

DIRECTIONS UNDER SECTION 15(5) AND (6) OF THE LOCAL GOVERNMENT ACT 1999 TO THE COUNCIL OF THE LONDON BOROUGH OF TOWER HAMLETS 2014

WHEREAS

1. The Secretary of State for Communities and Local Government ("the Secretary of State") has carefully considered the following in respect of the council of the London Borough of Tower Hamlets ("the Authority"):

a. the report of the Best Value inspection of the London Borough of Tower Hamlets by PricewaterhouseCoopers LLP of 16 October 2014 ("the PwC report") published and given to the Authority on 4 November 2014;

b. the report of "Delays at the verification and count for the May 2014 elections in Tower Hamlets - Report of the Electoral Commission's review", published 1 July 2014;

c. the representations made to him on 18 November 2014 by the Authority on the PwC report and on the proposed Directions;

d. PwC's response to representations from the Authority on PwC's report, received 8 December 2014; and

e. representations made by the Authority on PwC's response to representations from the Authority on PwC's report, received 10 December 2014.

2. The Secretary of State is satisfied that the Authority is failing to comply with the requirements of Part I of the Local Government Act 1999 ("the 1999 Act").

3. The Secretary of State, having considered the representations made by the Authority as required by section 15(9) of the 1999 Act, and other relevant representations received relating to the proposed Directions¹, considers it both necessary and expedient, in accordance with his powers under section 15(5) and (6) of the 1999 Act, to direct the Authority as set out below in order to secure the Authority's compliance with the requirements of Part 1 of the 1999 Act, in particular

- 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.

¹ Other representations are as explained in the Explanatory Memorandum; see paragraphs 10 to 12.

NOW THEREFORE

4. Pursuant to his powers under section 15(5) and (6) of the 1999 Act, the Secretary of State directs:

- i. the Authority to take the actions set out in Annex A to these Directions;
- ii. that the functions of the Authority specified in Annex B to these Directions shall be exercised from the date of these Directions to 31 March 2017 by the Commissioners, acting jointly or severally, the Commissioners being persons nominated by the Secretary of State for the purposes of these Directions as long as those nominations are in force, and
- iii. that, from the date of these Directions to 31 March 2017, the Authority shall comply with any instructions of the Commissioners in relation to the exercise of the functions specified in Annex B, and shall provide such information and assistance as the Commissioners may require for the purpose of exercising the functions specified in Annex B.

Signed on behalf of the Secretary of State for Communities and Local Government

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.

Paul Rowsell

A Senior Civil Servant in the Department for Communities and Local Government

Date: 17 December 2014.

ACTION THE AUTHORITY IS REQUIRED TO TAKE

In this Annex, the following expressions have the following meanings:

“statutory officers” means the head of paid service designated under section 4(1) of the Local Government and Housing Act 1989, the chief financial officer designated as having responsibility for the administration of the Authority’s financial affairs under section 151 of the Local Government Act 1972, and the monitoring officer designated under section 5(1) of the Local Government and Housing Act 1989;

“the Authority” includes the Mayor, the Cabinet Members, any committee or sub-committee and any other person who has responsibility for the matter in question;

“the Direction Period” means the period beginning with the date of these Directions and ending on 31 March 2017;

“member of the Authority” includes the Mayor.

The actions to be taken by the Authority are:

- 1) Within 3 months from the date of these Directions, 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 putting in place robust and transparent arrangements for grant decisions), and to submit this to the Secretary of State.
- 2) 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 strategy and action plan referred to in paragraph 1, including any comments from the Commissioners about the continuing need for each of the intervention measures.
- 3) Subject to paragraph 4 below, to undertake as a matter of urgency a recruitment exercise or recruitment exercises with the aim of making by 1 April 2015 (or earlier if practicable) suitable permanent appointments to those positions the holders of which are to be designated as statutory officers and, upon such appointments being made, to designate the holder of each position as the relevant statutory officer. Such recruitment exercise(s) is/are to be conducted under the direction of, and to the satisfaction of, the Commissioners who, for the avoidance of doubt, may for these purposes approve the continuation of a recruitment exercise commenced before the date of these Directions, with or without modification. Also for the avoidance of doubt and again subject to paragraph 4 below, an existing employee of the

Authority may be appointed to a position referred to in this paragraph, provided always that such person is a suitable permanent appointment to that position.

