

Leaders' Committee

London Councils Grants Scheme - Budget Proposals 2013/14

Item no: 7

Report by: Frank Smith **Job title:** Director of Corporate Resources
Date: 13 November 2012
Contact Officer: Frank Smith
Telephone: 020 7934 9700 **Email:** Frank.smith@londoncouncils.gov.uk

Summary This report considers the proposed budget for the Grants Scheme for 2013/14 and makes a recommendation to the Committee on the appropriate level to recommend to constituent councils for approval.

Recommendations The Leaders' Committee is asked to agree:

- an overall level of expenditure of £10 million for the Grants Scheme in 2013/14 (inclusive of £2 million gross ESF programme – 50% funded by boroughs and 50% by ESF grant);
- that taking into account the application of £1 million ESF grant, net borough contributions for 2013/14 should be £9 million (representing a reduction of £2.5 million or 21.7% on the 2012/13 subscription of £11.5 million);
- that further to the recommendations above, constituent councils be informed of the Committee's recommendation and be reminded that further to the Order issued by the Secretary of State for the Environment under Section 48 (4A) of the Local Government Act 1985, if the constituent councils have not reached agreement by the two-thirds majority specified before 1 February 2013 they shall be deemed to have approved expenditure of an amount equal to the amount approved for the preceding financial year (i.e. £12.5 million);
- that constituent councils be advised that the apportionment of contributions for 2013/14 will be based on the 2011 Census data, adjusted by the ONS to provide the mid-year population estimates for June 2011; and
- that, subject to the approval of an overall level of expenditure, the Committee agrees to set aside a provision of £520,000 for costs incurred by London Councils in providing staff and other support services to ensure delivery of the Committee's grant making responsibilities, including ESF administration of £120,000. This figure can be compared against £595,000 for 2012/13, a decrease of £75,000 or 12.6%.

Introduction

1. This report details the indicative overall budget requirement for the London Boroughs Grants Scheme for 2013/14 of £10 million, comprising:
 - The cost of the borough scheme of priority, pan-London commissioned services of £8 million, which includes the cost of administering the borough scheme, equating to 5%, or £400,000 of the proposed grants programme of £8 million plus the membership subscriptions for boroughs for London Funders of £60,000; and
 - The gross cost of the ESF programme of £2 million, including £120,000 administration costs, offset by ESF grant of £1 million, leaving a net cost of £1 million to be funded by boroughs.
2. The proposed total expenditure budget of £10 million will be funded by borough contribution of £9 million and ESF grant income of £1 million. Reflecting the spending constraints on local authorities, the level of proposed borough contributions for 2013/14 represents a reduction of £2.5 million or 21.7% in the level of borough contributions of £11.5 million for 2012/13.
3. The Leaders' Committee will need to reach a view on both the appropriate overall level of expenditure and to recommend the budget to constituent Councils having due regard to it equalities duties and the impact on protected groups.

Approval of Expenditure

4. The statutory basis of the Grants Scheme is Section 48, Local Government Act 1985. Constituent councils agreed to some changes to the operation of the Scheme as part of the establishment of the new ALG on 1 April 2000: these changes mean that the budget for the London Councils Grants Scheme must be approved by the London Councils Leaders' Committee. This will need to happen before any budget that is recommended to constituent councils by the Grants Committee can be formally referred to them as a basis for consideration in their respective council chambers.

5. The budget proposals were considered by the Grants Committee at their meeting on 5 November and the meeting agreed that the proposals should be approved by the Leaders' Committee as laid out in this report. If Leaders do not accept the recommendations of the Grants Committee, and instead agree to recommend a different budget figure to Boroughs, the Grants Committee will need to meet urgently to consider the implications for the Grants programme.
6. Section 48(3) of the Local Government Act 1985 requires that at least two-thirds of the constituent councils in Greater London must approve the proposed overall level of expenditure on grants to voluntary organisations and other costs incurred in "the making of grants" under the Grants Scheme. This is not a decision that can be delegated to the Grants Committee although that Committee is able to make decisions with regard to allocation of that expenditure once overall expenditure has been approved. This means that when the Grants Committee decides on an overall level of expenditure, subject to the agreement of this Committee, it will recommend it to the London Boroughs and the Cities of London and Westminster and at least 22 of them must agree through their respective decision-making arrangements to ratify and give effect to that overall level of expenditure. Once 22 councils have given their approval, the overall level of expenditure and contributions to it are binding on all constituent councils.

