



Department for
Communities and
Local Government

2 December 2016

Mayor John Biggs
Executive Mayor's Office
Tower Hamlets Town Hall
Mulberry Place
5 Clove Crescent
London
E14 2BG

Dear Mayor Biggs

LONDON BOROUGH OF TOWER HAMLETS – PROPOSED FURTHER DIRECTIONS

The Commissioners in Tower Hamlets wrote to the Secretary of State on 11 October 2016 in response to your third six monthly report, received on 20 September, on progress against the Council's Best Value Strategy and Action Plan as required by the Directions issued to the Council on 17 December 2014. In their letter the Commissioners recommended that, based on the progress that has been made by the Council, the Secretary of State may wish to consider revising the 17 December 2014 Directions. The Commissioners also advised, in recognition of progress made, that the Commissioner team now be reduced from four to three. I am now writing to invite your Authority, if it wishes, to make to the Secretary of State representations about proposed additional Directions.

The Secretary of State has carefully considered the Council's latest progress report and other relevant information referred to in the attached Annex. He is satisfied, on the basis of the evidence set out therein, that your Authority is able to exercise functions in relation to the making of grants under any statutory power or duty (paragraphs 1 and 2 of Annex B to the 17 December 2014 Directions), in compliance with the requirements of Part 1 of the Local Government Act 1999 ("the 1999 Act"), namely to comply with the best value duty. The Secretary of State considers that the Authority's exercise of these functions should however be subject to oversight arrangements to enable the Commissioners to advise and scrutinise the Authority and ensure its compliance with the best value duty. On that basis he is considering exercising his powers under the 1999 Act to return these functions to your Authority to exercise.

Alex Powell
Deputy Director – Intervention and Accountability
Department for Communities and Local
Government
2nd Floor North East Corner Fry Building
2 Marsham Street
London SW1P 4DF

E-mail: alex.powell@communities.gsi.gov.uk

In addition, the Secretary of State is satisfied that that the processes and practices your Authority adopts for entering into contracts, including how it implements its written procurement policies and procedures, are now in compliance with the best value duty. On that basis he is considering revoking the Direction issued to your Authority on 17 December 2014 (paragraph 7 of Annex A).

The Secretary of State acknowledges that the Authority has made significant progress with improving the conduct of elections in the Borough. The appointment of new Chief Executive Officer Mr Will Tuckley as the Council's Returning Officer has strengthened election management structures, and both the GLA Elections and the EU Referendum were delivered successfully this year. However, in light of the by-election for Whitechapel ward on 1 December, the Secretary of State is currently not minded to return functions in relation to the appointment of persons to and the removal of persons from the statutory offices of Electoral Registration Officer and Returning Officer for Local Elections (paragraphs 3 and 4 of Annex B to the 17 December 2014 Directions) to the Council until such time as he is able to appraise the administration and conduct of this by-election. The Secretary of State looks forward to receiving an update from the Council on this by-election in its next scheduled progress report, and will consider this and any related evidence in any future decisions he will take in respect of these Directions.

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 Aisling.Lyon@communities.gsi.gov.uk, copied to Alex.Powell@communities.gsi.gov.uk, or in hard copy to the address below marked for the attention of Aisling Lyon, so as to be received on or before 10a.m on Friday 16 December. They will then be carefully considered by the Secretary of State in making a decision as to whether or not to make the proposed Directions.

I am copying this letter to your Authority's Chief Executive, Section 151 Officer, Interim Head of Legal Services, and to the Commissioners' office.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Alex Powell', with a long horizontal flourish extending to the right.

ALEX POWELL

ANNEX – PROPOSED REVISED DIRECTIONS

INTRODUCTION

1. Following the receipt of the London Borough of Tower Hamlets' ("the Authority") third six-monthly progress report against the Council's best value strategy and action plan dated 20 September 2016 as required by the Directions issued to the Authority on 17 December 2014, and Tower Hamlets Commissioners' report to the Secretary of State for Communities and Local Government ("the Secretary of State") dated 11 October 2016, the Secretary of State is considering exercising his powers under section 15 of the Local Government Act 1999 ("the 1999 Act") to return functions in relation to the making of grants under any statutory power or duty ("the grants functions") to the Authority to exercise. In addition, the Secretary of State is considering:
 - issuing further directions under section 15 of the 1999 Act requiring the Authority to exercise grant making functions under the direction of, and to the satisfaction of, the Commissioners for the remainder of the Direction Period as set out in the Directions issued to the Authority on 17 December 2014, and to ensure the Authority's compliance with the requirements of Part 1 of the 1999 Act; and
 - revoking the Direction issued to the Authority on 17 December 2014 (paragraph 7 of Annex A) insofar as it relates to the processes and practices the Authority adopts for entering into contracts.

