expenditure are likely to be supported.

3.6 Key aspects of the existing programme are outlined below:

Existing Criteria

An organisation is eligible to apply for emergency funding if it:

- Is already in receipt of Council funding
- Provides a service that is of strategic importance to the borough
- Is in danger of closing down or is unable to continue to provide core funded services at a 'reasonable level or standard'
- Has already taken/or is in the process of implementing reasonable measures to address the situation
- Is able to demonstrate that it can sustain itself once any emergency funding has been utilised
- Meets the council's Best Value considerations.

Existing Process

3.7 There was initially a two (2) stage process for organisations who sought emergency funding from the Council. This included completing an initial assessment form to check eligibility; those that were eligible would then complete a Funding Request Form.

3.8 The current process includes applications being made to the Programme which are assessed and moderated by Council staff. Reports are then prepared for Commissioners' consideration at their next available meeting. Although decisions are made at Commissioners' meetings, nothing can be implemented until the decision sheet is made available. The entire process can take up to three (3) months from organisations submitting their application to receiving any funding, if successful. Concerns have been raised by organisations that this is not helpful when trying to deal with emergencies.

Revised Process

3.9 It is proposed that, in order to increase efficiency, the Programme has a single application form (a copy of which is at Appendix A) rather than the current two (2) stage process. There are two (2) options in terms of how decisions could be made and how long each is likely to take. These are detailed below:

Option 1 – Continue with current process

Continue with current process whereby decisions are made at the Commissioners' Pre-Agenda Meetings. An example of timing is set out in the table below:

		Timing
1	Application deadline	23 rd September 2016
2	Assessment and preparing Commissioner report	1 week
3	Legal & Finance comments Deadline	4 th October 2016
4	Pre-Agenda Draft Report Deadline	10 th October 2016
5	Pre- Agenda Meeting	18 th October 2016
6	Decision sheet published	24 th October 2016

7	Grant Agreement negotiations start / contracts signed / initial payment made	7 th November 2016
		Minimum of 6 weeks

Option 2 – Revise timetable to introduce specific Commissioner meetings to consider Emergency Grant applications.

Introducing an approach similar to that taken for property related decisions, whereby meetings are arranged as and when required to consider emergency grant funding applications will reduce the time taken for decisions to be made allow organisations with an emergency to have a decision or receive funds more quickly.

As the criteria and assessment form for the programme will be tightened, clear recommendations, with the use of the assessment form (a copy of which is at Appendix B), would continue to be provided to enable an informed decision to be made.

With this option all decisions taken by the Commissioners would be reported to the next appropriate Grants Review Sub Committee/ Grants Decision Making meeting for information.

		Timing
1	Application deadline	23 rd September 2016
2	Assessment and preparing report	1 week
3	Decision made by Commissioners at next available meeting	3 rd October 2016
4	Contract negotiations start / contracts signed / initial payment made	17 th October 2016
		Minimum of 3 weeks

Revised Criteria

3.10 There are concerns within the Sector that there is not a consistent approach in what is being funded through the Programme. There is therefore a need to ensure that organisations are clear on what **is likely to be funded** and what is **unlikely to be funded**. This can be achieved by strengthening and tightening the criteria. It is proposed that in order to be considered for Emergency Funding, organisations must meet **all** of the following criteria:

- Be a voluntary/community sector/ not-for-profit organisation
- Have a formal legal structure together with an appropriate governing document
- Have a base within Tower Hamlets or a demonstrable track record of successful service delivery within the borough
- Have a bank or building society account in the organisation's name
- The organisation is able to demonstrate financial viability
- Provides project activities that mainly benefit Tower Hamlets residents
- Is already in receipt of Council funding

- Provides evidence that their project/organisation is consistent with Council priorities as detailed in the Strategic / Community plan
- Is in danger of closing down or is unable to continue to provide core funded services at a 'reasonable level or standard'
- Has already taken/or is in the process of implementing reasonable measures to address the situation
- Is able to demonstrate that it can sustain itself once any emergency funding has been utilised
- Has a formal reserves policy

Examples of Emergency Funding applications and considerations

3.11 In a number of instances, organisations have queried whether their particular emergency is something that could be funded through the Programme. It is therefore considered that a guide of which applications may or may not be successful would be useful for organisations, however it is important to note that each application will be considered on its own merits and individual circumstances.