Timing of Decisions

7. The Committee needs to make its recommendation in good time so that constituent councils are able to consider the budget proposal within their own decision-making arrangements and make a response within the timescales laid down for the Scheme. The Scheme approved by the boroughs provides that constituent councils shall be asked to agree to the Committee's recommended level of overall expenditure not later than the third Friday in January, in this case 18 January 2013. All constituent councils will have received copies of this report and will be informed of the Committee's recommendation as to overall expenditure for next year, once the decision has been taken.
8. The City of London Corporation has been the Designated Council for the Scheme since 1 February 2004. Bearing in mind the issues raised above, it is essential for the Committee make a recommendation today, to provide sufficient time for constituent councils to consider the matter before the 1 February 2013 deadline, and enable the City of London Corporation to approve the levy on constituent councils by the deadline of 15 February 2013.

9. In the event that constituent councils are unable to reach agreement by the two-thirds majority required on an overall level of expenditure before 1 February 2013 the Secretary of State for Communities and Local Government has powers to intervene and set the budget at the same level as the preceding year. Section 105 of the Local Government Finance Act 1992 inserted a new sub-section (4A) into section 48 of the Local Government Act 1985 which states that:

"4A. The Secretary of State may by order provide that if -

- *a scheme requires the total expenditure to be incurred under the scheme in any financial year _*
 - *in the making of grants; and*
 - *in the discharging by the designated council of its functions under the scheme, to be approved in accordance with the scheme by some or all of the constituent councils; and*
- *the total expenditure to be incurred in any financial year is not approved as required by the scheme before such date as may be specified in relation to that financial year in the order, the constituent councils shall be deemed, subject to any order which has been or may be made under subsection (5) below, all to have given their approval for that financial year to total expenditure of an amount equal to the amount that was approved or, as the case may be, deemed to have been approved for the preceding financial year".*

Contributions by constituent councils

10. Section 48(3) of the 1985 Act provides that the amount of contributions to the London Councils Grants Scheme shall be determined so that expenditure is borne by constituent councils in proportion to the population of their respective areas. Section 48(4) of the 1985 Act states that the population of any area shall be the number estimated by the Registrar-General and certified by him to the Secretary of State.
11. Under The Levying Bodies (General) Regulations 1992, arrangements made under section 48 of the 1985 Act use total resident population as the means of apportionment and it is no longer necessary for the Registrar General to certify the estimates. The Regulations came into force on 11 December 1992. Regulation 6(8) is of particular importance, stating that:

"A levying body shall secure that the expenses to be met by levies issued by it under these Regulations by reference to the relevant precepting power conferred by section 48 or 88 of the Local Government Act 1985 are borne by the relevant authorities in a proportion calculated by reference to the total resident population of the area of each relevant authority on 30th June in the financial year beginning two years before the beginning of the financial year in respect of which the levy is issued, as estimated by the Registrar General."

12. The Designated Council is defined as a levying body further to Sections 74 and 117 of the Local Government Finance Act 1988, which means that the levy will have to be approved formally by the City of London Corporation, being the Designated Council under the Grants Scheme, before the payment requests are sent to constituent councils. The City of London Corporation will consider this matter before the deadline of 15 February 2013. The Levying Bodies (General) Regulations 1992 then require the approved levy to be sent out to constituent councils by 15 February in any year. The term levy refers both to the total contributions from constituent councils and to the apportionment of that total between them.

