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John Biggs, Executive Mayor of Tower Hamlets
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cc. Rt. Hon. Sajid Javid MP, Secretary of State for
Communities and Local Government
Councillor Peter Golds, Leader of the Conservative
Group
Councillor Oliur Rahman, Leader of the Independent
Group

30 September 2016

Dear Mayor,

Commissioners' response to Best Value Action Plan Six Month report dated 19
September 2016

Commissioners welcome the progress that the London Borough of Tower Hamlets has made, which is reported in the above update. For the first time since the Council entered the Direction regime there is a sense of real and sustained progress on all elements of the Directions and a number of long outstanding actions have now been addressed. There is still work to do in embedding the changes, both cultural and operational, into the ethos and working practices of the Council but, with consistent and determined leadership at both political and officer levels, the path to exiting the Directions now appears to be achievable. Commissioners attribute this progress to the development of an effective partnership between the political and officer leadership of the Council and the removal of blocks to progress, both operational and personal. There is still much to be done and the Council needs to guard against overoptimistic assessments particularly recognising that the establishment of a detailed plan is a waypoint on the journey, and these detailed plans need to be incorporated into the overall Best Value Plan process and implemented. The Council also needs to take a long hard look at itself in the way it demonstrates democracy in action. Recent Council meetings have not been edifying spectacles and each Councillor has a personal responsibility to ensure that the relevant democratic forum is used for the intended purpose.

There are also lessons to be learned from two external reports, the Communities and Local Government Select Committee review and Sir Eric Pickles review into Electoral Fraud. We will refer to these later in this response.

The Additional Directions

In our March 2016 letter, we highlighted 2 key issues, which had been long outstanding. We are pleased to acknowledge that, in our judgement, these have been satisfactorily discharged. The Council has now completed the first element of a proper appraisal process for its Head of Paid Service, on a cross party basis, by establishing the initial set of targets. The Council has also now formally approved the delegation of powers to the Chief Executive which provide for safeguards against any future attempt to mismanage the Authority.

The Mela was returned to Council control in a new location and reports indicate that it was well organised and received. We appreciate the hard work of your officers to deliver this political objective in a relatively short time and we wish the event every success in the future.

As a consequence, we are now in a position to advise the Secretary of State that the outstanding actions have been satisfactorily complied with and to recommend that the Additional Directions can be treated as discharged.

December 2014 Directions

Annex B

Elections

This Direction provides the power for Commissioners to appoint and dismiss the Council's Returning Officer, removing that power from the Council.

We approved the appointment of your Chief Executive, Mr Will Tuckley, as the Council's Returning Officer and acknowledge the successful delivery of both the GLA Elections and the EU Referendum in the Borough. However the biggest electoral challenge facing Tower Hamlets is the successful delivery of the local Mayoral and Council elections in 2018.

Much has come to light as a consequence of the Election Court hearing brought by private electors. However, not all those involved have had their actions fully investigated and been held to account. We have followed the Metropolitan Police Service's investigation closely and were disappointed to learn that, following the Election Court judgement, no new police interviews were undertaken and witness statements, although not relied on by the Court, were not followed up or reviewed. Further, the conclusions of the High Court hearing on the Judicial Review appear not to have been considered. It is also clear that, whilst the Crown Prosecution Service was involved, no file was produced for them to take a formal decision on prosecution. To the outside world the overall outcome of the investigations can only look like justice denied and a taint still hangs over specific election outcomes.

It is of importance to Commissioners that the forthcoming local elections be administered and conducted by the Returning Officer in a way which, as far as possible, provides confidence to electors that they are participating in a free and fair election where the result is a true reflection of the aggregate of each individual elector's ballot.

This requires the Returning Officer to select, train, deploy and utilise staff who can be trusted to act fairly and impartially at every stage in the process and be seen to do so. It will require vigilance in and around polling stations to prevent intimidation and undue influence which may run counter to some cultural norms and to accept that English is the only language permitted to be used in electoral transactions by the Returning Officer and his staff.

Many of the recommendations in Sir Eric Pickles' review reflect changes that have already been put in place in the Borough. We commend to the Returning Officer an approach which implements other recommendations, unless current law explicitly prohibits it, for the next elections. In particular we would commend to the political parties and independent candidates who are standing a voluntary agreement on the handling of postal ballots and that the Returning Officer gives suitable publicity to those who adhere to such an agreement.

