



Department for Communities and Local Government

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

29 April 2015 (second letter)

Dear Mr Halsey,

THE COUNCIL OF THE LONDON BOROUGH OF TOWER HAMLETS: INTERVENTION

In its recent judgment, the Election Court observed that it seems likely that the governance of Tower Hamlets will have to be examined in the not too distant future. The Secretary of State is clear that public confidence in local government is one of the foundations of this country's democracy, and recent events in your Borough are deeply concerning. I am writing to inform you that the Secretary of State is provisionally minded to issue to your Authority additional intervention Directions, which would give the Commissioners new powers to order any actions to be taken where this is needed to safeguard good governance throughout the Authority until a new mayor and top officer team are in place and bedded in. This letter sets out the additional Directions that the Secretary of State is proposing and the reasons for them.

The effect of the proposed additional Directions would enable the Commissioners to require your Authority – deputy mayor, and mayor once elected, cabinet, council, or officers – to take any steps which the Commissioners consider are needed for good governance and sound financial management. This could include the Commissioners requiring the proper retention of records and recording of decisions, and until a mayor is elected that any decision by the deputy mayor and cabinet can be taken only if it accords with officer recommendations and there is cross party agreement for it.

The Secretary of State considers that it is of the utmost importance that the conduct of the forthcoming mayoral election and the by-election in the Ward of Stepney is above reproach, restoring the gravely damaged confidence in local democracy in your Borough. The intervention Directions that he issued last December gave the Commissioners the power of appointing the Returning Officer, and as a result Barry Quirk has joined John Williams to ensure the effective administration of future elections. The Secretary of State is clear that achieving a soundly administered mayoral election

and by-election in Stepney must be one of the highest priorities for all – Returning Officer, the Commissioners, your Authority, and not least the people of the Borough.

The basis for proposed additional Directions

On 17 December 2014 the Secretary of State issued Directions under section 15(5) and (6) of the Local Government Act 1999 to the Council of the London Borough of Tower Hamlets ('the Authority'), and today he has issued further Directions in relation to the appointment of the head of paid service, a copy of which was sent to you under cover of my letter of earlier today. The Secretary of State is satisfied that these Directions are necessary and expedient to secure the Authority's future compliance with the best value duty. However, subject to any representations that the Authority might make, he is currently of the view that these Directions alone are not sufficient to secure that in the short term progress towards compliance is made and that in the longer term compliance is achieved. He has reached this provisional view having regard to the circumstances of the Authority following the judgment given by the Election Court on 23 April 2015, information in that judgment about the Authority and the conduct of its affairs, and certain information that the Commissioners have provided as set out below.

In short, the Secretary of State presently considers that the risks of poor governance and financial mismanagement have been and are significantly greater than he was previously aware, and that this indicates a heightened risk of non-compliance with the best value duty. He has reached this provisional view for four interconnected reasons.

First, the PwC inspection report had identified the facts that a high proportion of grant decisions were made personally by Mr Rahman; in an abnormally high number of instances the decisions departed from officers' advice; and large grants were made to organisations which were totally ineligible or failed to meet the threshold for eligibility. Whilst these matters were already of significant concern to the Secretary of State, his provisional view is that the position has now been revealed to be even more serious. This is because the Election Court has concluded that the conduct of Mr Rahman and his agents Mr Asad (currently cabinet member for health and adult services) and Mr Choudhury "in making grants does amount to the corrupt practice of bribery". In a similar vein, the Election Court held that "there is no doubt that Mr Rahman made wide use of the facilities and staff of the Council to carry out electoral activities on his behalf. Statements were issued by the Mayor's Office which had no bearing on the running of the Borough but were obvious electioneering"; and that "public money was misused to pay a publicist for Mr Rahman".

Second, the Secretary of State's provisional view is that the position is compounded by what appear to have been serious doubts cast over the calibre of those left holding power at the Authority. The Secretary of State notes that the effect of the Election Court's decision is that Mr Rahman has not lawfully been mayor since the May 2014 election, that the office of mayor is vacant, and that until a mayor is elected the functions of mayor will in accordance with the Local Government Act 2000 be exercised by the deputy mayor, a member of the Authority's cabinet or, should the office of deputy mayor become vacant, by the remaining members of that cabinet. His provisional view is that this enhances the risks of poor governance and financial mismanagement, particularly in the context, as highlighted by the judgment, that the Mayor's powers in Tower Hamlets are very great ("greater than that of any other elected executive mayor in Britain"). This is because the Election Court observed that the cabinet have "been chosen from his [Mr

Rahman] close cronies, some of whom, it must be said, have little to recommend them beyond blind loyalty to their leader [Mr Rahman]”.

Third, the Secretary of State’s provisional view is that the situation is yet further compounded by the fact that there are currently no permanent appointments to the three statutory officer positions (the head of paid service, the monitoring officer, and the chief financial officer). These positions are currently held by interim appointments, which are short-term, which have existed during the period of poor governance and financial mismanagement as identified in the PwC Report and referred to by the Court, and which may not be well placed to handle the current situation in the cabinet. Permanent appointments, as approved by the Commissioners, have been made to the latter two positions, but these appointees will not be taking up their positions for several months; and the head of paid service appointment is subject to the Directions issued earlier today.