Summary Timetable

13. To summarise, the timetable for the approval of the budget for 2013/14 is expected to be as follows:

Date	Action
5 November 2012	Grants Committee considers proposed budget and borough contributions for 2013/14 and makes recommendations to Constituent Councils, subject to approval of Leaders' Committee
13 November 2012	Leaders' Committee is asked to approve the level of budget and borough contributions for 2013/14, as recommended by the Grants Committee on 5 November
14-16 November 2012	Constituent Councils formally notified of the approved level of budget and borough contributions for 2013/14
19 November 2012 – 31 January 2013	Constituent Councils to individually ratify the overall level of expenditure for 2013/14 through their respective decision-making arrangements
1-15 February 2013	The City of London Corporation, as the Designated Council for the Grants Scheme, approves the levy for 2013/14 on Constituent Councils
15 February 2013	Constituent Councils informed of level of expenditure and borough contributions for 2013/14

Budget Proposal for 2013/14

14. Appendix A to this report sets out detailed information relating to the proposed budget for 2013/14. The budget assumes:

- A core, pan-London scheme of services to meet agreed service priorities of £7.6 million, which includes the membership subscriptions for boroughs for London Funders of £60,000;
- An additional gross sum of £1.88 million relating to a continuance of the current ESF grants programme;
- An indicative gross grant payments budget of £9.48 million, which represents a reduction of £2.425 million (20%) compared to grants programme of £11.905 million for the current year.
- In addition to the indicative gross grant payments budget of £9.48 million, the proposal includes a provision for grants administration of £520,000. This comprises of 5% of the boroughs grants budget of £8 million, amounting to £400,000, plus 5.99% of the £2 million gross ESF programme, amounting to £120,000. This represents a reduction in grants administration expenditure of £75,000 (12.6%) compared to £595,000 for the current year.

Non-Grants Expenditure

15. All estimates of grants administration expenditure levels are based upon a target of no more than 5% of the grants budget for the borough funded scheme, as previously discussed by Grants Committee in the review of non-grants expenditure levels conducted in early 2009. For the ESF programme, the claimable amount is limited to 5.99% of the total budget as stated in the DwP guidelines, with both amounts to be met from within the budget envelopes of £8 million and £2 million respectively.

16. In terms of dedicated staff, with the transfer of the management of the borough funded ESF programme in-house from GLE Limited, the overall number of staff is 5.97 fte posts split between the S.48 programme of 4.05 fte posts and 1.92 fte posts dealing with the ESF programme.

17. The staffing costs figures within the proposed 2013/14 budget options reflects all of these posts, together with the apportionment of time spent on Grants Committee activities by other London Councils staff, such as Grants Committee servicing and Public Affairs. In addition to this, an apportionment of time spent by Corporate Resources, Corporate Governance other than Committee Servicing, the Chief Executive's office, and London Councils Political Advisors are included in the central recharges figure for supporting the Committee's functions, as well as a notional rental figure for office space occupied at Southwark Street.

ESF Grant Income

18. The proposed budget includes gross expenditure of £2m million on activities commissioned under London Councils Poverty priority, including administration costs of £120,000, which attracts grant income at 50% as a consequence of London Councils status as one of London's ESF co-financing bodies, thus reducing the net cost of this activity to £1 million. Both the gross expenditure and the ESF income it attracts are reflected in Appendix A.

2012/13 Outturn Projections

19. The Month 6 forecast report reported to the Grants Committee on 5 November highlighted projected underspends amounting to £643,000 in total for 2012/13, reflecting:

- An projected underspend of £108,000 in respect of borough S.48 grant payments for commissioned service relating to 2012/13;
- A return to revenue of estimated liabilities of £123,000 set up during the closure of the 2011/12 accounts, which will not be paid out, again in respect of the borough S.48 programme;
- A projected underspend of £790,000 relating payments relating to the borough/DWP ESF programme, due to delays in starting the 2012-14 two year programme, offset by a reduction in ESF grant of £410,000, giving a net projected underspend of £380,000; and
- A projected net underspend of £32,000 in respect of grants administration, with additional salaries arising from transfer of staff from GLE Limited from October 2012 to manage the ESF programme offset by the cessation of contract payments to GLE. The split between the S.48 programme and the ESF programme is £15,000 and £17,000 respectively.