3.12 The table below provides some examples of applications which may be made. The list is not exhaustive and each application will be individually considered on a discretionary basis. **Organisations must clearly demonstrate the need for the funding within their application and clearly specify within the application details demonstrating how the unforeseen emergency came about.**

Emergency funding may not be awarded for the following	Emergency funding may be awarded for the following
Accreditation fees	Building repairs (for essential emergency work)
Computers / tablets	Health & Safety equip/improvements
Fundraising strategies	DDA Improvements
Business plans	
Consultancy fees	Redundancy costs arising as a consequence of council action or inaction
Insurance	Staff salaries / wages (to cover unforeseen med/long-term absences)
Delivering new project	Winding up costs
Enhancing existing project	
Furniture	
Photocopying	
Smart phones	
Staff training	
Team building away-days	
Volunteer training	
To pay debts	
Project match funding	

Volunteer expenses	
Utilities – gas, electricity	
Rent increases (where due notice of the rent increase has been supplied)	

- 3.13 The Council is looking at other options that it may be in a position to provide such as provision of an interest free loan taking into account the circumstance, affordability and viability of organisations. These options will form part of the review that will be reported back in three months following input from the Third Sector Advisory Board.
- 3.14 In addition to the appropriateness of the planned use of the funds, an important factor in deciding whether an Emergency Funding grant will be awarded will be the level of reserves held by the applicant at the time of application.
- 3.15 The Council does not specify what levels of reserves are appropriate or reasonable for organisations to be considered for Emergency Funding. This is consistent with guidance from the Charity Commission (Jan, 2016) which states that: ***‘there is no single level, or even a range of, reserves that is right for all charities’. Any target set by trustees for the level of reserves to be held should reflect the particular circumstances of the individual charity’.***
- 3.16 Additionally, whilst it is accepted that an organisation may hold reserves as ‘essential funds’ and which will enable the Trustees / Management to meet the organisation’s legal liabilities in the event of a crisis situation, there is a difference when it comes to reserves which are merely ‘designated funds’ that may be set aside for planned activities such as redecoration of a building.
- 3.17 All organisations that apply for Emergency Funding will be required to have a reserves policy that clearly details the level of reserves that the organisation should hold. This should include details of reserves that are ‘free’ and those that are required if the organisation is at risk of closure. Reserves that are deemed to be ‘free’ must be exhausted before Emergency Funding can be considered. Potential applicants should also bear in mind that the Charity Commission’s guidance suggests that reasons why organisations should build up reserves includes tackling *‘the risk of unforeseen emergency and other unexpected need for funds’*. Therefore, an organisation’s ‘first port of call’ in dealing with an emergency, should not be an Emergency Funding application to the Council.
- 3.18 In considering whether an organisation is recommended for funding, officers will take into consideration the level of reserves held by the organisation alongside the detail of the organisation’s written reserves policy and the use of their reserves in meeting the stated emergency.

4. COMMENTS OF THE CHIEF FINANCE OFFICER

There are no direct financial implications arising from this report.

5. LEGAL COMMENTS

- 5.1 This report sets out proposed changes to the Emergency Funding Programme in an effort to meet the emerging needs of the local Voluntary and Community Sector. The aim is to ensure a clear understanding of the Programme and to achieve consistency in the approach to both assessing applications and the subsequent awarding of grants.
- 5.2 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.
- 5.3 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.
- 5.4 In the case of the Emergency Funding Programme, the Council is not under a legal duty to provide these payments. The payments are discretionary and therefore are considered to be grants.
- 5.5 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).
- 5.6 To the extent that the Commissioners are exercising powers which would otherwise have been the Council's, there is a need to ensure that the Council has the power to make the grant in question. In that regard, the proposed grants would be 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 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. Changes to the Emergency Funding Programme to ensure a clear understanding of the Programme and to achieve consistency in the approach to

both assessing applications and the subsequent awarding of grants is consistent with that duty. Best Value considerations have also been addressed in paragraph 7 of the report.

