

Committee: OVERVIEW AND SCRUTINY	Date: 10th January 2012	Classification: Unrestricted	Report No.	Agenda Item No.
Report of: Service Head, Democratic Services Originating Officer(s): Antonella Burgio, Democratic Services		Title: Mayor's Executive Decision Called-in: Housing Stock Options Appraisal Wards: All		

Special Circumstances and Reasons for Urgency

- The report was unavailable for public inspection within the standard timescales set out in the Authority's Constitution, because the call-in was made after the statutory agenda publication date had passed.
- Determination of the call-in must be undertaken within 21 days of receipt in accordance with the terms of the Local Government Act 2000. This would fall outside of the normal programme of Overview and Scrutiny meetings; therefore it has been referred to the Chair as a matter of urgency.

1. SUMMARY

- 1.1** The attached report of the Interim Corporate Director (Development and Renewal) was considered by the Mayor on 20th December 2011 and the recommendations were agreed. The Mayor's decision has been "called-In" by Councillors Judith Gardiner together with Councillors Joshua Peck, Bill Turner, Shiria Khatun, Khales Uddin Ahmed, Rajib Ahmed and Carlo Gibbs in accordance with the provisions of Part 4.5 paragraphs 16 and 17 of the Council's Constitution.

2. RECOMMENDATION

- 2.1** That the Committee consider the contents of the attached report, review the Mayor's decisions arising and
- 2.2** decide whether to accept them or refer the matter back to the Mayor with alternative proposals, together with reasons.

Local Government Act, 1972 Section 100D (As amended)

List of "Background Papers" used in the preparation of this report

Brief description of "background paper"

Mayor's Executive Decision No 13.

Name and telephone number of holder and address where open to inspection

Antonella Burgio

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3. BACKGROUND

- 3.1** The request to call-in the Mayor's decision dated 20th December 2011 was submitted under Overview and Scrutiny Procedure Rules Sections 16 and 17. It was considered by the Assistant Chief Executive, Legal Services who has responsibility under the constitution for calling in Executive decisions in accordance with agreed criteria. The call-in request fulfilled the required criteria and the decision is referred to Overview and Scrutiny Committee in order to consider whether or not to refer the item back to the Mayor for further consideration.

4. THE MAYOR'S PROVISIONAL DECISION

- 4.1** The Mayor, after considering the report attached at Appendix 1 decided to
- A Agree to retain Tower Hamlets Homes (THH) to provide Housing Management for the Council in accordance with the existing management agreement.*
 - B Approve the changes to Tower Hamlets Homes Memorandum and Articles as set out in the report at Appendix 1*
 - C Appoint the following persons to the THH Board*
 - Councillor Alibor Choudhury as a Council Board Member*
 - Councillor Kabir Ahmed as a Council Board Member*
 - Councillor Rania Khan as a Council Board Member*
 - Councillor Marc Francis as a Council Board Member*
 - D to reappoint the resident Board Members, Ian Lawson, Ian Fincher, Shamsul Hocque and Sheila Beeton to the Board pending the appointment of new Resident Board Members*

4.3 Basis for the Recommendation

The basis for the recommendation is discussed at paragraph 3.2.8 of the mayoral decision proforma attached at Appendix 1.

5. REASONS / ALTERNATIVE COURSE OF ACTION PROPOSED FOR THE 'CALL IN'

- 5.1** The Call-in requisition signed by the five Councillors identified at Section 1 of this report gives the following reason for the Call-in:

"This report sets out the Mayor's response to the Options Appraisal he commissioned with regard to the future structure and governance of Tower Hamlets Homes – the Arm's Length Management Organisation (ALMO) set up to deliver housing management for the homes remaining in the Council's

ownership following the Housing Choice process of stock transfer. We note that he has agreed that the ALMO should continue operating and delivering the excellent landlord service it has provided to tenants and leaseholders over the last three and be supported in ensuring that the Decent Homes Programme is delivered to a high standard within timescale and budget. We are disturbed however by his unilateral decision, based, we are informed, on legal advice – the details of which have not been made public or shared with Board members of Tower Hamlets Homes – to terminate the appointments – made in good faith and on the basis of constitutional and legal advice provided to full Council by the Chief Executive, the Chief Legal officer and the Head of Democratic Services – of all but one of the Councillor representatives agreed by Full Council and General Purposes Committee and to replace them with his own nominees with no consultation with any of the Political parties on Council. We are equally disturbed by his decision to terminate the appointments of all the Independent members of the Board, who brought considerable and welcome expertise and rigour to the governance structures of Tower Hamlets Homes, and by his decision to reappoint the resident representatives on a purely interim basis.