Use of Reserves

20. Audited reserves at the end of March 2012 were £819,000, inclusive of £139,000 relating to ESF programme slippage. The current position on Grants Committee reserves is shown in the table below, which takes on board projected underspends from the current year (refer paragraph 19).

	Borough	ESF	Total
	£000	£000	£000
Audited reserves as at 1 April 2012	680	139	819
Projected surplus/(deficit) for the year	246	397	643
Projected reserves as at 31 March 2013	926	536	1,462
Indicative total expenditure 2013/14	8,000	2,000	10,000
Forecast reserves as a % of indicative expenditure	11.58%	26.8%	14.62%

21. The Director of Corporate Resources recommends that, in line with best financial management practice, it would be appropriate to retain reserves of at least £400,000 to support the future borough programme of approximately £8 million. The projected level of reserves as at 31 March 2013 therefore comfortably achieves this benchmark. For the ESF programme, reserves attributable to this area of the programme have accumulated due to slippage and are therefore likely to be fully utilised in the subsequent years of each programme element – effectively acting as an earmarked reserve, so aspiring for a desirable level of future reserves is not considered appropriate.

Borough Contributions

22. Paragraphs 10 to 12 of this report set out the legal position relating to contributions payable by constituent councils to the London Councils Grants Scheme. Contributions for 2013/14 have been calculated using the 2011 Census data, adjusted by the ONS to provide the mid-year population estimates for June 2011 and are set out in Appendix B.

23. A review of the principles and priorities and future arrangements for a new Grants Programme for 2013/15 was undertaken earlier this year, following extensive consultation and assessment of equalities implications of the revised arrangements on protected groups, and having regard to the spending constraints on local authorities, such that the overall level of borough contributions for 2012/13 will be £9 million.

24. Taking into account the application of £1 million ESF grant, the net borough contributions for 2013/14 of £9 million will represent a reduction of £2.5 million or 21.7% on the 2012/13 subscription of £11.5 million.

25. While the budget for the Grants Scheme is agreed annually, the Committee is advised that at the Grants Committee AGM on 11 July 2012 it was agreed that services under the new Grants Programme should be commissioned for an initial two year period to March 2015 (and possibly to 2017, subject to the outcome of the review of the Programme in 2014). Nevertheless, funding of any commission will always be subject to availability of resources and the successful delivery of the service, and these conditions will be included in the contracts with the organisations eventually commissioned to deliver the service.

Equalities Implications

26. In reaching decisions for the implementation of the future Grants Programme and in agreeing the budget required to deliver that programme in 2013/14 to be recommended to constituent councils, the Committee is required to have due regard to its obligations under the Equalities Act 2010, and in particular the Public Sector Equalities Duty (the PSED). The PSED is an on-going duty and the Committee, in taking its decisions, must demonstrate due regard throughout the process. Further information regarding this duty is set out in the Legal Implications paragraph below.

27. London Councils has completed extensive consultation concerning the content of its proposed Grants Programme for 2013/15, having regard to its equalities duties and the impact of its decisions upon protected groups.. The budget proposals enable London Councils to complete the delivery of the new programme and provide grants to voluntary organisations in 2013/14.

28. The commissions to be awarded to deliver the principles and priorities of the London Councils Grants Programme for 2013/15 will be considered by the Grants Committee at its meeting to be held on 20 February 2013. This will follow assessment by officers of applications received by London Councils in October 2012, and include an analysis of equalities impacts of the proposed service. The Grants Committee will make its decisions in awarding commissions based on the available budget for 2013/14 and to provide a programme that provides services that meet the principles and priorities having 'due regard' to relevant equalities considerations.

