



Department for
Communities and
Local Government

Stephen Halsey
Head of Paid Service
London Borough of Tower Hamlets
Tower Hamlets Town Hall
6th Floor, Mulberry Place
5 Clove Crescent
London E14 2BG

4 November 2014

Dear Mr Halsey

**COUNCIL OF THE LONDON BOROUGH OF TOWER HAMLETS;
PROPOSED INTERVENTION**

PricewaterhouseCoopers LLP, having undertaken an inspection of your Authority's compliance with its best value duty, have today sent to your Authority a report setting out their findings. I am now writing to invite your Authority, if it wishes, to make to the Secretary of State **representations** about the report and about an intervention package that he is proposing, and to seek certain **immediate undertakings and information** from your Authority.

The Secretary of State has carefully considered the report (and the other relevant information referred to in the attached Annex). He is satisfied on the basis of those matters that your Authority is failing to comply with the requirements of Part 1 of the Local Government Act 1999 (the "1999 Act"), namely failing to comply with the best value duty. On that basis, he is considering exercising his powers of direction in the 1999 Act in relation to your Authority to secure its compliance with the best value duty. The package of measures which he is proposing to implement through appropriate directions is set out in the attached Annex.

Your Authority is now invited to make such representations as it wishes about the report and the Secretary of State's proposals. All such representations should be sent by email to Daniel.Hallam@communities.gsi.gov.uk, copied to Paul.Rowsell@communities.gsi.gov.uk, or in hard copy to the address below marked for the attention of Dan Hallam, so as to be **received on or before Tuesday 18 November 2014**. They will then be carefully considered by the

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Secretary of State in making a decision as to whether to make any and if so what directions.

The 1999 Act empowers the Secretary of State to act immediately in a case in which he considers that a direction is sufficiently urgent (see in particular section 15(11)). On the basis of the evidence in the PwC report, the Secretary of State considers that such a direction would be necessary in relation to grant making so as to protect the resources of the Authority being put at risk through the possibility of inappropriate grants being made; and as to the appointment or designation of statutory officers. He may decide that that is also necessary in relation to dispositions of property depending upon the provision of further information which is sought from your Authority. The directions would preserve the position whilst the process of considering and deciding on any intervention package was completed.

In order to avoid the need for an immediate direction this letter invites your Authority to provide by 3pm on Wednesday 5 November 2014 a written undertaking that until decisions on any intervention package are made by the Secretary of State,

- **it will not make any new grants, or enter into any new agreements to pay grants, or modify any existing agreements to pay grants, without the prior written approval of the Secretary of State;**
- **it will not appoint and/or designate statutory officers (ie the Head of Paid Service, the section 151 officer (chief financial officer), and the Monitoring Officer), without the prior written approval of the Secretary of State.**

The written undertakings should be sent by email to the two email addresses set out above.

You are also invited within the same timeframe (i.e. by 3pm on Wednesday 5 November 2014) to provide information about any proposals or plans for your Authority to enter into any commitment to dispose of, or otherwise transfer to third parties, any real property other than existing domestic property for the purposes of residential occupation. This information should include identifying the property, an indication of its value, and the current position and likely future timetable for the disposal or transfer.

I am copying this letter to your Authority's Section 151 Officer, and to its Monitoring Officer.

A handwritten signature in black ink that reads "P. Rowse". The signature is written in a cursive style with a horizontal line underneath the name.

PAUL ROWSELL

PROPOSED INTERVENTION PACKAGE

1. The Secretary of State is considering exercising his powers of direction in section 15 of the Local Government Act 1999 ("the 1999 Act") in relation to the Council of the London Borough of Tower Hamlets ("the Authority") to secure its compliance with the best value duty. He is doing so in circumstances in which PwC have conducted a thorough investigation and have produced a detailed report ("the Report"). The Report provides a deeply concerning picture, with PwC concluding that the Authority has failed in numerous respects to comply with its best value duty.
2. In the light of the conclusions and evidence in the Report, the Secretary of State is minded to implement through appropriate directions the intervention package set out below. He sets out those proposals in order to assist in the formulation of any representations the Authority may choose to make. He acknowledges that, save in cases of urgency, your Authority has a statutory right to make representations if the Secretary of State is considering making a direction. He will carefully consider those representations in deciding whether to make any and if so what directions. He specifically reserves his ability to make further or revised directions after implementing the, or any, intervention package (if that is what he decides to do).

