

Item No. 10.	Classification: Open	Date: 25 January 2010	Meeting Name: Cabinet
Report title:		London Councils Grants Scheme 2011/2012	
Ward(s) or groups affected:		All	
Cabinet Member		Councillor Abdul Mohamed, Equalities and Community Engagement	

FOREWORD - COUNCILLOR ABDUL MOHAMED, CABINET MEMBER FOR EQUALITIES AND COMMUNITY ENGAGEMENT

1. The London Councils grants scheme previously funded community and voluntary sector organisations that provided London wide services. As a result of the devolution of powers and the squeeze on public sector finances there is a need to change the way that the London Councils Scheme provides support.
2. In December, the London Council Leaders Committee took the decision to reduce the levy that all authorities previously paid by 43 per cent. This means Southwark is to be 'repatriated' some £475,007 of the levy paid in 2009-10. This effectively reduces the amount to be paid to London Councils by £475,007.
3. We need to formally agree the new reduced levy and consider the factors set out in this report as a result of these changes. We also need to agree that officers explore the possibility of ring fencing these repatriated funds for the community and voluntary sector in Southwark before a decision can be made on the use of the rest of the repatriated funds if any. This particularly applies to those unfunded groups that have a large number of Southwark beneficiaries.

RECOMMENDATIONS

4. That the Cabinet note the issues arising from the London Councils Grants Review
5. That the Cabinet agree the proposed levy of £485,614 subject to the budget proposals to be submitted to the Council Assembly in February 2011.
6. That the Cabinet agree that officers continue to explore the options for continuation/discontinuation of commissioned services in consultation with relevant boroughs and London Councils. Attached as Appendix 1 is a list of Southwark based London Councils funded organisations and Appendix 2 is a list of organisations with beneficiaries in Southwark.

BACKGROUND INFORMATION

7. The London Council Grants Scheme was created following the abolition of the Greater London Council as a means of maintaining support to voluntary organisations providing London-wide services. Organisations supported by the scheme are required to provide services across at least two London boroughs in order to qualify for support.

8. Since the first grants commenced in April 1986, the funding provided by the Scheme has addressed a range of social issues such as discrimination, domestic violence, homelessness and creating opportunities for all those living in London.
9. The Scheme was reviewed in 2005 as a consequence of concerns in many boroughs that, whilst accepting that benefits should be targeted on need, the actual benefits were not distributed across London in proportion to those needs. That review resulted in a complete change in approach of the Scheme and adoption of revised themes.
10. London Councils Leaders' Committee agreed the revised funding priorities in November 2006 based upon 12 broad themes and an annual budget of £26.4 million for each of the four years starting in 2007/8. The first funding decisions under the revised scheme were taken in spring 2007, and the final funding decisions were taken in late 2008; these have four-year end dates ranging from July 2011 to March 2013.
11. With current commissioned services beginning to expire from July 2011 and in anticipation of a further four-year funding programme for 2011-15, Leaders Committee undertook a scoping consultation with boroughs, voluntary sector organisations and other stakeholders on potential future priorities from 2011 onwards. The results of this were reported to London Councils Grants executive and London Councils Executive in March 2010. Whilst the funding approach was welcomed, the consultation showed that: some changes in the priorities could be justified; covering fewer service areas in more depth was considered to be better than covering a wide range of priorities; and a number of the priorities could be dealt with more effectively at a sub-regional rather than London-wide level. Members agreed that it would be for the new Leaders' Committee formed after the May 2010 elections to determine what the future approach and priorities would be.
12. Following the May 2010 London local council elections, borough leaders also suggested that given the increasing devolution of powers and services by government to the local level, a significant proportion of the grants scheme could be better spent by individual boroughs on locally determined priorities. This, together with the squeeze on public sector finances triggered a review of the grants scheme that was announced at the London Councils Annual General Meeting on 8 June 2010 with a view to repatriation or reduction of the levy. The timescale agreed for completion of the review and approval of recommendations was December 2010.
13. The review of the London Boroughs' Grants Scheme focused on three main issues:
 - What funded activity, if any, should be delivered locally by individual London boroughs in the future;
 - What London-wide activities/programme should be funded in the future, together with budget and priorities for this;
 - The timetable and processes to achieve the resulting changes.
14. At its meeting of July 2010 Grants Committee determined what issues needed to be resolved in helping determine the future of the grants scheme and an