It is claimed that these changes are necessary to ensure a better fit with the Mayor's priorities and to ensure closer accountability to the Mayor but the report provides no justification for this view and any such concerns have not been shared or discussed with the Board at any of its meetings or subject to any form of external scrutiny or notification and discussion with residents. The Board changes were, with great discourtesy, only communicated to Board members by letter on the day of the Annual General Meeting (AGM), which at the Mayor's instruction had been repeatedly postponed and finally changed to a date in the last week before the Christmas recess. Those Board members who had been forcibly retired were first advised that they did not need to attend the meeting, and, when they nevertheless did so, were only allowed to remain on the basis that they did not have the right to speak. No members of the public were allowed or invited to attend, as is common in all other Registered Social Landlords (RSL) AGM's, and the remaining Board members who were allowed to attend and speak were advised that the decision could not be discussed but only noted.

It is our view that the need for such sweeping changes has not been demonstrated, and without sight of the legal advice on which he has relied, are not convinced that they are within the Mayor's power to make. Even if they are, we would argue that given their significance for residents across the Borough and the legal and financial responsibilities Board members hold, that such changes would certainly constitute a Key Decision that should have been published on the Council's Forward Plan or, if not, justified with reference to the usual urgency provisions.

Those arguments notwithstanding, we are concerned that such destabilisation of the Board structure of THH will be counterproductive to the Mayor's stated aims to "strengthen our ability to ensure continued performance improvement and fast delivery of the Decent Homes programme", leading to a loss of morale and confidence amongst staff and residents alike and to a lack of

proper accountability and rigorous scrutiny at this crucial point in the ALMO's development, putting in jeopardy the probity and effectiveness of the business, the existing quality of which was commented on favourably in the most recent Audit Commission Inspection which awarded THH two stars and was notably complimentary about the existing Board members involvement and commitment. Strengthening the relationship between the Board and the Mayor, could in our view have been achieved in a variety of other ways, and on our observation, has not notably been a priority of either the Mayor or his Lead Member for Housing, neither of whom have had the courtesy to discuss their proposals face to face with the Board in the several months since the Appraisal report, which again has not been published, was completed.

The Report makes reference to the need to make improvements to the recruitment process to the ALMO Board and ominously refers to resident involvement, which has improved markedly since the creation of the ALMO, saying it will need to be reviewed, but gives no indication of what these improvements or reviews might involve or how and by whom they will be agreed, or what costs would be involved. We would thus have considerable concerns and believe that any such changes and any new appointments should be made with the utmost transparency and with full consultation with all parties involved."

5.2 The requisition also proposed the following alternative course of action:

"We call upon the Mayor:

1. To rescind his decisions with regard to reconstituting the THH Board and work with officers of the Council and THH to reconvene an AGM, open to the Public, on the agenda as originally published to members of the Board and the Public thus ensuring that the Council, Independent and Resident Representatives appointed prior to December 20th 2011 are reappointed to serve for the coming year but with notice given that, as changes to the governance structure are being considered, no guarantee of reappointment can be made.
2. To ensure that, in the meantime, the full report of the Options Appraisal, and the Legal Advice, Full Report and any other advice presented by officers to the Mayor to justify these decisions are published and provided to each of the Groups on Council and a Member Briefing is convened to consult on, and present the rationale for and budget costs of, any proposals for change. Any such proposals should then be published on the Forward Plan and presented by way of report for discussion to Full Council and General Purposes Committee in the usual way with a view to agreeing any changes to Council appointments, which could include consideration of proportionality issues, at the Council AGM in May 2012 and implementing any new process for appointment of resident and independent reps ahead of a THH AGM in December 2012 or January 2013. This would allow time for proper dialogue and consultation to be had with THH Board and relevant Tenant's and Resident's Groups and preparations made for an orderly appointment, handover and induction process.

3. That written apologies are sent to all the Board members appointed prior to December 2011 for the discourteous manner in which they were treated.”

6. CONSIDERATION OF THE “CALL IN”

6.1 Having fulfilled the call-in request criteria, the matter is referred to the Overview and Scrutiny Committee in order to determine the call-in and decide whether or not to refer the item back to the Mayor for further consideration.

6.2 The following procedure is to be followed for consideration of the “Call In”:

- (a) Presentation of the “Call In” by one of the “Call In” Members followed by questions.
- (b) Response from the Mayor and / or officers followed by questions.
- (c) General debate followed by decision.

N.B. – In accordance with the Overview and Scrutiny Committee Protocols and Guidance adopted by the Committee at its meeting on 5 June, 2007, any Member who presents the “Call In” is not eligible to participate in the general debate.

6.3 It is open to the Committee to either resolve to take no action which would have the effect of endorsing the Mayor’s original decisions, or the Committee could refer the matter back to the Mayor for further consideration setting out the nature of its concerns and possibly recommending an alternative course of action.

7. APPENDIX

Attached, as an appendix, is the Mayoral Decision Proforma 013 (Housing Stock Options Appraisal) and the associated officer report.