

<b>Item No.</b>	<b>Classification:</b> Open	<b>Date:</b> 6 May 2014	<b>Meeting Name:</b> Overview & Scrutiny Committee
<b>Report title:</b>		Tenant Fund Budget Decision Call-in	
<b>Ward(s) or groups affected:</b>		All	
<b>From:</b>		Stephen Douglass, Head of Community Engagement	

### **What the Tenant Fund is**

1. The Tenant Fund was established in 1989 to fund and support the tenant movement. It derives its income from a precept on tenants' rents, which stands at 26.53p per week per property for 2013/14. Further contributions are made from the home owner fund for 25% of the amount actually paid to tenants' & residents' associations during the year.
2. It forms a ring fenced part of the Housing revenue Account and is spent only on resident involvement activities.
3. Among other things the Tenant Fund pays a grant to the Southwark Group of Tenants Organisations (SGTO). The proposed grant to SGTO for this current financial year is £238,000. This is an increase over the previous year award of £190,828. It is also the largest grant that the council gives to any organisation in the borough. SGTO is a tenant's federation and exists to support and give a voice to council tenants and residents.
4. As part of the HRA the Tenant Fund is covered by the council's financial standing orders, financial management framework and regulations. These include that where grant money is passed on to third parties, the terms of the funding must be clearly documented. Appropriate reporting and monitoring arrangements must be put in place before any monies are paid over, and the organisation being given the funds must report progress and performance to the Council.
5. The council has a fiduciary duty to those who it collects the funding from to ensure that it is administered with reasonable care and skill and with due regard to those (in this case council tenants) on whose behalf we manage it.

### **Council Policy on Grants**

6. The awarding of grants over £2,500 is a matter reserved in the council constitution to Individual Cabinet members within their portfolio areas.
7. In this case the decision maker is the Deputy Leader and Cabinet member for Housing Management.
8. The framework and procedures under which council grants are managed require that organisations in receipt of grants above £2,000 must sign their agreement of the Council's standard conditions of grant funding. This is

applied to all organisations in the borough and is standard practice among all funders.

9. Signing the COGF does not interfere with their independence or ability to campaign but sets out the responsibilities and obligations of both parties to the agreement for example:

10. The organisation agrees to:

- Use the funding for the purpose for which it was given and to benefit the people of Southwark
- Complies with its legal obligations e.g. under Health & Safety Legislation
- Manages the money effectively
- Follows the principles of good governance and management e.g., is democratic, accountable etc.

The council agrees to:

- Act reasonably
- Pay the grant promptly
- Communicate clearly
- Where necessary provide additional non-financial support

The first paragraph of the document says clearly that:

"The Council recognises and respects the independence and values of the third sector but also has a responsibility to ensure that organisations which receive funding continue to achieve certain levels of effective management and financial practices and use the funding they receive for the purposes it was granted."

11. The Conditions of Grant Funding were first adopted by the council in 1986 and were more recently reviewed and an amended version agreed by cabinet on 29 January 2013. The cabinet report states the following:

Implementing the new COGF will address a number of weaknesses in the Council's grant monitoring processes that were highlighted in the audit. The recommendations for action are as follows:

- The need to update the council's policy/guidance document covering process requirements for funding voluntary sector organisations
- The need for consistent evaluation of voluntary organisations' financial sustainability
- The need to produce service specifications detailing what is required on the part of funded organisations and the obligations of the council in the funding relationship
- The need for a minimum standard of acceptable performance monitoring promoted across the council

- The need for agreements between the council and funded organisations detailing circumstances in which the council can recover funds from funded organisations
12. The concurrent advice from the Director of Legal Services states:

“Conditions of Grant Funding do not create a contract between the Council and the funded organisation and are not legally enforceable. They also fall outside the Council’s Contract Standing Orders. However, clear, up-to-date and relevant conditions which identify minimum requirements of service delivery, reporting and governance linked to continued payment should always be in place. These are essential to ensure the proper use of public funds and to protect the reputation of the Council. The contracts team in the Corporate Services section of Legal Services has advised in detail upon the proposed new Conditions of Grant Funding.”