29. London Councils has, at the beginning of this year, already undertaken extensive consultation and assessment of the equalities impacts upon protected groups in setting the principles and priorities to be delivered under the new and reduced Grants Programme for 2013/15. While that consultation did not invite comments on the future budget, the prospect of a reduced budget in the region of £8 million – in the context of the spending constraints upon local government – was made clear. The scope of the 2013/15 Programme, which was agreed in June 2012, reflects this. A report of the outcome of the consultation, and a detailed analysis of the equalities impacts was reported to London Councils Leader's Committee on 12 June 2012 and can be seen at:

http://www.londoncouncils.gov.uk/committees/agenda.htm?pk_agenda_items=4892

30. London Councils also subsequently invited views on the distribution of spending, with reference to that indicative budget, across the new priority areas as well as the proposed specifications for services to be delivered under each priority. The outcomes of this short consultation, including the relevant equalities implications, were considered by the Grants Committee at its meeting held on 12 September 2012 and the full report (and equalities analysis) can be seen at:

http://www.londoncouncils.gov.uk/committees/agenda.htm?pk_agenda_items=4978

31. In summary, the analysis of equalities considerations identified that a re-focussing of the future Grants Programme, to reflect the reduced resources available in the context of significant spending constraints facing local authorities, will have an impact upon protected groups. The decisions which have already been taken to agree the principles and priorities of the new Grants Programme, and to agree the service specifications and strands to deliver those outcomes, have been taken with the intention of applying scarce resources to seek, where possible, to mitigate any adverse equality impacts arising from a re-focused Grants Programme operating with a reduced budget.

32. Officers have reviewed the equalities analysis referred to at paragraphs 29 above. in recommending the proposed budget to the Committee. There are no issues or considerations to add to those which have already be identified and addressed in those detailed Reports and Appendices. Members are therefore asked to consider the budget proposals having regard to the needs and equalities considerations outlined in detail in those Reports. The extensive consultation previously undertaken has enabled the needs of protected groups to be included in shaping the content of the commissions and specifications in tackling the needs of Londoners with reference to a reduced budget such as that now under consideration.

Summary

33. This report considers the proposed budget for the Grants Scheme for 2013/14 and makes a recommendation to the Committee on the appropriate level to recommend to constituent councils for approval. Specifically, the report proposes an overall level of expenditure in 2013/14 of £10 million, a reduction of 20%, compared to the current year figure of £12.5 million; which requires borough contributions of £9 million; a reduction of £2.5 million or 21.7% compared to the current year contributions of £11.5 million (refer to Appendix B);

Recommendations

34. The Leaders' Committee is asked to agree, to recommend to the constituent councils for their approval, a budget for 2013/14:
- having an overall level of expenditure of £10 million for the Grants Scheme in 2013/14 (inclusive of £2 million ESF programme);
 - that taking into account the application of £1 million ESF grant, net borough contributions for 2013/14 should be £9 million (representing a reduction of £2.5 million or 21.7% on the 2012/13 subscription of £11.5 million);

- that further to the recommendations above, constituent councils be informed of the Committee's recommendation and be reminded that further to the Order issued by the Secretary of State for the Environment under Section 48 (4A) of the Local Government Act 1985, if the constituent councils have not reached agreement by the two-thirds majority specified before 1 February 2013 they shall be deemed to have approved expenditure of an amount equal to the amount approved for the preceding financial year (i.e. £12.5 million);
- that constituent councils be advised that the apportionment of contributions for 2013/14 will be based on the Census data, adjusted by the ONS to provide the mid-year population estimates for June 2011; and
- that, subject to the approval of an overall level of expenditure, the Committee agrees to set aside a provision of £520,000 for costs incurred by London Councils in providing staff and other support services to ensure delivery of the Committee's grant-making responsibilities, including ESF administration of £120,000. This figure can be compared against £595,000 for 2012/13, a decrease of £75,000 or 12.6%.

Appendices

Appendix A – Proposed revenue income and expenditure budget 2013/14;

Appendix B – Proposed borough subscriptions 2013/14;

Background Papers

Grants Committee Budget Working Papers 2012/13 and 2013/14;

Grants Committee Final Accounts Working Papers 2011/12;

Grants Committee Revenue Budget Forecast Working Papers 2012/13; and

London Councils Consolidated Budget Working Papers 2012/13 and 2013/14.