Overall purpose and approach

3. On the basis of the Report, the proposed intervention package would need to, and is designed to, achieve the following:
 - to put an end to any of the Authority's activities that are not compatible with its best value duty,
 - to remove so far as possible the risk of further failures by the Authority to comply with the duty, and
 - to rebuild the governance and financial management capacity of the Authority to secure its future compliance with the best value duty.
4. In order to secure achievement of these objectives, the proposed intervention package involves putting in place a team of three Commissioners (a Lead Commissioner and two other Commissioners). The following directions are proposed in relation to them. They are to perform the functions outlined below in the intervention package. They are to be accountable to the Secretary of State. They are to act jointly or severally. ***The Secretary of State proposes to direct that the Authority***

is to pay the Commissioners' reasonable expenses, and such fees as the Secretary of State agrees are to be paid to them.

5. There is a question as to how long the various proposed directions should operate for. The Secretary of State proposes that, save where otherwise indicated, they should operate for the period ending on 31 March 2017. This is referred to below as "the Direction Period". However, he makes it clear that this is not an immutable period. If the Secretary of State considers at any time during the Direction Period that, in relation to any or all of the directions proposed, the period should be shorter, then he will make further direction accordingly (and references to the Direction Period in the directions set out below are to be read as subject to this rider). Likewise if, at the end of the Direction Period, he considers that there continues to be a need for further directions, he will make them. His concern will be to ensure that the directions operate for as long, but only as long, as he considers they should operate in order to secure the objectives set out above. The Authority's actions will thus have a direct bearing on the period during which intervention continues to be necessary.
6. In addition to the specific proposed directions set out below, it is of obvious importance in view of the conclusions and evidence in the Report that action plans are developed and adhered to in order to ensure that the best value duty is complied with, and risks that it will not be are properly managed and avoided. To that end, ***the Secretary of State proposes to direct the Authority***
 - ***within 3 months from the date of direction, to draw up and agree with the Commissioners a strategy and action plan, for securing the Authority's compliance with its best value duty (to include as appropriate complying with the specific directions set out below), and to submit this to the Secretary of State;***
 - ***to prepare under the direction of the Commissioners and submit to the Secretary of State at 6 monthly intervals thereafter during the Direction Period, a report on progress against the action plan, including any comments from the Commissioners about the continuing need for some or all of the intervention measures.***

Statutory officers:

7. The Report noted that the failures which it had identified occurred under the Authority's governance arrangements as they had existed throughout the period covered in the Report, and continue to exist at the present time (page 17). At the core of those governance arrangements are **the statutory officer posts** (the Head of Paid Service, the section 151 officer

(chief financial officer), and the Monitoring Officer), which had been held by a variety of individuals and are currently all held on an interim basis. The Report noted a tendency towards “denial or obfuscation rather than an inclination to investigate concerns” (paragraph 2.22 – all future paragraph references are to the inspector’s report), noting for example: that no review of the Mainstream Grants programme 12-15 had been completed despite the authority’s claim that such a report was being “fact-checked” in July; that the Authority has claimed to be taking certain actions to tackle “remediable process failures” with respect to grant making (paragraph 2.22, b.) but has not identified to the inspector which failures they believed to exist or what actions are being taken, and that the independent review of Poplar Town Hall transaction which the council commissioned failed to address the concerns raised by a resolution of full council. The Report concluded therefore that “the current governance arrangements do not appear to be capable of preventing or responding to failures of the best value duty of the kind we have identified” (paragraph 2.23).

