

Grants Committee

Priority 3 underspend: addressing issues related to
No Recourse to Public Funds to support work to
combat homelessness and tackle domestic
violence

Item: 13

Report by: Yolande Burgess **Job title:** Strategy Director
Date: 10 July 2019
Contact Officer: Yolande Burgess
Telephone: 020 7934 9739 **Email:** yolande.burgess@londoncouncils.gov.uk

Summary

The Priority 3 strand of the 2017-2021 London Councils Grants Programme – *Tackling poverty through employment* – completed delivery at the end of June 2019.

As reported to Grants Committee, the programme will under-deliver against the original targets set (both activity and financial). The programme is estimated to outturn on completion at £3,019,000; half this value is attributable to the Grants programme. Accounting for staffing costs (see Financial Implications), it is projected that £1,066,000 will be returned to the Grants Programme once Priority 3 has been finalised.

Following a meeting of the Grants Committee Executive on 7 February 2019 and full Grants Committee on 20 March 2019 to discuss options for redeploying the underspend, this paper sets out opportunities to reduce the impact of No Recourse to Public Funds on boroughs, to further combat homelessness (Priority 1) and tackle sexual and domestic violence (Priority 2).

Recommendations Grants Committee is asked to:

- discuss and consider the options presented in Section 5 of this paper
- recommend an option for Grants investment, and;
 - task officers with undertaking the detailed work necessary to implement the agreed option
 - agree that officers should keep Grants Executive informed before the next Grants Committee meeting in November

1 Background

- 1.1 The Priority 3 strand of the 2017-2021 London Councils Grants Programme – *Tackling poverty through employment* – completed delivery at the end of June 2019.
- 1.2 The programme is funded by the Grants Committee - £3million - and is match-funded by European Social Funds (ESF). Officers have kept Grants Committee members informed about challenges to delivery that are related to the rigid compliance rules of ESF (see the following reports for further information: [Performance of Grants Programme 2017-21 \(G22/11\)](#); [Performance of Grants Programme 2017-21 \(G21/18\)](#); [Grants Programme 2017-21: Annual Review Year One 2017-18 \(G11/18\)](#); [Performance of Grants Programme 2017-21 \(G11/18\)](#)).
- 1.3 Despite significant efforts by the programmes delivery partners, the programme will under-deliver against the original targets set. Based on the delivery profile to-date, the programme is estimated to outturn on completion at £3,019,000; half this value is attributable to the Grants programme. Accounting for staffing costs (see Financial Implications), it is projected that £1,066,000 will be returned to the Grants Programme once Priority 3 has been finalised.
- 1.4 Options for re-deploying this underspend were discussed by Grants Executive Grants Committee earlier in the year, namely:
 - 1.4.1 *Continue investment in employment related services with the option to continue to draw down ESF*: Grants Executive members highlighted that, whilst tackling poverty through employment remained a priority, the wider welfare landscape had changed significantly over the past few years, most (if not all) boroughs had their own local programmes of activity, and many Priority 1 and 2 providers had employment related activity built into or available to beneficiaries.
 - 1.4.2 *Tender a new commission to meet a new London-wide priority*: Grants Executive members noted that this would be a resource intensive undertaking and that the Grants priorities had been formally agreed by Leaders.
 - 1.4.3 *Return funds to the boroughs through a one-off repatriation of reserves in 2020-21*: Grants Committee members agreed that this option should not be taken forward on the basis that the funding can have a greater impact pan-London.
 - 1.4.4 *Hold the underspend in reserves to allow the Grants Committee more time to consider the redeployment of funds*: Grants Committee members requested that this option remains open.

- 1.4.5 *Commission additional activity with existing commissions delivering across Priority 1 and Priority 2, to address the needs of London residents impacted by no recourse to public funds (NRPF):* This was the Grants Committee's preferred option - the Chair asked for further work to be undertaken to examine NRPF issues and potential solutions necessary to address them, to present at the next Grants Committee.
- 1.5 This paper sets out opportunities to address the needs of London residents impacted by NRPF and reduce the impact of NRPF on boroughs, to support work to combat homelessness and tackle sexual and domestic violence.