- 5.8 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 voluntary and community sector through grants contributes to the delivery of One Tower Hamlets priorities and objectives.

7. BEST VALUE (BV) IMPLICATIONS

- 7.1 Grants are considered through the Emergency Fund Programme to ensure organisations are not at risk of increased costs in future when an emergency isn't remedied and to safeguard any existing Council projects the organisation may be delivering.

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 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 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

Appendices

- Appendix A – Revised Application Form
- Appendix B – Emergency Funding FAQs

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

Appendix A – Revised Application Form

**TOWER HAMLETS COUNCIL
Emergency Funding Application Form**

Name of organisation:	
Address:	
Wards served:	
Name of person completing request:	
Position in organisation:	
Contact email address:	
Organisation website address:	
Telephone contact:	
Amount Requested:	£

Please set out below the purpose(s) for which the requested funding will be used add additional rows below as required	
Explanation/Description	Cost
	£
	£
	£
	£
	£
	£
TOTAL	£

<p>Please explain why your organisation has a financial emergency <i>(This textbox can be expanded to provide as much information as required)</i></p>

<p>Please provide details of what action you have taken to date in an effort to mitigate the emergency <i>(This textbox can be expanded to provide as much information as required)</i></p>

How you will ensure the organisation will be financially sustainable once emergency funding has been utilised?

(This textbox can be expanded to provide as much information as required)

Please demonstrate how your project is of strategic importance to the borough, in particular referring to the Council's Community, Strategic and/or other Plans/Strategies. Links to these plans can be found within the criteria for the Emergency Funding Programme,

(This textbox can be expanded to provide as much information as required)

Please explain precisely how the emergency is likely to impact on the organisation as a whole

(This textbox can be expanded to provide as much information as required)

Please detail all Council funding you are currently receiving

(This textbox can be expanded to provide as much information as required)

Please detail how the emergency will affect any project or initiative currently funded by the Council.

(This textbox can be expanded to provide as much information as required)

Please clarify the likely impact on potential or actual service users if the emergency isn't tackled.

(This textbox can be expanded to provide as much information as required)

Please detail what additional costs your organisation may suffer if the emergency situation is not addressed

(This textbox can be expanded to provide as much information as required)

If your organisation has 'free reserves', please explain why these can't be used to tackle the emergency

(This textbox can be expanded to provide as much information as required)

FUNDING SOURCE State your financial year end	2015/16 or most recent reporting year (Actual) £	2016/17 or year to date £
Charitable Trusts/Foundations		
Sub Total	£	£
Business Donors or Sponsorship		
Sub Total	£	£
LBTH Grants or Contracts (Show all individual projects separately)		
Sub Total	£	£
Other Income e.g. subscriptions, fee/charges etc.		
Please provide details of any 'free reserves' that you have		
Sub Total	£	£
Please detail all designated reserves you have (for repairs or other use)		
Sub Total	£	£
Any other funds		
Cash in bank accounts		
Available overdraft		
Shares		
Investments		
Loans made to individuals and organisations		
Significant outstanding debts owed to your organisation		
Contract or grant claims submitted but not yet received		
Sub Total	£	£

TOTAL INCOME	£	£
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ORGANISATIONAL EXPENDITURE [Add additional rows as required]

EXPENDITURE	2015/16 (Actual)	2016/17 (Estimate)
	£	£
Employee costs – <i>please specify individual salaries</i>		
(A) Employees Sub Total	£	£
Premises costs – <i>please specify</i>		
(B) Premises Sub Total	£	£
Office costs – <i>please specify</i>		
(C) Office Costs Sub Total	£	£
Other running costs - <i>please specify</i>		
(D) Other Running Costs Sub Total	£	£
Any other expenditure – <i>please specify</i>		
(E) Miscellaneous Other Sub Total	£	£
Capital expenditure - <i>please specify</i>		
(F) Capital Expenditure Sub Total	£	£
TOTAL EXPENDITURE (A + B + C + D + E + F)	£	£

Return completed form to: everett.haughton@towerhamlets.gov.uk

Appendix B – Emergency Funding, FAQs

1) What is the purpose of the Emergency Funding Programme?