Legal Implications

[A] This report considers the proposed budget for the Grants Scheme for 2013/14 and makes a recommendation to the Committee on the appropriate level to recommend to constituent councils for approval.

- [B] In reaching its decision the Committee must comply with general public law requirements and in particular it must take into account all relevant matters, ignore irrelevant matters and act reasonably and for the public good.
- [C] In addition, the Committee is required to consult those likely to be affected by the decision. In order to be lawful a consultation exercise must take place when the proposals are still at a formative stage, sufficient time and information must be given to permit intelligent consideration and response and the product of the consultation must be conscientiously taken into account by the decision maker in reaching a decision. The consultation process and the results of the consultation were undertaken earlier in the year and were set out in detail in the Reports referred to at paragraphs 26 – 32.
- [D] A public authority must also in, the exercise of its functions, comply with the requirements of the Equality Act 2010 and in particular section 149 (the Public Sector Equality Duty). The protected characteristics to which the Public Sector Equality Duty (“PSED”) applies now include age as well as the characteristics covered by the previous equalities legislation applicable to public authorities (i.e. disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, sexual orientation, religion or belief and sex).
- [E] The PSED is set out in section 149 of the Equality Act 2010 (“the Act”) provides (so far as relevant) as follows:

(1) A public authority must, in the exercise of its functions, have due regard to the need to:

- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
- (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

(3) Having due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to:

- (a) remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic;
- (b) take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it;
- (c) encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.

(4) The steps involved in meeting the needs of disabled persons that are different from the needs of persons who are not disabled include, in particular, steps to take account of disabled persons' disabilities.

(5) Having due regard to the need to foster good relations between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to (a) tackle prejudice, and (b) promote understanding.

(6) Compliance with the duties . . . may involve treating some persons more favourably than others.

[F] Case law has established the following principles relevant to compliance with the PSED which the Committee will need to consider:

(i) Compliance with the general equality duties is a matter of substance not form.

(ii) The duty to have "due regard" to the various identified "needs" in the relevant sections does not impose a duty to achieve results. It is a duty to have "due regard" to the "need" to achieve the identified goals.

(iii) Due regard is regard that is appropriate in all the circumstances, including the importance of the area of life of people affected by the decision and such countervailing factors as are relevant to the function that the decision-maker is performing.

(iv) The weight to be given to the countervailing factors is in principle a matter for the Committee. However in the event of a legal challenge it is for the court to determine whether an authority has given "due regard" to the "needs" listed in s.149. This will include the court assessing for itself whether in the circumstances appropriate weight has been given by the authority to those "needs" and not simply deciding whether the authority's

decision is a rational or reasonable one.

(v) The duty to have “due regard” to disability equality is particularly important where the decision will have a direct impact on disabled people. The same goes for other protected groups where they will be particularly and directly affected by a decision.

(vi) The PSED does not impose a duty on public authorities to carry out a formal equalities impact assessment in all cases when carrying out their functions, but where a significant part of the lives of any protected group will be directly affected by a decision, a formal equalities impact assessment ("EIA") is likely to be required by the courts as part of the duty to have 'due regard'.

(vii) The duty to have ‘due regard’ involves considering whether taking the particular decision would itself be compatible with the equality duty, i.e. whether it will eliminate discrimination, promote equality of opportunity and foster good relations. Consideration must also be given to whether it will be possible to mitigate any adverse impact on any particular protected group, or to take steps to promote equality of opportunity by, for example treating a particular affected group more favourably.

[G] To assist the Committee in fulfilling its PSED, a summary of the equalities implications is set out in paragraph 31. This, and the previous reports to Grants and Leaders Committees referred to at paragraphs 26 - 32, will need to be read and taken into account by Committee, together with the requirements of the PSED itself set out above, in reaching a decision on the recommendations in the report regarding the Grants Scheme budget for 2013/14. As the PSED is an on-going duty, due regard will need to be given to it in the further development and operation of the grants process.

[H] The Committee should therefore carefully consider these matters in reaching its decision.