extensive consultation was carried out involving key stakeholders which informed the proposals subsequently put forward to the Grants committee in November 2010.

15. The following re-categorisation of services for future funding purposes emerged from the review:

Category A – London-wide services

The funded services included in Category A are mainly those which satisfy one or more of the following conditions:

- Those where the frontline service is in the true sense London-wide, such as London-wide sporting competitions and child helpline; and/or
- Those which provide capacity building and support to the third sector; and/or
- Those which provide a London-wide voice to different sectors of the community.

Category B – Sub-regional services delivered across more than one London Borough.

Those included in Category B are mainly services that are currently organised sub-regionally, or services which are piloted in parts of London, such as services to tackle child poverty.

Category C – Services that are local in nature - delivered within a single London Borough

Those included in this category are funded services where services are local in nature, and where they could potentially be carried out at a local level if boroughs have the resources available to do so. These include services such as day centres and drop-in for homeless people and those which reduce bullying and its impact.

16. The issues and concerns raised during the consultation process with regard to the speed of change and the capacity to quickly transfer commissioning responsibility to boroughs has shaped 3 broad options on how to progress change whilst minimising disruption.

- **Option 1 - De-commission B and C services from 1 April 2011** providing a clean break and enabling the maximum amount of resources to be available for boroughs. However this approach would also likely cause the maximum amount of disruption, with many services that boroughs individually or collectively having to be re-commissioned in haste; there would also be concerns about the risk of legal challenge.
- **Option 2 - Allow all B and C services to run their full course** this would cause the minimum disruption, and allow boroughs to develop their local or sub-regional priorities and commissioning arrangements. However, this would slow the transfer of control over decisions to boroughs, and bring only limited change to the Grants Scheme budget in 2011/12 (the majority of change then impacting in 2012/13).

- **Option 3 – Allow a managed process of transition for B and C services.** Boroughs would need to decide, on a borough by borough and service by service basis, which services they wished to see continue. In the meantime, London Councils could continue to manage existing commissions, in those relevant boroughs alone, to ensure no break in agreed provision. Funding for these managed commissions would be agreed on a borough by borough basis and would be outside the scope of the s.48 scheme.
17. The Grants Committee met on 25 November 2010 to consider the key issues arising from the review process and the key issues and principles that emerged from the consultation, the categorisation of services, the timing of the proposed changes and to make recommendations to Leaders Committee on which proposal to take forward for approval. Grants Committee opted for Option 3 (a managed transition) and these recommendations were approved by Leaders Committee on 14 December 2010. This means that individual boroughs will need to come to a conclusion as to which commissioned services will continue on a borough by borough and commission by commission basis.
 18. It was recognised that boroughs could not all come to conclusions as to which, if any, services they would like to be managed on an interim basis before 31 December 2010 which is when notice of early termination would have to be given if commissions were to end on 31 March 2011. It was also therefore agreed that all commissions would continue until 30 June 2011 to give all boroughs time to agree their own options. In the meantime it will be a matter for individual boroughs to make decisions as to what services they wish to continue to run and how they will be managed in the future
 19. It was considered that the benefits of this approach would allow more time to consider and establish transitional arrangements for category B and C services with each borough, maximising the flexibility in dealing with current commissioned services if some or all boroughs wish them to continue, but limits boroughs binding financial commitments to the statutory Grants Scheme.

KEY ISSUES FOR CONSIDERATION.