Fourth, the Secretary of State’s provisional view is that these risks of poor governance and financial mismanagement are considerably enhanced by what he provisionally considers to be an underlying and continuing culture within the Authority, as revealed by information set out in the judgment and provided by the Commissioners, of an acceptance of actions that are plainly incompatible with the best value duty and a reluctance on the part of the Authority to address such incompatibility.

The Commissioners have recently reported that the Authority is not fully complying with the Directions of 17 December 2014. In particular, the Authority still has not responded to the Commissioners’ request for arrangements to give its views on proposed grants. In addition, notwithstanding the Directions the Commissioners have discovered that certain payments in respect of burial grants have been made after 17 December without their involvement, and hence contrary to the Directions and on its face therefore unlawful.

The Commissioners have also reported that they have found inadequate, or an absence of, records. For example, the Authority has informed them there is no record of the legal opinion which underpinned the then monitoring officer’s advice that requiring Mr Rahman to answer councillors’ questions in the council chamber was in breach of his rights under the European Convention on Human Rights (advice which the Election Court described as “preposterous”). Moreover, in relation to certain planning matters the Commissioners have found that the Authority has incomplete electronic files and a policy of destroying all hard copy. In addition, the Commissioners have reported encountering a reluctance to provide them with ready access to certain files.

Accordingly for all the reasons above, and subject to any representations that the Authority might make, the Secretary of State is proposing to exercise further his powers under section 15(5) of the Local Government Act 1999 to issue additional Directions to the Authority, as set out below.

Proposed additional Directions

In all the circumstances, therefore, the Secretary of State is provisionally minded to issue additional Directions to the Authority to address what he provisionally considers to be an increased risk of non-compliance by the Authority with its best value duty. He provisionally considers these proposed additional Directions are necessary and expedient to secure the Authority’s compliance with its best value duty. Accordingly, the Secretary of State is proposing additional Directions that would require the Authority to

take any action, in relation to any of its functions, which the Commissioners consider is needed:

- to ensure that the Authority complies fully with the Directions already issued to it,
- to ensure that good governance practices are followed, particularly in light of the fact that until a mayor is elected there may be questions over the democratic legitimacy of the Authority's executive, and
- to ensure that there is effective financial management safeguarding the assets and financial integrity of the Authority.

On this basis, the proposed Directions would state that **the Authority is to undertake in the exercise of any of its functions any action that the Commissioners may reasonably require**

- **to ensure full and immediate compliance with the Directions of 17 December 2014 and 29 April 2015, or**
- **to avoid so far as practicable incidents arising of poor governance or financial mismanagement risking further failures by the Authority to comply with the best value duty.**

The Secretary of State's present view is that any such additional Directions should be in force only as long as necessary, and hence following election of a new mayor and the three statutory officers taking up their posts, the Secretary of State would review their continuing necessity or expediency, with a view to ending these additional Directions by 31 October 2015 or earlier if appropriate.

Immediate undertakings

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)). Having regard to the current circumstances of the Authority following the Election Court judgment, and to the reports he has received from the Commissioners, the Secretary of State's provisional view is that such an immediate direction is necessary in relation to the retention of information and records by the Authority. The Commissioners have reported that following discussions with them, the interim head of paid service has made certain requests (but not instructions) about the retention of information, including requesting the chief financial officer to take immediate steps to safeguard against the deletion of the contents of the Authority's email accounts for Mr Rahman and Mr Choudhury. The Commissioners have not seen the requests or had assurance that the requests are being acted on; they are continuing to seek evidence that the advice has been acted on. The immediate direction would enforce these requests whilst the process of considering and deciding on the proposed additional Directions was completed.

In order to avoid the need for an immediate Direction, this letter invites the Authority to provide **by 5 p.m. on 30 April 2015** a written undertaking that until decisions on the proposed additional Directions are made by the Secretary of State, it will not destroy any information or records whether held electronically, or in hard copy on permanent or temporary files, irrespective of whatever policies on information or data retention or disposal the Authority has adopted.

Paul Rowsell
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Department for Communities and Local Government
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2 Marsham St, London SW1P 4DF

Email paul.rowsell@communities.gsi.gov.uk

The written undertaking should be sent by email to the two email addresses set out below.

Representations on proposed additional Directions

The Authority is now invited to make such representations as it wishes about the Secretary of State's proposals. In light of the fact that the Secretary of State's provisional view is that, given the circumstances in the Authority, the risks of poor governance and financial mismanagement are present and considerable, he considers decisions on whether or not to issue the proposed additional Directions are a matter of urgency and need to be taken as soon as practicable. Accordingly, all such representations should be sent by email to LeadInspectionIntervention@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 Sally Frazer or Nicola Golding, so **as to be received on or before 9.30 a.m. Wednesday 6 May 2015**. They will then be carefully considered by the Secretary of State in making a decision as to whether or not to make the proposed additional Directions.

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

Yours sincerely,

A handwritten signature in black ink that reads "P. Rowsell". The signature is written in a cursive style. Below the signature is a horizontal line that starts under the first letter and extends to the right, ending under the last letter.

P ROWSELL

