

Agenda item:

Cabinet Voluntary Sector Committee

On 21 February 2008

Report Title: **Haringey Disability Action – Appeal Against Withdrawal of Future Grant Aid**

Forward Plan reference number (if applicable): Not applicable

Report of: **Chief Executive**

Wards(s) affected: Not applicable

Report for: **Decision**

1. Purpose

1.1 To present the Committee with the written submissions and documents to be relied on by the Voluntary Sector Team and Haringey Disability Action (HDA) and respectively at the hearing of the HDA's appeal against the withdrawal of future Grant Aid.

2. Introduction by Cabinet Member (if necessary)

2.1 Not applicable

3. Recommendations

3.1 That the Committee consider the advice of the Head of Legal Services on the procedure for hearing the appeal.

3.2 That the Committee consider the written submissions and documents submitted by the Voluntary Sector Team and by HDA in support of their respective cases in respect of HDA's appeal against withdrawal of future grant aid.

3.3 That the Committee hear and determine the appeal in accordance with due procedure and give directions for HDA to be notified of their decision in writing.

Report Authorised by: **Dr. Ita O'Donovan, Chief Executive**

Contact Officer: Richard Burbidge, Cabinet Committees Manager
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4. Chief Financial Officer Comments

4.1 Not applicable

5. Head of Legal Services Comments

5.1 HDA's Terms and Conditions of Grant Aid set out at Clause 15 the procedures for issuing a Default Notice and for the Authorised Officer's decision to withdraw Grant Aid. Clause 16 of those Terms and Conditions set out the procedure for an Appeal to be heard.

5.2 HDA 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 HDA will be notified of the outcome in writing.

5.3 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.

5.4 If the Committee decide to endorse the Authorised Officer's decision, Grant Aid would be terminated with effect from the date specified (currently 25 February 2008).

5.5 Both parties, i.e. HDA and the officers of the Voluntary Sector Team, should have been asked by letter to send their written submissions setting out their respective cases to Member Services, to arrive by 12 February. The letter should state that all correspondence and relevant documents must be sent by the same date, and that after this deadline a copy of each party's submissions and documents will be made available to the other party.

5.6 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 response to the opposing case.

5.7 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.

- 5.8 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. If necessary, depending on the importance of the evidence and the detriment to both sides that might be caused by delaying a decision, the other party may be given extra time to assimilate the new evidence.
- 5.9 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. The lawyer will not participate in decision-making. But he/she may ask questions and make suggestions. The lawyer will not take the side of either party.
- 5.10 Written, legible notes should be kept of the meeting.
- 5.11 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.

6. Local Government (Access to Information) Act 1985

- 6.1 The schedules to this report are written submissions and documents to be relied on by HDA and the Voluntary Sector Team respectively at the hearing of the HDA's appeal against withdrawal of Grant Aid and are likely to be the subject of a motion to exclude the press and public as they contains exempt information relating to the business or financial affairs of any particular person (including the Authority holding that information).

7. Background

7.1 The terms of reference of the Committee are:

- a) To consider officer recommendations for future funding and agree the awarding of grant aid to the voluntary and community sector;
- b) To review funding to organisations where there is a potential breach of conditions of grant aid and/or service level agreement;
- c) To advise the Cabinet on variations to the overall grant aid policy;
- d) To advise the Cabinet on all aspects of the Council's relationship with the Voluntary Sector including the management and use of the community buildings portfolio.

- 7.2 In furtherance of b) above the Head of Local Democracy and Member Services has taken legal advice from the Head of Legal Services on the procedure to be followed by the Committee in dealing with the appeal submitted by HDA. This advice has previously been forwarded to the Committee via Councillor Lorna Reith (as Chair). The advice is set out in the comments of the Head of Legal Services at paragraphs 5.1 – 5.11 above.
- 7.3 Based on this legal advice, by e-mail and letters dated 31 January 2008, the Head of Local Democracy and Member Services wrote in substantially the same terms to each party informing them of the hearing date for the appeal – see copy of the letter sent to HDA in Schedule 2 and on 13 February of the procedure to be followed at the hearing
- 7.4 The letter of 31 January to the parties notifying the hearing date also allowed for them to indicate if they had any objection to the membership of the Committee due to hear the appeal. No such objections were received.
- 7.5 The Voluntary Sector Team and HDA have presented their respective bundles of written submissions and documents in opposition to or support of the appeal by the deadline set in the procedure letter – see Schedules 1 and 2 respectively. A copy of each party's bundle was sent to the other party on 13 February.

8. Recommendations

- 8.1 That the Committee consider the advice of the Head of Legal Services on the procedure for hearing the appeal.
- 8.2 That the Committee consider the written submissions and documents submitted by the Voluntary Sector Team and by HDA in support of their respective cases in respect of HDA's appeal against withdrawal of future grant aid.
- 8.3 That the Committee hear and determine the appeal in accordance with due procedure and give directions for HDA to be notified of their decision in writing.

9. Use of Appendices / Tables / Photographs

- 9.1 Schedule 1 – Written Submissions by the Corporate Voluntary Sector Team
Schedule 2 – Written Submissions by Haringey Disabilities