20. As agreed by the Leaders Committee on 14 December 2010 the levy required to be contributed by Southwark totals **£485,614** (a reduction of £475,007 on the 2010/2011 levy of £960,621). Overall this comprises a reduction in the level of total borough contributions of 49.7%. The proposal for expenditure in 2011/12 is set out as follows:

Overall level of expenditure of **£17,691,000** comprising:

Grants - **£16,793,000** (made up of £13.175 million continuing funding to category A pan-London Services April 2011-March 2012 plus £3.16 million as the cost of extending funding to Category B and C services for the 3 months April – June 2011 transitional period)

Administrative Expenditure - **£838,000**

London Funders Membership Fees - **£60,000**

Income would comprise:

European Social Fund grant - **£2,070,000**

Interest and balances - **£2,380,000**

Borough contributions - **£13,241,000**

21. Further to the Grants to Voluntary Organisations (Specified Date) Order 1992 (which came into effect on 2 November 1992 and remains in force), the budget must be agreed by two-thirds of constituent Councils before 1 February 2011. If it is not, the overall level of expenditure will be deemed to be the same as that approved for 2010/11 (i.e. £30,116,000). Boroughs are required to provide a formal response to the recommendation as soon as possible; ideally by **Friday 21 January 2011** (as required under section 7.5 of the Grants Scheme), but no later than 31 January 2011.
22. Each borough must now decide which services it wishes to terminate or continue to provide with the balance of funding and in the case of the latter how they envisage these commissions could be managed in the future e.g. at the borough level or working with neighbours to develop sub-regional solutions. Given the tight timescales it is recognised that boroughs may be unable to arrive at conclusions as to which, if any, services they would like to continue to be provided within this timescale. The Chief Executive of London Councils wrote to all boroughs on 8 December 2010 requesting a preliminary indication as to:
 - whether boroughs are content to see services from Category B and C cease
 - or alternatively if they wish to come to an agreement with London Councils to continue to manage these services for a further limited period in order to allow more time for the development of alternative arrangements.
23. Arriving at conclusions as to which, if any, services the council would like to continue to be provided is complex, challenging and carries significant risk for the council for a number of reasons. London Councils is one of the largest funders of the voluntary and community sector in London, the current scheme funds over 360 individual voluntary sector organisations, almost 200 of which have beneficiaries who are residents of Southwark. The existing priorities for commissioned services are very wide ranging and include:
 - Children and Young People
 - Crime Reduction
 - Culture, Tourism and London 2012
 - Environment, Transport, Planning and Sustainability
 - Generic Second Tier
 - Health and Social Care
 - Health and Safety
 - Homelessness
 - Legal and Advice
 - Policy and Voice
 - Poverty
 - Violent Crime

24. The grants form a substantial part of the total turnover of some of the organisations and a significant part of their service delivery. Terminating commissions early could seriously affect the sustainability of these organisations at a time when funding from other sources is also under threat. Early termination could also result in the loss of match or other funding for the organisations involved.
25. The scheme is focused on addressing disadvantage and it is therefore inevitable that change to the organisations funded will have an impact on the community. Full equalities impact assessments will need to be carried out before any decision to terminate funding is made. There could be significant risks associated with discontinuing the support for a range of services for some of Southwark's most deprived and vulnerable communities.
26. The picture is extremely complex and of the almost 200 organisations that have beneficiaries within Southwark many of these have beneficiaries in a number of other boroughs. Taking these decisions is likely to mean complex discussion with all other London boroughs in different combinations on an organisation by organisation basis. This will also mean a full consideration of the impact of any decisions and what if any expectation there is that funding continues.
27. Throughout the course of the review London Councils have reported that they have obtained legal advice from their London Councils advisor on the relationship between London Councils and constituent councils and the legal implications of these proposals. The Grants Scheme is governed by Section 48 of the Local Government Act 1985. The London Councils report to Leaders Committee states that grants to voluntary organisations are approved "in principle and subject to annual review" and that "where a grant is approved for a period of more than one year, this approval is subject to adequate funding being provided by the constituent councils to London Councils to meet the cost of the on-going grant.
28. Where approval is not given by the appropriate majority (two thirds of constituent councils) the amount of expenditure in the previous year is deemed to have been approved i.e. remaining at 2009/10 levels. However if constituent councils do not approve the budget recommended by the Grants Committee, they can agree an alternative level of expenditure. The constituent councils are not therefore constrained by the proposed budget of the Grants Committee. Given that it is possible for constituent councils to agree an alternative level of expenditure it is appropriate for the Grants Committee to seek to ascertain what level of expenditure would be acceptable to the appropriate majority and then to propose that level of expenditure for approval.
29. It is possible that the Funding Agreement in place between London Councils and a Funded Organisation would be treated as having contractual force. However, even if the funding agreement is treated as contractual, the duration of the Agreement is time limited by the terms of Clause 14.5: "approval is subject to adequate funding being provided by the constituent councils to London Councils to meet the costs of the ongoing Grant".

