


<b>Commissioner Decision Report</b> <b>8 November 2016</b>	 <b>TOWER HAMLETS</b>
<b>Report of:</b> Zena Cooke, Corporate Director Resources	<b>Classification:</b> Unrestricted
<b>Exercise of Commissioners Discretion</b>	

<b>Lead Member</b>	Rachel Saunders
<b>Originating Officer(s)</b>	Steve Hill
<b>Wards affected</b>	All wards
<b>Key Decision?</b>	No
<b>Community Plan Theme</b>	<b>One Tower Hamlets</b>

### **EXECUTIVE SUMMARY**

This report sets out details of decisions made under the exercise of Commissioners Discretion. Such decisions are required to be the subject of a noting report at a subsequent Commissioners Decision Meeting in Public.

### **RECOMMENDATIONS:**

The Commissioners are recommended to:

1. Confirm their decisions under Commissioners Discretion as set out in appendix 1.

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

- 1.1 Agreed procedures require that reports be submitted to Commissioners Decision Meetings in Public to confirm/note grant funding decisions taken under Commissioners Discretion.
- 1.2 The reporting of decisions taken under Commissioners Discretion assists in ensuring that Members and Public are made aware of, and therefore able to scrutinise Commissioners decisions.

#### **2. ALTERNATIVE OPTIONS**

- 2.1 Agreed procedure requires decisions taken under Commissioners Discretion to be presented to a Commissioners Decision Meeting in Public.
- 2.2 To deviate from this procedure would require a sound reason. It is not considered that there is any such reason, have due regard of the need to ensure that Members are kept informed of all decisions made by Commissioners under their discretionary powers.

### **3. DETAILS OF REPORT**

- 3.1 The decisions made under Commissioners discretion are set out in the attached appendix 1. These decisions relate to funding for the
- community cohesion Heartstone Project with
  - schools and home repairs grants, and were considered outside of the Decision Making Meetings in Public.
- 3.2 These decisions were taken outside of scheduled meetings in public in order that grants were considered and awarded in a timely manner.

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

- 4.1 The decisions set out in the attached appendix have already been made under the Commissioners discretionary powers.
- 4.2 In taking their decisions the Commissioners are provided with a report setting out the relevant information to inform their decision and which includes specifically the financial implications of the proposed decision together with financial and legal comments provided by the Chief Finance Officer and the Monitoring Officer respectively.

### **5. LEGAL COMMENTS**

- 5.1. This report seeks the approval of Commissioners to a grant allocation for the Heartstone Odessa pilot project and for four homes repairs grants. The payments are discretionary and therefore considered to be grants.
- 5.2. 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 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<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. 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 are 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.

- 5.4. 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 7 of the report.
- 5.5. The Council must ensure that no part of the funds issued represents a profit element to the recipient. 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.
- 5.6. 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. This report is concerned with the notification of Commissioners decisions under their discretions; and as such has no direct One Tower Hamlets implications. The extent to which there are One Tower Hamlets considerations arising from the original recommendations, these would have been addressed as part of those considerations.

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

- 7.1 Best Value implications associated with each of the Commissioners discretions as set out in Appendix would have been identified and evaluated as an integral part of the process which led to the decisions.

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

- 8.1 There is no sustainable action for a greener environment implications arising from this report.

## **9. RISK MANAGEMENT IMPLICATIONS**

- 9.1 The risk management implications associated with each of the Commissioners discretions as set out in Appendix 1 would have been identified and evaluated as an integral part of the process which led to the decisions.

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

- 10.1 Crime and disorder reduction implications, if any, associated with the decisions as set out in Appendix 1 would have been an integral part of the process which led to the decisions.

## **11. SAFEGUARDING IMPLICATIONS**

- 11.1 Safeguarding implications including risks or benefits, if any, associated with each of the decisions as set out in Appendix 1 would have been identified and evaluated as an integral part of the process which led to the decisions
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### **Linked Reports, Appendices and Background Documents**

#### **Linked Report**

- NONE

#### **Appendices**

- Appendix 1 – details of the decisions made under the Commissioners discretionary powers

#### **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](mailto:Steve.Hill@towerhamlets.gov.uk)