

LONDON BOROUGH OF TOWER HAMLETS

PROFORMA:

MAYORAL DECISION SUBJECT TO CALL-IN AND REFERENCE BACK

Mayoral Decision Log No: 013 (R)

Title: HOUSING STOCK OPTIONS APPRAISAL FINAL REPORT

Is this a Key Decision: No

UNRESTRICTED / RESTRICTED: *Unrestricted*

DATE OF OVERVIEW AND SCRUTINY COMMITTEE: 10th January 2012

DECISION OF THE OVERVIEW AND SCRUTINY COMMITTEE:

To refer the above decision back to the Mayor for further consideration.

REASONS FOR THE REFERENCE BACK

The Call-in requisition in relation to the above decision set out the following reasons 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 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 Mayors 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 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 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 destabilization 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.

ALTERNATIVE ACTION RECOMMENDED BY THE OVERVIEW AND SCRUTINY COMMITTEE (IF ANY)

The Call-in requisition proposed the following alternative action in relation to the Mayor's decision:-

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.

CONSIDERATION OF THE CALL-IN BY THE OVERVIEW AND SCRUTINY COMMITTEE

The Overview and Scrutiny Committee on 10th January 2012 considered the call-in which was presented by Councillor Judith Gardiner on behalf of Councillors Joshua Peck, Bill Turner, Shiria Khatun, Khales Uddin Ahmed, Rajib Ahmed and Carlo Gibbs, outlining the reasons for the call-in and the concerns that were raised. Councillor Gardiner then responded to questions from the Committee. The concerns highlighted together with Councillor Gardiner's answers are summarised below:

- The Mayor's decision that the ALMO should continue was supported.
- However the decision to reform the Board of Tower Hamlets Homes (THH) and the methods undertaken to do this caused concern.
- The source of legal advice that had been sought which then led to the disbandment of the previous THH Board was not clearly presented in the report and not consistently identified across documents and correspondence to Board Members.
- Many of the key decision criteria were clearly fulfilled but the decision was not dealt with in this category. It was the Call-in Members' view that this had therefore been dealt with incorrectly.
- Interim arrangements had not been put in place while the reform of the Board was undertaken.
- The method for handling the old Board was inconsistent. The Independent Members had been dismissed whilst Resident Representatives had been given interim appointments on the Board which, in Call-in Members' view, risked its stability.
- It was argued that rather than dismiss the Board, interim arrangements should have been put in place until new Board members were recruited to prevent any risk to THH services.
- It was noted that THH had received positive comments about the involvement and commitment of Board members during a recent Audit Commission inspection that has resulted in a two-star rating.

Councillor Rabina Khan, Cabinet Member for Housing, Isabella Freeman, Assistant Chief Executive – Legal Services and Jackie Odunoye, Interim Corporate Director for Development and Renewal responded to the concerns raised, informing the Committee that:

- Appointments to the THH Board were an Executive not a Council matter.

- *Reform of the Board would ensure monies received through Decent Homes Scheme will be utilised effectively.*
- *THH performance had improved but had yet to attain excellent standards.*
- *Ensuring there were Resident Representatives on the Board was most important to the Executive.*
- *THH Memorandum and Articles state that all Board Members will stand down at the third AGM and a new Board be established.*
- *It is intended that the process for appointment of independent Members be changed from previous interview based arrangements.*
- *Advice from Counsel confirmed that Memorandum and Articles of THH confers powers on the Council's Executive. It was then concluded that appointments formerly made through General Purposes Committee were incorrect. This had to be rectified.*

Overview and Scrutiny Committee considered the views and comments made by Councillor Judith Gardiner in presenting the call-in, the information and answers provided by Jackie Odunoye, Interim Corporate Director for Development and Renewal, Isabella Freeman, Assistant Chief Executive, Legal Services, and Councillor Rabina Khan, Cabinet Member for Housing, in response to Councillor Gardiner's issues.

The Committee's discussion of the call-in brought forward the following views:

- *The timescales for the decision were short, falling just before a national holiday, with no real working days being available for adhering to regulation timescales.*
- *A key decision had been incorrectly processed through the decision making procedures. The Chair expressed her concern that this contravened the Council's constitution.*
- *The Committee noted the Monitoring Officer's statement that the General Purposes Committee guidance (electing board) about Members was incorrect, and was only discovered after consulting Counsel about the Executive process. The Committee was very concerned about this and requested that the Monitoring Officer now check whether other appointments by General Purposes Committee might be affected. The Chair also requested that the Monitoring Officer report back that this had been done.*
- *That the process that had been undertaken to amend the Memorandum and Articles should be clarified.*
- *Decisions were taken without adequately advising Board Members and that this would have a destabilising effect on THH. Board Members had asked the week before what was happening but had not received any information.*
- *The process undertaken to renew the Board had not been transparent. The Committee agreed that rules for new members must be seen to be robust in future and that Independent Members brought expertise and commitment, and had performed a key role in the ALMO's success thus far. The decision to exclude them was not explained.*

- Given the above, the Committee agreed that the decision be referred back to the Mayor with a request that a proper transition process for the Board be put in place establishing formal interim arrangements.
- It was noted that Resident Representatives had been kept on during the interim. As the Committee felt that this had been fair and open this should also be the case for Independent Members of the Board.

Following discussion, the Overview and Scrutiny Committee endorsed the reasons for the call-in and alternative action proposed as submitted by the call-in Members as set out above. Accordingly the decision was referred back to the Mayor for further consideration and it was:-

RESOLVED

1. That the Call-in be endorsed by Overview and Scrutiny Committee
2. That the Mayor's Executive Decision called-in "Housing Stock Options Appraisal" (Mayor's Decision Log No. 013), be referred back to the Mayor for further consideration in the context of the views brought forward by the Committee.

DECISION OF THE MAYOR

I have reconsidered my decision Log No. 013 in the light of the information provided by the Overview and Scrutiny Committee at its meeting on 10th January 2012 as set out above.

Having taken into account all of the relevant information I have decided to:-

(a) Confirm my decision of 20th December 2011 on the matter*, ~~or~~

~~(b) Amend my decision of 20th December 2011 on the matter as follows*:-~~

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(* Delete as applicable)

Signed	Date
Mayor Lutfur Rahman	7/2/12