2 The impact of NRPF

- 2.1 The cost to local authorities in London of providing statutory support to people with NRPF is in excess of £50 million a year.
- 2.2 NRPF refers to people who are subject to immigration control and have no entitlement to public funds¹ such as welfare benefits, Housing Benefit and Home Office support for asylum seekers. People with NRPF have very few alternative avenues for support and local authorities have a duty to undertake an assessment of their needs under a combination of the Human Rights Act 1998, the Children's Act 1989 and the National Assistance Act 1948. The number of people with NRPF has been growing rapidly and is a particularly acute issue in London, placing increasing service and financial pressure on local authorities; boroughs are often left with the responsibility to provide for subsistence and accommodation needs that, under different circumstances, would be centrally funded. Currently, local authorities do not receive funding for these costs
- 2.3 A recent, detailed London Councils survey identified that:
- 2.3.1 London boroughs spent £53.7 million in support of an estimated 2,881 households with NRPF in 2016/17
- 2.3.2 the average cost of supporting a family with NRPF is approximately £19,000 a year

¹ Attendance Allowance, Discretionary welfare payments, Local authority housing, Universal credit, Carer's allowance, Disability living allowance, Local authority homelessness assistance, Working tax credit, Child benefit (parents of British children may be able to claim child benefit but the rules are complex), Housing benefit, Personal independence payment, Child tax credit, Income-based employment and support allowance, Severe disablement allowance, Council tax benefit, Income-based jobseeker's allowance, Social fund payment, Council tax reduction, Income support, State pension credit. Eligibility for free school meals for children in Year 3 and above is linked to a parent receiving certain welfare benefits, so a child may not be eligible to claim free school meals if their parent(s) are subject to NRPF.

- 2.3.3 complex cases are increasing – the number of households supported for over 1,000 days accounted for 36 per cent of all unresolved cases at the end of quarter one in 2017/18
- 2.3.4 whilst cost pressures are not uniform across boroughs, with expenditure ranging from £5 million to £0.5 million, the pressure on staff resources - for example, chasing the Home Office for information, gathering caseload information, resolving priority cases - impacts all the boroughs.
- 2.4 Overwhelmingly, NRPF related expenditure for the boroughs arises through the need to support families with children, and care leavers.

3 Grants Priorities and the interrelationship with NRPF

- 3.1 Through the Grants Programme, delivery partners are currently supporting 450 to 500 vulnerable people with NRPF every quarter, and the number is increasing. Many of the people our delivery partners support face challenging personal circumstances, which are compounded by their NRPF status. One delivery partner working to tackle sexual and domestic violence took on a solicitor, full-time, to deal with the increasing volume of complex cases.
- 3.2 The issues of NRPF, homelessness and domestic violence are interrelated. Shelter has estimated that up to 20 per cent of Grants Programme beneficiaries have NRPF or complex problems with immigration status. Over 600 women a year with NRPF are affected by domestic violence, including women who have been trafficked into the UK for sexual exploitation. There are also links to other forms of modern slavery and exploitation, where insecure immigration status and NRPF can act as a barrier to accessing help and support, placing potential victims at further risk of exploitation.
- 3.3 A recent report (*Access Denied: The cost of the 'no recourse to public funds' policy*, A. Woolley (2019)) shows the disproportionate effects of NRPF policy on women, low-income families, disabled people, pregnant (and maternity stage) women, and black and minority ethnic British children - groups that are targeted for support through the Grants Programme.
- 3.4 The report focusses on migrants with Limited Leave to Remain on a ten-year route to settled status granted on human rights grounds. Whilst this group does have the right to live and work in the UK, most people on the ten-year route to settlement - including disabled people and parents with dependent children - are not eligible for mainstream benefits because they are subject to the condition of NRPF.

- 3.5 The report shows a direct correlation with homelessness and domestic abuse. The findings from in-depth telephone interviews involving 66 people with Limited Leave to Remain and NRPF show that:
- 3.5.1 95 per cent of people interviewed had experienced severely inadequate and overcrowded accommodation
 - 3.5.2 66 per cent of those interviewed (and their children) had experienced being asked to leave their accommodation with nowhere else to go
 - 3.5.3 52 per cent were forced to sleep on the floor or on a chair
 - 3.5.4 33 per cent of parents said their child had to sleep in a room at night with people who were not family
 - 3.5.5 6 per cent of interviewees were single women who had experienced street homelessness with their children
 - 3.5.6 23 per cent (15) - all of whom were women with children - reported having experienced sexual, physical, emotional or financial abuse; the report notes that actual rates of abuse may be higher (12 per cent preferred not to say). The findings from this research extends Southall Black Sisters and Women's Aid's extensive research into how all migrant women are considerably more likely to experience sustained and repeated forms of abuse at the hands of multiple perpetrators (both organisations deliver services through the Grants Programme).
- 3.6 The report establishes that those with protected characteristics are worse affected by the NRPF condition than those without. It draws out the extent to which people are impacted by the NRPF condition and highlights the experience of individuals in destitution, with a particular reference to inadequacy of accommodation and the risk of falling into dangerous and exploitative living conditions, including street homelessness.
- 3.7 Considering that all the respondents had children, this raises safeguarding concerns. The Association of Directors of Children's Services' 2018 research report into safeguarding pressures identifies the growing group of families who have NRPF as one of the top pressures on children's services budgets. The cost of both providing Section 17 (Children Act 1989) support and the time required by social workers to undertake assessments is not included as part of the local authority funding formula.

