

**VOLUNTARY SECTOR GRANTS COMMITTEE** *On 8 November 2005*

**Report title: Appeal by the African Caribbean Leadership Council (ACLC) against Withdrawal of Grant Aid**

**Report of: Head of Members' Services**

**1. Purpose**

1. To present the Committee with the written submissions and documents to be relied on by the ACLC and the Voluntary Sector Team respectively at the hearing of the ACLC's appeal against withdrawal of Grant Aid.

**2. Recommendations**

- 2.1 That Members consider the written submissions and documents submitted by the ACLC and the Voluntary Sector Team in support of their respective cases in respect of ACLC's appeal against withdrawal of Grant Aid.
- 2.2 That Members consider the advice of the Head of Legal Services on the procedure for hearing the appeal.
- 2.3 That Members hear and determine the appeal in accordance with due procedure and give directions for ACLC to be notified of their decision in writing.

**Report authorised by: Max Caller – Interim Chief Executive**

**Contact officer: Richard Burbidge**

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### 3. Executive summary

- 3.1 By letter dated 23 September 2005 (Schedule 1), the ACLC has appealed against a decision by Assistant Chief Executive (Strategy), David Hennings, to withdraw Grant Aid provided to the ACLC by the Council under an Agreement dated 25<sup>th</sup> March 2004 for the period up to end March 2007.
- 3.2 By letters dated 6<sup>th</sup> Oct. 2005, the Head of Member Services wrote in substantially the same terms to each party informing them of the hearing date for the appeal and of the procedure to be followed in advance of and at the hearing – see copy of the letter sent to ACLC in Schedule 2.
- 3.3 The ACLC has presented a bundle of written submissions and documents in support of their appeal (Schedule 3).
- 3.4 The Assistant Chief Executive (Strategy), David Hennings has presented written submissions and documents in opposition to the appeal against the decision to withdraw Grant Aid (Schedule 4).
- 3.5 The Head of Legal Services has advised at paragraph 8 on the procedure to be followed at the hearing of the appeal. The Committee is to hear and determine the appeal in accordance with this advice.

### 3.2 Reasons for any change in policy or for new policy development

Not applicable.

### 4. Access to information:

#### **Local Government (Access to Information) Act 1985**

4.1 The Schedules to this report are **not for publication** as they contain exempt information under the following categories:

(v) Information relating to any particular applicant for, or recipient or former recipient of, any service provided by the authority.

(vii) Information relating to the financial or business affairs of any particular person (other than the authority).

## 5. Report

### Background

- 5.1 By an agreement dated 25<sup>th</sup> March 2004 between Haringey Council and the ACLC, the Council agreed to provide the ACLC with Grant Aid over the period April 2004 to end March 2007 on the terms and

conditions set out in the Agreement – see copy in Schedule 4, Appendix 3.

- 5.2 By letter dated 16<sup>th</sup> Sept. 2005 (see copy in Schedule 4, Appendix 19 from David Hennings, Assistant Chief Executive (Strategy) who is responsible for the Voluntary Sector Team which administers Grant Aid, the ACLC were informed of the withdrawal of Grant Aid.
- 5.3 By letter dated 23<sup>rd</sup> Sept. 2005 from ACLC to David Hennings, the ACLC gave notice of appeal against the withdrawal of Grant Aid and the main grounds for their appeal (Schedule 1).
- 5.4 The Members Services team have taken legal advice from the Head of Legal Services on the procedure to be followed by the Committee in dealing with this appeal. This advice has previously been forwarded to the Committee via Councillor Lorna Reith. The advice is set out in the comments of the Head of Legal Services at paragraph 8 below.
- 5.5 Based on this legal advice, by letters dated 6 October 2005, the Head of Member Services wrote in substantially the same terms to each party informing them of the hearing date for the appeal and of the procedure to be followed in advance of and at the hearing – see copy of the letter sent to ACLC in Schedule 2.
- 5.6 The letter to the parties on procedure allowed for the parties to indicate if they had any objection to the membership of the Committee due to hear the appeal. In response to this, by letter dated 17 October 2005, the ACLC wrote to Member Services submitting an objection to Councillor Lorna Reith's participation in the appeal and the reason for the objection. In essence, this was based on Councillor Reith's earlier participation in a meeting between the parties aimed at achieving a resolution of the issues that led to withdrawal of Grant Aid.
- 5.7 By email of 20<sup>th</sup> Oct. 2005, Members Services were informed that Councillor Reith responded to ACLC's objection by deciding that she would withdraw from participating in the appeal. The ACLC and David Hennings' Voluntary Sector Team were informed of this development by letter dated 25 October 2005.
- 5.8 The ACLC and the Voluntary Sector Team have presented their respective bundles of written submissions and documents in support of or opposition to the appeal by the deadline set in the procedure letter – see Schedules 3 and 4 respectively. A copy of each party's bundle was sent to the other party on 25 October 2005.