### **The decision making process**

13. The Tenant Fund budget follows the same process every year. Consultation takes place with Tenant Fund management Committee and Tenant Council on officer proposals prior to a decision being made and this typically this takes several months to complete. Officer recommendations are shared with Tenant Council and Tenant Fund management Committee through the process.
14. This year given in particular that there was disagreement over the officer recommendations this was shared in the report and the organisation were invited to make representations that were shared with the decision maker before he took his decision and consideration of this representation has been noted in the Record of Decision form.
15. All of this has been discussed with Tenant Representatives over the past more than 12 months. More detail on the consultation that has taken place is set out below including minutes of TFMC meetings where the issue of conditions of grant funding has been raised. This would bring SGTO into line with all other council funded organisations.

### **Internal Audit requirements**

16. In 2012 the council’s internal auditors carried out a review of procedures involved in management of the relationship with tenants & Residents Associations. This took place as part of the routine series of internal audits and was reported to the Audit and Governance Committee.
17. The audit made a recommendation relating to the funding of SGTO as follows:
- Management of TRAs - To address the relationship with the SGTO and funding provided, the Council should:
  - Prepare a grant agreement including performance targets to be met by the SGTO;
  - Develop the KPIs against which the SGTO is to be assessed;

- Clearly set out the obligations and responsibilities of both parties in any agreement prepared;
- Regularly monitor the performance of the SGTO;
- Include the right to recall funding should the obligations of the SGTO, as set out in the agreement, not be met.

This was shared with the SGTO and the Tenant Fund management Committee as detailed in the chronology below.

### **The housing consultation structure**

18. Tenant Council and Tenant Fund management Committee form part of the formal structure by which the council consults with representatives of council tenants. These bodies are consultative and have no formal decision making powers and this is specified in the Tenant Council constitution. They are comprised of representatives of Tenants & Residents Associations.
19. The Tenant Fund Management Committee is a sub-committee of the Tenant Council.
20. As noted above formal decisions of this nature are reserved to the relevant cabinet member and it is officer's responsibility to give impartial advice to the decision maker.

## Chronology 13/14 and 14/15 Funding

Communication/ documents referred to are numbered below

Date	Communication	Action	Response
18.4.13	Email: Head of Community Engagement to Chair of SGTO (Item 1)	Audit requirement referenced. Advised that the council requires a grant agreement is put in place for SGTO and that this will be achieved through the standard conditions of grant funding. (COGF) (Item 2)	Email of 21.4.13 below
21.4.13	Email: Chair of SGTO to Head of Community Engagement (3)	Stating that matter for Tenant Council not SGTO	See below
22.4.13	Email: Chair of TFMC to Head of Community Engagement (4)	Stating that matter for discussion with Chair of TC and Chair/Vice-Chair of TFMC as proposed change to management of Tenant Fund	See below
22.4.13	Email: Head of Community Engagement to Chair of TFMC copying in Chairs of TC & SGTO (5)	Re-states audit requirement about grant agreement and offers further discussion of issues.	No response
29.4.13	Tenant Fund report 13/14 to Tenant Council (6)	"As part of the Review of the Tenant Fund there is an expectation that a grant agreement will be put in place this year to manage the grant to SGTO." (page 4, paragraph K)	
29.4.13	Tenant Council Minutes of 29.4.13 (7)	Report unanimously passed.	Minutes of TC do not record any discussion relating to the grant agreement.
25.6.13	Email: Senior Commissioning Officer to Chair of SGTO	Meeting requested to discuss putting in place grant agreement for SGTO and attaching COGF document	Meeting arranged for 2 July 13
1.7.13	Email: Senior Commissioning Officer to Chair & Manager of SGTO	Grant monitoring self-assessment checklist and other documentation sent by email in advance of visit the next day.	
2.7.13	Meeting at SGTO of Senior	Purpose of meeting to progress putting in place a grant agreement	SGTO representative