4 Potential interventions/actions to relieve the impact of NRPF on individuals and boroughs

4.1 To establish the key issues and explore possible interventions and actions to relieve the impact of NRPF on individuals and boroughs, expert advice was sought from a variety of stakeholders. Discussions have taken place (and/or are on-going) with:

- 4.1.1 the NRPF Network – a network of local authorities and partner organisations focusing on the statutory duties to migrants with care needs who have no recourse to public funds
- 4.1.2 the London Modern Slavery Leads group – a network of borough and CCG officers
- 4.1.3 the Law Centres Network – which supports a national network of Law Centres that work with some of the most vulnerable and disadvantaged people in society
- 4.1.4 London Funders - a membership network for funders and investors in London's civil society
- 4.1.5 the Home Office - the Modern Slavery Unit
- 4.1.6 Trust for London - an independent charitable foundation tackling poverty and inequality in London
- 4.1.7 the Greater London Authority - the Senior Policy Office for Migration and Refugees
- 4.1.8 the Migration Exchange Funder Network - an informal network of independent funders, which aims to improve the lives of migrants and receiving communities in the UK.
- 4.1.9 the Paul Hamlyn Foundation - an independent grant-making foundation in the UK that aims to help people overcome disadvantage and lack of opportunity
- 4.1.10 London Councils Principal Policy and Project Officers - policy leads for Violence Against Women and Girls, Female Offending, Modern Slavery, Migration, Social Integrating, Equalities and Civil Society.

Key issues

4.2 The stand-out issue that all stakeholders raised was lack of capacity to meet demand for immigration advice.

- 4.3 Several stakeholders noted that lack of funding for individuals to access immigration and legal advice was an issue. The removal of legal aid for immigration cases means that migrants who are unable to make their immigration applications alone have no option but to either turn to private solicitors - many of whom charge extortionate fees (highlighted by stakeholders) -or attempt to complete complex immigration applications themselves.
- 4.4 Stakeholders also noted that there has been a significant increase in individuals presenting with NRPF and complex circumstances – both in immigration terms and personal circumstances, invariably destitution. One stakeholder stated that people who had worked in the immigration advise sector for more than 20 years were reporting that they had never before seen such levels of destitution.
- 4.5 Grants Programme delivery partners, through discussions for the mid-programme review, also highlighted the increasing number of people presenting with complex and enduring issues.

Lack of capacity to meet demand for immigration advise

- 4.6 Stakeholders demonstrated a high level of understanding about the acute financial pressures that local authorities are experiencing generally and the exacerbating impact of more people with NRPF.
- 4.7 The lack of capacity to meet demand for immigration advise has the two-fold impact of placing individuals at increased risk of becoming destitute, which in turn puts greater pressure on local authority resources.
- 4.8 Organisations delivering support services to immigrants were surveyed for the *Access Denied* report (see paragraph 3.3). Responses to the surveys illustrated that “...lack of organisational capacity poses an, at times unassailable, primary barrier to accessing help”.
- 4.9 The report presents evidence that there are procedural barriers which prevent potentially eligible people from being able to make a change of circumstances (CoC) application to the Home Office to allow them recourse to public funds. The CoC is designed to function as a safeguarding mechanism to mitigate, reduce or remove the adverse impacts of NRPF by preventing people with protected characteristics from falling into destitution or enabling them to alleviate their destitution. The report shows that the application is too difficult to make without specialised assistance and that there is a lack of organisational capacity across the UK to meet the demand for help with the application.

- 4.10 Navigating Home Office processes and procedures around NRPF, and the impacts of NRPF on individuals and boroughs is complex. There is no ‘magic bullet’ and this paper does not attempt to present one; however, increasing capacity to meet demand for immigration advice could help to alleviate the strain on borough resources and prevent people with NRPF from becoming even more vulnerable.