Where, therefore, funding is not "adequate", the Funding Agreement will come to an end as a matter of private law. There is no obligation, therefore, on London Councils as a matter of private law to continue the operation of the Funding Agreement where it is unable to afford to pay the Grants. Therefore, individual funded organisations have a legitimate expectation that funding will

continue so long as London Councils has sufficient funds to meet the costs. If there are insufficient funds for this, then the funded organisation cannot complain that a substantive legitimate expectation is defeated. Further advice states that even if there was 'substantive' legitimate expectation not to cease funding where money is available but is allocated elsewhere, so long as the decision making is transparent and well-reasoned it is likely that legitimate expectation could be defeated if available money was allocated elsewhere.

30. The Chair of London Councils Grants Committee wrote to all funded voluntary organisations on 20th July 2010 informing them that because of the uncertainties caused by the review and the forthcoming financial position in 2011/12, the Committee was unable to guarantee any funding beyond 31st March 2010.
31. Grants Committee Members were also advised to consider the equalities impacts on affected groups when making recommendations to the Leaders Committee and to be aware that, without a commitment from individual boroughs to continue the funding, then the equalities impacts of those services not being funded will need to be taken into account.

Community impact statement

32. London Councils funding is awarded to voluntary organisations based throughout London to carry out various services and activities covering legal advice, health & social care, citizenship & human rights, support for women, support for children and young people, arts and culture, sustainable forms of transport, quality childcare provisions, support for the elderly, support for migrant communities, facilities for homeless persons, tackling homelessness, development of social enterprise across London, social cohesion, etc. Southwark Council influences the pattern of the London Councils support through its representation on both the Grants and Leaders Committees as a constituent council.
33. A list of organisations based in Southwark that are currently funded through the Scheme is attached as **Appendix 1**. This funding is based on levels of deprivation and need. Residents in Southwark benefit from a wider range of services from organisations than those simply based within the borough. Organisations based in Southwark also serve the populations of other London boroughs.
34. Given Southwark's demographics a number of these organisations are providing services which have a beneficial effect on the local community. Examples of these are Afro-Asian Advisory Service, Southwark Law Centre, Southwark Citizens Advice Bureaux Service, Southwark Refugee Project Limited, Age Concern London, Homeless Link and Victim Support.
35. A number of these organisations are currently funded by the council and the equalities impacts of London councils decisions on affected groups will need to be addressed in the coming months through discussion with London councils and other boroughs.

Resource implications

36. Southwark Council's contribution to the 2010/11 budget was £960,621 (based on a population of 274,400). If the proposed budget is approved the

contribution in 2011/12 will be **£485,614** based on the removal of Category B and C services which will cease in June 2011.

37. There are sufficient resources within the Community Support budget to meet the Council's required levy of **£485,614** for 2011/12 based on last years resource allocation. However, this will need to be considered within the council's normal budget-setting process.