	Commissioning Officer with Chair & Manager of SGTO	for SGTO.	s indicated that would not be signing grant agreement stating that TFMC has responsibility for Tenant Fund.
8.7.13	Email: Chair of TFMC to Senior Commissioning Officer	Email forwards an email from Chair of SGTO relating to the grant agreement meeting of 2 July stating that monitoring of SGTO is a matter for TFMC, asking why the council is proposing changing the arrangement and suggesting a meeting with Chair & Vice Chair of TFMC	Senior Commissioning Officer proposes dates to meet with Chair of TC and Chair & Vice-Chair of TFMC in email of 1 Aug 13 to Chairs of TFMC & SGTO.
2.8.13	Email: Chair of TFMC to Senior Commissioning Officer	Asking for documents to support the proposed change and stating that the matter be dealt with by next meeting of TFMC the responsible body	
9.8.13	Email: Senior Commissioning Officer to Chair of TFMC	Copy of the email dated 18.4.13 from Head of Community Engagement to Chair of SGTO referred to above is forwarded referencing the audit requirements and attaching the Conditions of Grant Funding	
18.8.13	Email: Chair of TFMC to Senior Commissioning Officer	Asking that documents relating to the grant agreement be sent out to TFMC members in advance	See below
20.8.13	Email: Tenant Grants Officer to TFMC members (8)	Attaches COGF document and Tenant Fund review document	
27.8.13	TFMC meeting	Agenda lists "SGTO Grant Agreement" as item 5	See minutes below
8.10.13	TFMC Minutes of meeting of 27.8.13 (9)	Minutes state, "Officers presented the Conditions of Grant Funding and a paper tabled in advance of the meeting. The Conditions of	

		<p>Grant Funding are a requirement set out in the recommendations of an internal audit report that the council should prepare a grant agreement which clearly sets out the obligations and responsibilities of both parties.</p> <p>Approximately 300 external organisations receive funding through the council. There is a requirement for a funding agreement to be in place for all of these to provide transparency and accountability and safeguard public money. This is irrespective of the source of the funding.</p> <p>The meeting stated it did not agree with the request and would not be progressing it but would raise it at TC.”</p>	
14.10.13	Tenant Council (10)	<p>Minutes of TC item 9.1 record “Ian Ritchie - Why does report say that the tenant fund needs to be made fair and transparent? Noted there has been an attempt by officers to go behind TFMC’s back and go to SGTO and get them to sign a contract.</p> <p>Cris Claridge– not clear who wrote this report, as chair of SGTO, called to a meeting with a community engagement and asked to sign a funding agreement. This made her feel uncomfortable as felt it was not being done through the appropriate channel; i.e. through TFMC.</p> <p>Ian Ritchie– Think methodology is under hand - TFMC monitors SGTO -what would the council do differently?”</p>	
18.2.14	TFMC meeting minutes (11)	<p>Draft of Tenant Fund budget report for 2014/15 presented includes “The SGTO grant will be subject to the council’s normal conditions of grant aid.”</p>	

3.3.14	Tenant Council (12)	Draft of Tenant Fund budget report for 2014/15 presented includes "The SGTO grant will be subject to the council's normal conditions of grant aid." Minutes of meeting record, "Cris Claridge raised an additional point about the officer report that funding is subject to normal conditions of the grant agreement. SGTO refuses to do this. The employer/funder is TFMC. This needs a proper discussion."	
13.3.14	Email Head of Community Engagement to Chairs of Tenant Council & TFMC (13)	Summarises what was agreed at meeting on 12.3.2014 which includes to present standard Conditions of Grant Funding to TFMC and that latest draft of the Tenant Fund budget report would be sent to Chairs of TC and TFMC. enable representations to be made to the Decision Maker. Deadline for making these of 19.3.2014.	
19.3.14	Report received from TFMC for Decision Maker Deputy leader and cabinet member for housing management (14)	The final paragraph of the report submitted states, "The TFMC, for all the reasons previously stated, would ask that you agree the budget as submitted and you do not agree the additional condition with recommendation (2) that the SGTO funding be approved subject to the agreement that the SGTO signs acceptance of the Council's Standard Conditions of Funding".	
19.3.14	Tenant Fund Report amended to include reference to representations received from TFMC for the Decision Maker (15)	Paragraph 27 of the final report refers to the representations received.	
21.3.14	Report is		



	published on the council website and councillors are notified of the decision to be taken and the timeline (16)		
3.4.14	The decision is taken to approve the recommendations (17)	The record of decision form records, "I received representations from the Tenant Fund Management Committee in regards to funding for 2014/15".	

**Other documents:**

- 1. Tenant Council Terms of Reference**
- 2. Tenant Fund Management Committee Terms of Reference**
- 3. Southwark Council procurement guidelines – difference between contract and a grant**