5 High Level Proposals for Grants Investment

- 5.1 The options presented here are not costed or specified in terms of volume of activity; should Grants Committee members wish to pursue these options, detailed specification work will be undertaken over the summer.
- 5.2 **Option 1:** Commissioning advice services that help prevent destitution through either signposting to specialist advisers or resolving lower-complexity immigration issues that can develop into complex issues for statutory services, e.g.:
- 5.2.1 change of conditions applications
 - 5.2.2 renewing Leave to Remain
 - 5.2.3 raising awareness of basic steps that need to be taken by people to address immigration status concerns
 - 5.2.4 Destitute Domestic Violence Concession applications²
- 5.3 There are examples of good practice (including work undertaken by the Law Society Network, community projects and charities) in the capital, but the level of provision is not equal across the capital and the provision that is available cannot meet demand.
- 5.4 An increase in advice services, particularly in services that can resolve lower-complexity immigration issues, has the potential to make a significant impact. The *Access Denied* report (see paragraph 3.3) highlights the work of a small project, based in Southwark, that supports people with NRPF through the CoC process. Since the project’s inception in May 2017, it has received referrals for over 300 individuals and families and has an 86 per cent first CoC application success rate, or 98 per cent if counting successful challenges. The Home Office response to a Freedom of Information request indicated that between April 2015 and December 2018 they accepted 55 per cent of applications.
- 5.5 It is important to note that it is a criminal offence for a person to provide immigration advice or services in the UK unless their organisation is regulated. Advisers do not need

² The OISC has indicated that advice and services relating to applying to the Destitute Domestic Violence Concession fall under the remit of the OISC regulations:
<https://www.gov.uk/government/publications/clarification-of-the-oiscs-jurisdiction/clarification-of-oiscs-jurisdiction>

to be qualified solicitors (or barristers) to give immigration advice, but they must be registered with and regulated by the Institute of Legal Executives or the Office of the Immigration Services Commissioner.

- 5.6 **Option 2:** Commissioning legal support to deal with complex local authority cases to reduce the caseload burden on local authorities, combined with action research (using the cases that are being resolved) into early interventions that could mitigate complexity and the strain on local authority resources.
- 5.7 Although this option may be limited in scope in terms of volume of activity due to costs, the research benefits are likely to produce findings that have medium and long-term benefits to local authorities.
- 5.8 **Option 3:** Commissioning both options 1 and 2.

6 Recommendations

6.1 Grants Committee is asked to:

- 6.1.1 discuss and consider the options presented in Section 5 of this paper
- 6.1.2 recommend an option for Grants investment:
 - 6.1.2.1 task officers with undertaking the detailed work necessary to implement the agreed option
 - 6.1.2.2 agree that officers should keep Grants Executive informed before the next Grants Committee meeting in November

Financial Implications for London Councils

The Director of Corporate Resources reports that the net cost of the ESF match funded programme after accounting for the ESF grant funding is estimated at £1.934 million. The Committee contributed a total of £3 million towards the programme costs between 2015/16 to 2017/18 and the outcome of the programme will result in a potential underspend of £1.066 million. The slippage and programme management at the early stages has meant that the projected management and administration costs will exceed the budgeted cost over the life time of the project by approximately £291,000. However, the additional activity attracts ESF grant funding of £46,000 reducing the overspend to £245,000. This overspend can be funded from the overall underspend on the programme.

The report provides options of how the underspend of £1.066 million can be reallocated. In addition, the projected level of the S.48 borough funded commission reserves at 31 March

2019 exceeds the established benchmark of £250,000. Members may also wish to consider using the excess reserves to fund the options described above.

Legal Implications for London Councils

None.

Equalities Implications for London Councils

London Councils' funded services provide support to people within all the protected characteristics (Equality Act 2010), and targets groups highlighted as particularly hard to reach or more affected by the issues being tackled. Funded organisations are also required to submit equalities monitoring data, which can be collated across the grants scheme to provide data on the take up of services and gaps in provision to be addressed. The grants team reviews this data annually.

Background documents

ESF match funded Priority 3 Tackling Poverty Through Employment, Item 4, 7 February 2019
(Grants Committee Executive)

Month 9 Revenue Forecast 2018/19, Grants Committee Executive, Item 5, 7 February 2019

Performance of Grants Programme 2017-21, Grants Committee, Item 4, 21 November 2018