The Council has limited grant funding support available to local Voluntary and Community Sector Organisations, based in Tower Hamlets, who are experiencing an unforeseen emergency which is placing a council funded project at risk.

2) What is the maximum funding that can be applied for?

Grants of up to £20,000 are available for organisations to apply for. The average grant amount so far has been £10,000.

3) When can we bid?

This is a rolling fund; applications will be considered all year round.

4) Who is eligible to apply?

Applications can be submitted by voluntary and community organisations who meet the following criteria:

- Be a voluntary/community sector/ not-for-profit organisation
- Have a formal legal structure together with an appropriate governing document
- Have a base within Tower Hamlets or a demonstrable track record of successful service delivery within the borough
- Have a bank or building society account in the organisation's name
- The organisation is able to demonstrate clear plans for financial viability in the medium/long term
- Provides project activities that mainly benefit Tower Hamlets residents
- Is already in receipt of Council funding which may be at risk as a result of the emergency
- Provides evidence that their project/organisation is consistent with Council priorities as detailed in the Strategic / Community plan
- Is in danger of closing down or is unable to continue to provide core funded services at a 'reasonable level or standard'
- Has already taken/or is in the process of implementing reasonable measures to address the situation
- Is able to demonstrate that it can sustain itself once any emergency funding has been utilised

5) How do we apply?

Application forms can be found at:

http://www.towerhamlets.gov.uk/ignl/community_and_living/community_grants/community_grants.aspx

6) How are decisions made?

Applications are assessed by the Council's Third Sector Team; with additional advice sought from other service areas as required. Additional information may be requested from applicants to provide clarification on certain points.

7) What items are likely and unlikely to be successful for funding?

Emergency funding applications may not be awarded for the following emergencies	Emergency funding applications may be awarded for the following emergencies
Accreditation fees	Building repairs (for essential emergency work)
Computers / tablets	Health & Safety equip/improvements
Fundraising strategies	DDA Improvements
Business plans	
Consultancy fees	Redundancy costs arising as a consequence of council action or inaction
Insurance	Staff salaries / wages (to cover unforeseen med/long-term absences)
Delivering new project	Winding up costs
Enhancing existing project	
Furniture	
Photocopying	
Smart phones	
Staff training	
Team building away-days	
Volunteer training	
To pay debts	
Project match funding	
Volunteer expenses	
Utilities – gas, electricity	
Rent increases (where due notice of the rent increase has been supplied)	

8) Will there be maximum amounts for different things?

There are no maximum amounts for different items of expenditure although organisations are expected to demonstrate value for money in their application.

9) We are not sure if our costs are eligible or not. Can we contact you to discuss our application before submitting it?

If you have any queries on items you would like to apply for, please email us at thirdsector@towerhamlets.gov.uk in the first instance.

10) If an organisation is unsuccessful when can they reapply?

Organisations that are unsuccessful with their original application are eligible to submit further applications as they wish.

11) If successful for an application say for £5K will they be able to submit another application in a few months' time?

Successful organisations are not eligible for funding for 12 months, from the date of their signed grant agreement. Previous funding must have been satisfactorily used in order to submit a new application.

12) What are the criteria on organisations holding reserves and applying for emergency funding?

All organisations that apply for Emergency Funding must have a reserves policy which clearly details the level of reserves that the organisation should hold. This should include details of reserves that are 'free' and those that are required if the organisation is at risk of closure. Reserves that are deemed to be 'free' must be exhausted before Emergency Funding can be considered. Potential applicants should also bear in mind that the Charity Commission guidance suggests that reasons why organisations should build up reserves includes tackling *'the risk of unforeseen emergency and other unexpected need for funds'*. Therefore, an organisation's 'first port of call' in dealing with an emergency, should not be an Emergency Funding application to the Council.