Consultation

38. London councils have carried out an extensive consultation exercise in relation to the review of the future role and scope of the London Councils Grants Scheme. All responses were summarised and reported to Grants & Leaders Committee.

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Strategic Director of Communities, Law & Governance

39. The London Borough Grants Scheme is, as set out in paragraph 27 of the report is governed by section 48 of the Local Government Act 1985.
40. The Council is required under section 48(3) of the Act to contribute to any expenditure that has been incurred with the approval of two-thirds of the constituent council's. This council's contribution is determined by reference to the size of the council's population.
41. By virtue of section 48(4)(A) of the Act and the Grants to Voluntary Organisations (Specified Date) Order 1992, the constituent councils are required to agree the scheme's expenditure by the 1st of February in the year preceding the financial year in which the expenditure is incurred. If at least two-thirds of Constituent Councils do not agree the expenditure by that date, then, the level of expenditure will remain at the same level as that applied in the previous financial year.
42. The council is bound to contribute to the scheme and cannot unilaterally withdraw from it. However, where the Constituent Councils do not agree the level of expenditure, the Grants Committee can agree an alternative level of expenditure and the agreement to opt for option 3 of the three funding alternatives set out in paragraph 16 of the report falls within the provisions of the scheme.
43. The legal implications of defunding individual voluntary organisations are set out in paragraphs 27 - 31 of the Report. When members are deciding on which voluntary organisations to continue funding and which not to, regard will need to be had to public sector equalities duties.
44. The Equalities Act 2010 which introduces additional protected characteristics does not come into effect in relation to public sector equalities duties until April 2011. Until then we are governed by the existing legislation and our Equalities and Human Rights Scheme (2008-2011).
45. Section 71 of the Race Relations Act 1976, 49A(i) of the Disability Discrimination Act 1995 and 76A of the Sex Discrimination Act 1975, require local authorities to act in accordance with equalities duties and have due regard

to these duties when we are carrying out our functions, which includes making decisions in the current context.

46. The report author at paragraph 31 refers to the need to carry out an equalities and human rights impact assessment before a decision is taken. Equality impact assessments are an essential tool to assist councils to comply with our equalities duties and to make decisions fairly. The council's equalities and human rights impact assessment process goes beyond current equalities duties (relating to race, disability and gender) to incorporate religion/belief, sexual orientation and age.

Finance Director

47. Earmarked resources within the Community Engagement budget exist for funding the London Councils Grants Scheme commitment for 2011/12. The service will need to consider the implications of the proposal to change the funding mechanism of sub-regional and local objectives whilst still operating within the, as yet undetermined, service budget for 2011/12.
48. There is the potential to release savings of up to £474k but the work needs to be done to identify which organisations will be affected by the change; this will take time and discussion with London Councils. At this stage a prudent estimate of a 25% savings is considered appropriate across years one and two and hence £118k is built into budget process. This may be reviewed on completion of the required work.

BACKGROUND DOCUMENTS

Background papers	Held At	Contact
Correspondence from London Councils	Communities, Law & Governance, 160 Tooley Street, London SE1 2TZ	Triumphant Oghre 0207 525 7418

APPENDICES

No.	Title
1	List of Southwark based organisations funded by London Councils
2	List of organisations with beneficiaries in Southwark

AUDIT TRAIL

Lead Officer	Stephen Douglass, Head of Community Engagement	
Report Author	Bonnie Royal. Commissioning & Voluntary Sector Support Manager	
Version	Final	
Dated	12 January 2011	
Key Decision	Yes	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / EXECUTIVE MEMBER		
Officer Title	Comments Sought	Comments included
Strategic Director of Communities, Law and Governance	Yes	Yes
Finance Director	Yes	Yes
Cabinet Member	Yes	Yes
Date final report sent to Constitutional Team	14 January 2011	