- 4) For the Direction Period, to obtain the prior written agreement of the Commissioners to:
 - (a) any dismissal or suspension of a person who has been designated as a statutory officer (whether that person was appointed or designated as a result of the exercise referred to in paragraph 3 or otherwise);
 - (b) any appointment of a person to a position the holder of which is to be designated as a statutory officer (whether as a result of the exercise referred to in paragraph 3 or otherwise);
 - (c) any removal of the designation of any person as a statutory officer (whether that person was designated as a result of the exercise referred to in paragraph 3 or otherwise); and
 - (d) any designation of any person as a statutory officer (whether as a result of the exercise referred to in paragraph 3 or otherwise).
- 5) For the Direction Period, to obtain 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 single dwellings for the purposes of residential occupation.
- 6) Within 3 months from the date of these Directions, to prepare a fully costed plan for the Authority's proper use of publicity and agree that plan with the Commissioners; thereafter during the Direction Period, to report to the Commissioners on the delivery of that plan at 6 monthly intervals or at such intervals as the Commissioners may direct, and adopt any recommendation of the Commissioners with respect to that plan, and for the Direction Period, to adopt any recommendations of the Commissioners in respect to publicity more generally.
- 7) 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 improvements in relation to the processes and practices the Authority adopts for entering into contracts, including how it implements its written procurement policies and procedures; and 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' prior written agreement is obtained not to do so.
- 8) To allow the Commissioners at all reasonable times access:

- (i) to any premises of the authority
- (ii) to any document relating to the authority, and
- (iii) to any employee or member of the authority,

which appear to the Commissioners to be necessary for the purposes of carrying out their responsibilities under these Directions and any future Direction.

- 9) At the request of the Commissioners, to provide to them the views of the Authority as to the appropriate recipient and amount of any grant to which paragraph 1 of Annex B applies.
- 10) To provide the Commissioners, at the expense of the Authority, with such reasonable amenities and services and administrative support as the Commissioners may reasonably require from time to time to carry out their functions and responsibilities under these Directions; and
- 11) To pay the Commissioners' reasonable expenses and such fees as the Secretary of State determines are to be paid to them.

FUNCTIONS OF THE AUTHORITY TO BE EXERCISED BY THE COMMISSIONERS

- 1) Subject to paragraph 2, all functions the Authority exercises relating to the making of grants 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).
- 2) For the purpose of paragraph 1,
 - a) paragraph 1) does not apply to grants made for the purposes of section 23 of the Housing Grants, Construction and Regeneration Act 1996 under section 24 of that Act (i.e. Disabled Facilities Grant).
 - b) functions include any functions incidental or consequential to the making of grants other than any functions provided for by Chapter 3 of Part 1 of the Local Government Finance Act 1992.
- 3) The functions of appointing persons to and removing persons from the statutory offices of Electoral Registration Officer (section 8(2) of the Representation of the People Act 1983) and Returning Officer for Local Elections (section 35(3) of the 1983 Act).
- 4) The functions under section 112 of the Local Government Act 1972 of (a) appointing and determining the terms and conditions of employment of an officer of the Authority, only insofar as those functions are exercised for the purposes of appointing a person as an officer of the Authority principally in order for that person to be appointed to the statutory offices of Electoral Registration Officer or Returning Officer for Local Elections, and (b) dismissing any person from being an officer of the Authority who after the date of these Directions has been appointed to the statutory offices of Electoral Registration Officer or Returning Officer for Local Elections.
- 5) The function under section 101 of the Local Government Act 1972 of arranging for the discharge of any of the Authority's functions by another body or person, only insofar as that function is exercised for the purposes of amending or revoking any arrangements the Authority has made in relation to the discharge of functions to be exercised by the Commissioners referred to in this Annex.