8. In view of the conclusions and evidence in the Report, and of the fact that currently the positions of all three statutory officers are held on an interim basis, ***the Secretary of State proposes to direct the Authority:***
 - a. ***to undertake as a matter of urgency a recruitment exercise, under the direction of the Commissioners, with the aim of making as soon as practicable and in any event by 1 April 2015, subject to “b” below, permanent appointments of suitable persons to the positions of the three statutory officers;***
 - b. ***for the Direction Period, to obtain the agreement of the Commissioners to (a) any dismissal or suspension of a statutory officer, appointed as a result of a. above or otherwise; and (b) any proposed appointment of a replacement following such dismissal or suspension.***

Grant making:

9. The Report concluded that “In relation to the matter of grant making, the Authority is failing to comply with its best value duty” (paragraph 2.7). While the details of each grant programme were different, PwC found a number of failures which were common to each one (set out in pages 13 and 14), namely: lack of transparency generally over the rationale for decisions as to grant awards; the failure of the Corporate Grants Programme Board to operate as an effective governance mechanism; award of grants to bodies that were ruled ineligible or had not met the minimum criteria to be considered for a grant; no independent review of

the grant making process, despite an Overview and Scrutiny recommendation to this effect; gaps in monitoring of grants, and overall no mechanism to ascertain whether the allocation of grant resources was such as to achieve best value. These concerns were illustrated with regard to the Mainstream Grants programme, which represented around 42 percent of all grants by value made by the council in the period of the inspection (paragraph 2.27). 81 percent of all officer recommendations were not accepted (paragraph 2.33), and £407,700 was given to bodies which failed the minimum criteria to be awarded anything at all. The Report presents other examples.

10. The failings in the grant making process identified in the Report were numerous. They were common across all programmes considered. There was no overall mechanism for ascertaining whether the allocation of grant resources would achieve best value. In those circumstances, the Secretary of State believes that there can be no confidence that these functions would be exercised properly were they to remain with the Authority.

11. In view of the conclusions and evidence in the Report, ***the Secretary of State proposes to direct that for the Direction Period***

- ***all functions the Authority exercises relating to the making of grants are to be exercised by the Commissioners, who will take account of the views of the Authority as to the recipients and amounts of such grants;***
- ***the Authority is to provide them with such assistance as they may require for the purposes of exercising of these functions.***

The directions in this paragraph apply in relation to all grant agreements made under any statutory power or duty, including any grants made pursuant to section 1 of the Localism Act 2011 (local authority's general power of competence), with the exception of grants made for the purposes of section 23 of the Housing Grants, Construction and Regeneration Act 1996 under section 24 of that Act (Disabled Facilities Grant).

Property transactions:

12. The Report concluded that, in the case of three out of the four **property transactions** considered in detail, the Authority failed to comply with its best value duty (paragraph 2.8), with no evidence that these failings are being satisfactorily addressed. For example, in the case of Poplar Town Hall: the Authority accepted a late bid from the winning bidder after all the

other bids had been opened; though the difference was small, the authority did not award the contract to the highest bidder, instead opting for a contract race; the winning bidder was granted changes to the contract which undermined the credibility of the contract race, and the winning bidder was, as a matter of fact, connected to a person with other business interests that had an association with the Mayor. With regard to the preliminary review of 28 property disposals considered, the Report found gaps and anomalies in a number of other cases, but that these were not of the same magnitude as in those identified in the four cases which they looked at in detail.