## **6. Recommendations**

- 6.1 That Members consider the written submissions and documents presented by the ACLC and the Voluntary Sector Team in preparation for the hearing of the ACLC's appeal against withdrawal of Grant Aid.

- 6.2 That Members consider the advice of the Head of Legal Services on the procedure for hearing the appeal.
- 6.3 That Members hear and determine the appeal in accordance with due procedure and give directions for ACLC to be notified of their decision in writing.

**7. Comments of the Director of Finance**

- 7.1 The Director of Finance understands that there will be no financial implications for the Council if grant is withheld as the ACLC is responsible for meeting all statutory undertakings.

**8. Comments of the Head of Legal Services**

- 8.1 The ACLC's Terms and Conditions of Grant Aid (Schedule 4, Appendix 3) set out the procedures for issuing a Default Notice, for the Authorised Officer's decision to withdraw Grant Aid and for an Appeal to be heard.
- 8.2 The ACLC is entitled to be heard and, if they so wish, to be represented at this meeting. The Committee shall consider the Appeal and shall make a decision in relation to Grant Aid. This decision is final and the ACLC will be notified of the outcome in writing.
- 8.3 If the Committee decide not to terminate Grant Aid, Members may attach additional conditions or requirements to the continuance of Grant Aid. These would have to be strictly complied with and any future breach would result in further action under the Default Notice Procedure.
- 8.4 If the Committee decide to endorse the Authorised Officer's decision, Grant Aid would be terminated with effect from the date specified (30<sup>th</sup> November).
- 8.5 Both parties, i.e. the ACLC and the officers of the Voluntary Sector Team, had been asked by letter (see Schedule 2) to send to Member Services by 21 October their written submissions setting out their respective cases. All correspondence and relevant documents were required to be sent by the same date. After this deadline a copy of each party's submissions and documents were made available to the other party.
- 8.6 At the meeting each party will be entitled to ask questions of the other party and will be subject to questions from Committee Members. Each party will be entitled to make oral submissions in support of their case and in answer to the opposing case.
- 8.7 The Rules of Natural Justice apply to the hearing of this Appeal. This means that Members are in the position of a neutral judge between the two parties. The procedure must be fair and applied equally to both sides. There is no need to follow a rigid procedure provided that each

party has the opportunity to present its case fully and to deal with any points against it.

- 8.8 In the event that a party might wish to introduce any late evidence, the Committee must ensure that the other party is not unfairly taken by surprise.
- 8.9 The Committee will be advised at the hearing by a lawyer from the Legal Service who has not been involved in advising the Voluntary Sector Team on this matter.
- 8.10 There is no statutory right of appeal against the Committee's decision. However, the decision (like most other decisions of public authorities) may, potentially, be open to challenge by way of Judicial Review. This is only likely to be a real risk in the event of procedural unfairness or placing weight on irrelevant matters in reaching the decision.