CONTEXT

2. On 17 December 2014 the then Secretary of State exercised his powers of direction under section 15 of the 1999 Local Government Act in relation to the Authority and issued Directions to the Authority ("the 17 December 2014 Directions"). This followed consideration of the report of the Best Value inspection of the London Borough of Tower Hamlets by PricewaterhouseCoopers LLP dated 16 October 2014 and published on 4 November 2014 ("the PwC report"); the report of "Delays at the verification and count for the May 2014 elections in Tower Hamlets - Report of the Electoral Commission's review", dated 1 July 2014 ("the Electoral Commission's review"); representations made by the Authority on the PwC report, received 8 December 2014; and representations made by the Authority on PwC's response to representations from the Authority on PwC's report, received 10 December 2014. The PwC report identified serious failings in the governance of the Authority and concluded that the Authority was failing to comply with its best value duty in respect of the exercise of several of its functions. The Electoral Commission's review concluded that there were significant lessons for the returning officer appointed by the Council, and that immediate and sustained action must be taken to provide assurance that future elections and electoral registration will be well managed, and efficiently and effectively delivered. In light of the PwC report and the Electoral Commission's review, the Secretary of

State issued the 17 December 2014 Directions, which outlined measures to address the identified failings in the Authority.

3. When the then Secretary of State announced the intervention in the House of Commons on 17 December 2014 he stated that he envisaged "...that the Commissioners will be in place until 31 March 2017" and that "It will be open to Ministers to review this in the light of the progress made by the Council to secure compliance with its best value duty." It is therefore clear that the then Secretary of State's intention was that the actions the Authority is required to take set out in Annex A Directions and the functions outlined in Annex B to the 17 December 2014 Directions should be exercised by the Commissioners until such time as the Authority can exercise functions in compliance with the best value duty, and the Authority and Lead and other Commissioners agree that it would be appropriate for these actions to cease, and for the exercise of a function (or functions) to be returned to the Authority, subject to the provision of reasons and clear evidence to substantiate any such proposal.
4. On 29 April 2015 the then Secretary of State again exercised his powers of direction under section 15 of the 1999 Local Government Act in relation to the Authority and issued further Directions to the Authority ("the 29 April 2015 Directions") regarding the recruitment of a permanent Head of Paid Service. The 29 April 2015 Directions remain in force.

THE COMMISSIONERS' 11 OCTOBER 2016 REPORT

5. On 11 October 2016 the Commissioners in Tower Hamlets sent to the Secretary of State their response to the Authority's third six monthly report on progress against its Best Value Strategy and Action Plan. The 11 October report recommended, on the basis of significant progress made by Commissioners and the Authority since 17 December 2014, that certain functions were now capable of being exercised by the Authority in compliance with the requirements of Part 1 of the 1999 Act and so could be considered for return to the Authority to exercise. The 11 October report also recommended revising the list of actions the Authority is required to take in order to ensure compliance with the best value duty.
6. After carefully considering the 11 October report the Secretary of State is considering exercising his powers under section 15 of the 1999 Act in relation to the Authority, in order to ensure that the grants function, and arrangements to discharge these functions under section 101 of the Local Government Act 1972 specified in paragraphs 1 and 2 of Annex B to the 17 December 2014 Directions are returned to the Authority to exercise. The Secretary of State is also considering making further directions in order to facilitate the return of the grants functions to the Authority, which would enable the Commissioners to advise and scrutinise the Authority and ensure its compliance with the best value duty, and to revoke Directions in relation to contracting (paragraph 7 of Annex A to the 17

December 2014 Directions), including how the Authority implements its written procurement policies and procedures.

FUNCTIONS TO BE RETURNED TO THE AUTHORITY

7. The Secretary of State proposes that the grants functions, and arrangements to discharge these functions under section 101 of the Local Government Act 1972 (paragraphs 1 and 2 of Annex B to the 17 December 2014 Directions) be returned to the Authority to exercise before 31 December 2016.

ACTIONS TO BE TAKEN BY THE AUTHORITY

8. The Authority will be obliged to continue to undertake the actions outlined in paragraphs 1, 2, 3, 4, 5, 6, 8, 9, 10 and 11 of Annex A, and paragraphs 3, 4 and 5 of Annex B to the 17 December 2014 Directions for the retained functions.
9. In order to enable the Commissioners to advise and scrutinise the Authority in relation to the making of grants, and to ensure its compliance with the best value duty without clouding where ultimate responsibility applies, the Authority will be required to exercise all functions in relation to grants (save for the functions specified in paragraph 2 of Annex B to the 17 December 2014 Directions) under the direction of, and to the satisfaction of, the Commissioners for the remainder of the Direction period.

THE COMMISSIONER TEAM

10. The Commissioner team would be reduced from four Commissioners to three in recognition of the progress made.

DURATION OF THE DIRECTION

11. The 17 December 2014 Directions are in force until 31 March 2017. This reflects the seriousness of the failings identified in the PwC report and the extent of the improvements needed. Any further Directions reflecting the proposals above would also be in force until 31 March 2017.