13. In view of the conclusions and evidence in the Report, ***the Secretary of State proposes to direct the Authority to obtain during the Direction Period, the prior written agreement of the Commissioners before entering into any commitment to dispose of, or otherwise transfer to third parties, any real property other than existing domestic property for the purposes of residential occupation.***

Publicity:

14. The Report concluded that the Authority had failed in its best value duty with respect to (a) the use of media advisers in the Mayor's office (where it was "at best ambiguous which side of the line the activities lay" with regard to whether or not such activities were for the benefit of the Authority or whether they were party political (paragraph 2.14)), and (b) the spending of money by the Authority on political advertising for the benefit of the Mayor (a matter over which Ofcom found a failure by the broadcasters involved (paragraph 2.99)) Such use of media advisers and such advertising is not compatible with the best value duty. It is hard to see that media advisers in the mayor's office would not act for the political benefit of the Mayor. An authority has no power to fund such political activities (see Local Government Act 1986); and political advertising (see Part 3 of the Communications 2003) is unlawful. The Report also questions whether other publicity activities (e.g. the Authority's response to the Panorama programme) are compatible with its best value duty.
15. In view of the conclusions and evidence in the Report, ***the Secretary of State proposes to direct that the Authority prepares a fully costed plan for how its publicity functions can be properly exercised, agrees that plan with the Commissioners, reports to the Commissioners on the delivery of that plan, and adopts any recommendation of the Commissioners with respect to that plan or to publicity more generally.***

Elections:

16. The Report, whilst referring to certain concerns about the conduct of elections in Tower Hamlets, provides no evidence directly about the Authority's exercise of its functions **to appoint an electoral registration officer** (section 8(2) of the Representation of the People Act 1983), and a **returning officer** for local elections (section 35(3) of the 1983 Act). However, the report of the Electoral Commission published on 1 July 2014 provides substantial and clear evidence that the conduct of the 2014 elections by the person appointed as Returning Officer had a number of serious shortcomings. The Commission's report concluded that there were "significant lessons for the Returning Officer to learn from the experience of the count for the May 2014 elections in Tower Hamlets". The Commission made a series of specific recommendations, including actions for the Returning Officer ahead of the scheduled Parliamentary elections in May 2015 (for which the person would be Acting Returning Officer by virtue of being appointed by the council as Electoral Registration Officer). Moreover, the Returning Officer's stewardship of the May 2014 elections is being challenged in Petition before the Electoral Court, the petitioners alleging multiple acts or omissions by the Returning Officer and/or his officials in breach of official duty.
17. The Secretary of State is aware that the person appointed to the position of Electoral Registration Officer and Returning Officer is the Authority's Service Head of Democratic Services, rather than as is the case with the great majority of authorities one of the statutory officers, usually the Head of Paid Services or Monitoring Officer.
18. In view of the conclusions and evidence in the Commission's report, the Secretary of State's provisional view is that the Authority has not exercised, and is not exercising, its function of appointment in a manner consistent with its best value duty. The Secretary of State considers that there is an urgent need to address these concerns urgently given the upcoming General Election.
19. In those circumstances, ***the Secretary of State proposes to direct that the functions of appointing and dismissing the Electoral Registration Officer and Returning Officer for Local Elections are to be exercised during the Direction Period by the Commissioners.*** It is envisaged that the Commissioners would use these powers to appoint a widely recognised experienced Returning Officer.

Contracts/procurement:

20. The Report provides evidence that on the Authority's **processes and practices for entering into contracts** there are a number of areas for improvement. Examples are at paragraph 7.70 and 7.71 of the Report. The Report concluded that the evidence did not lead to a conclusion that the Authority was failing to comply with its best value duty in relation to these matters. However, the Secretary of State's provisional view is that there are real and serious risks that such failures are occurring or might occur. That is based both on the evidence in this part of the Report and also more generally on the concerning nature of the remainder of the Report, including specifically the weaknesses in the core governance arrangements.
21. In all the circumstances, and specifically recognising that the Report does not conclude that there is a failure to comply with the best value duty in this respect but rather raises concerns in that respect, ***the Secretary of State proposes to direct the Authority:***
- a. ***urgently and in any event by no later than 1 February 2015, to prepare and implement an action plan, in consultation with the Commissioners, to achieve the improvements in its processes and practices for entering into contracts; and***
 - b. ***during the Direction Period, to adopt all recommendations of the statutory officers in relation to the processes and practices to be followed in relation to entering into contracts, unless the Commissioners' written agreement is obtained not to do so.***