None of this can be controlled by Commissioners using the powers provided under the Directions and we therefore intend to advise the Secretary of State that we do not see a case for continuing to hold this power and it should be returned to the Council.

Grants

Commissioners are pleased to acknowledge the significant progress that has been made in decision taking on grants. The Overview and Scrutiny process, which provides cross party advice on grants decisions, is now in place, albeit it is early days to determine its effectiveness but it has started well. Commissioners were pleased to welcome both the Mayor and Deputy Mayor, Cllr Saunders, as co-opted members of our Decision Making Meeting and we have established a mechanism which is capable of recommendation to the Secretary of State as the transition stage in returning grant decisions to Council control as part of revised Directions.

It is however disappointing to record that confidence in the Council's ability to administer the grants process in line with approved decisions has been seriously damaged by the actions of some officers in failing to comply with recorded decisions and substituting their judgements without seeking appropriate authority or properly and openly reporting. The whole system of controls in local government depends on trust in compliance with schemes and protocols of delegation.

A consequence of this is that officers have commenced an end to end review of grants administration. Given the status of activity which is all covered by the Direction Commissioners would want to have oversight of the outcomes including agreed actions incorporated into any revision of the controls.

Annex A Directions

Procurement

Commissioners consider that future compliance with action plans and Standing Orders are best monitored as part of the routine External Audit process and will advise the Secretary of State accordingly.

Appointment of Statutory Officers

Commissioners have already commented on the powers now delegated to the Chief Executive. The final step in the process is the establishment of a system of appraisal which flows through the organisation starting with those officers that report to the Chief Executive and cascades down to the bottom by reworking the existing appraisal system. It is also a concern to us that the Statutory Monitoring Officer has been absent for a considerable period on sick leave. This has inevitably delayed building a resilient organisation below the Monitoring Officer position, and has not aided organisational relationships.

Publicity

A fully costed business plan now exists. What is now required is the action plan that delivers this to be articulated and delivered, as discussed at the recent Best Value Board. This will enable Commissioners to record full compliance with the Direction.

Property

There is still work to do in complying with this action plan. Commissioners need to be satisfied that removal of controls will not lead to a return to old patterns of behaviour and decision taking.

Of equal concern is the approach being promoted for voluntary sector property in terms of community benefit. Commissioners have not yet had evidence to suggest that the approach being consulted on is capable of complying with the Best Value Duty and being seen to be open, transparent and consistent. We have consistently requested worked examples which show how the proposals might work in practice which we now understand are being prepared for discussion. There is a risk that expectations will be raised which are not capable of delivery or endorsement.

Organisational Culture

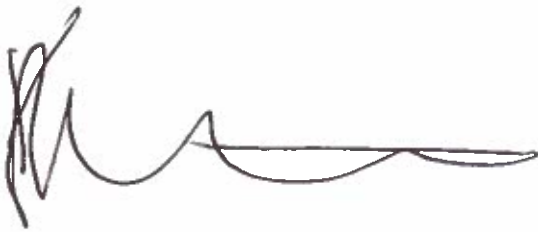
Commissioners have always seen this as the key to success. We still believe that the Council should draw together all the strands of this activity starting with Constitutional and Member issues and continuing through the organisation. Whistleblowing is fundamental to rooting out the bad practice of the past and we welcome the establishment of the new process to deal with old allegations. We will want to see how these are dealt with over the next period.

One of the key elements in the change in culture was the requirement for all staff to complete and keep up to date a formal Declaration of Interests. We note that, despite a number of extensions to the deadline, 100% compliance has not yet been

achieved and the appropriate audit tests to validate management response to the information have not been reported on.

Commissioners would be happy to attend Cabinet and/or Overview and Scrutiny to expand on any of the points in this letter. We would also be happy to work with the Mayor and Chief Executive in meeting the Local Government Association to learn the lessons from this intervention as recommended by the CLG Select Committee.

Yours sincerely



Sir Ken Knight CBE QFSM DL
Lead Commissioner



Max Caller CBE
Commissioner



Chris Allison CBE
Commissioner



Alan Wood CBE
Commissioner