

**Finance Information Systems and Property**

Kensington Town Hall, Hornton Street, LONDON, W8 7NX

**Executive Director for Finance Information Systems and Property**

Nicholas Holgate

**Head of Internal Audit and Risk Management**

Moyra McGarvey

Mr F O'Connor  
30 Verity Close  
London  
W11 4HE

20 December 2010

My reference: DM/MM/3012

Your reference:

Please ask for: Moyra McGarvey

Dear Mr O' Connor

My sincere apologies for taking so long to finalise my response to you on the issues identified relating to the appointment of Ms Gohil of HQN to act as Interim Chair on Lancaster West Estate Management Board (LWEMB). The process of reviewing the documentation and receiving responses to numerous queries has been quite protracted. This has been further exacerbated by the fact that a number of key members of staff have left the employment of the organisations involved.

In addition, considering the documentation held, this has proved a complex issue involving the review of processes and decisions going back over a number of years. However, I have firstly concluded that there was no criminal intent or criminal actions in respect of the processes undertaken, although I have identified a number of concerns and weaknesses relating to the process undertaken.

It was unclear from the minutes of LWEMB meetings whether the revised MMA of 2006 was fully discussed and ratified by Lancaster West EMB. It was also unclear from the minutes of the Annual General Meeting of 26 February 2008, whereby agenda item 7 identified a motion to consider and approve a resolution to manage the Lancaster West Estate under the terms of the Management Agreement dated 1 August 1993. The minutes of the meeting at item 7.2 identified the alternative of being run by the Council and therefore the LWEMB would revert back to the original contract which pre-dated the TMO. At 7.3 it was stated that the motion was passed. However, it is not clear which of the two options was approved. .

The documentation on file confirms that LWEMB supported the proposal to appoint an interim chair. The file does suggest that the Council stated that unless steps were taken to address issues at LWEMB then the continued survival of

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LWEMB may be in doubt. It is clear that there was willingness by the Council to support LWEMB and that assistance was required to move the situation forward.

It is evident from the files that there were a number of concerns expressed in respect of the governance and performance of LWEMB and it is my opinion that this has been partly attributable to a lack of clear guidance and agreement on the responsibilities of LWEMB, Kensington and Chelsea Tenant Management Organisation (KCTMO) and the Council. This is an area which requires further work to ensure performance standards are agreed and performance data made available. A number of actions were agreed at a meeting on the 15 May 2009, including agreement to undertake a governance review, appoint an independent chair of LWEMB, discuss the EMB constitution with legal and report back to the EMB.

It is clear from the minutes that during the LWEMB meeting held on 26 May 2009 that the Board agreed a set of actions including the appointment of an interim chair. There were no representatives from either the Council or KCTMO present and it was the LWEMB decision to appoint Ms Gohil. The meeting was quorate and a date for the AGM was set as 23 June 2009. I was unable to confirm if this meeting took place as the first meeting identified subsequently was held by LWEMB on 1 September 2009.

Interviews for the appointment of an interim chair of LWEMB were held on 24 June 2009 at RBKC Town Hall. The documentation suggests that the interim position would be for the successful applicant to be appointed as Chair of Lancaster West EMB. The interview panel for the appointment of an 'Interim Chair' consisted of Councillor Blakeman, Dee Dainton (LWEMB), Geraldine Lord (LWEMB) and Laura Johnson. A total of three candidates were interviewed, including Ms Gohil on the morning of 24 June 2009. It is understood that Laura Johnson, RBKC, left the room whilst the panel came to a decision on the preferred candidate, who was Ms Gohil of HQN (recruitment consultants).

There are several pieces of correspondence on file from the Council's legal and finance departments as well as KCTMO and Tony O'Hara, trying to resolve the issue of how Ms Gohil/HQN could be paid. The file identifies difficulties in agreeing the practicalities of making payments to HQN. In July 2009, Tony O'Hara confirmed that his view was that HQN invoices should be passed to KCTMO directly and KCTMO would then invoice the EMB in order to create an audit trail.

In August 2009 HQN were advised by Pam Sedgwick that 'it was looking like the contract would have to be between the Council and HQN although there may be a way to allow the EMB to employ her directly'. Legal services commented that Rule 37 of the EMB constitution prohibits payment to Board members, and further stated that the EMB or the Council should make payment to the chairperson for services she provides as a consultant and that a short consultancy services specification should be drawn up.

An initial invoice from HQN was presented to the Council on the 12 August addressed to Pam Sedgwick in respect of 'Interim Chair of Management Board' for 'fees and expenses incurred during July 2009'. The invoice was approved by Pam Sedgwick on 13 August against a Council miscellaneous code for Housing Revenue Account (HRA) costs. A second invoice was paid against this code for services provided in August 2009. The majority of further invoices were approved by Tony O'Hara and paid through the KCTMO.

An agreement signed by seven members of LWEMB dated 3 August 2009 was held on file confirming the appointment of Ms Gohil onto the Board to act as a 'special advisor' for a period of 6 months. A note on file records that LWEMB was scheduled to meet on 1 September 2009 at the AGM, at which point Ms Gohil would formally assume the role of Chair/Special Advisor to LWEMB.

The minutes of the LWEMB of 30 September detail Ms Gohil as Chair of LWEMB, having attended the meeting on the 1 September 2009. The minutes of the meeting of LWEMB do not refer to the costs incurred in the appointment of Ms Gohil, nor do they refer to the manner in which payments would be made. The signed agreement by LWEMB stated an appointment of six months and Ms Gohil was paid for the period July 2009 to August 2010. The minutes of the Board meeting on 27 July 2010 confirmed that Ms Gohil was no longer a member of the Board. However, Ms Gohil was paid for work undertaken in August 2010.

During the period from June 2009 to August 2009 there were a number of exchanges between the KCTMO, RBKC and LWEMB to attempt to establish how payments could be made to HNQ and secondly which parties would sign the contract. On 21 August RBKC contacted Tony O'Hara stating that Finance and Legal Services were of the opinion that the EMB should officially appoint Ms Gohil and should sign the contract and that she should be paid as an advisor. The issue concerning the payment of Ms Gohil and the signed contract did not, in my opinion, actually achieve a resolution and it would appear that responsibility for finalising the arrangements was not allocated to a particular individual.

In conclusion, it is my opinion that there were a number of administrative failings by the Council, KCTMO and LWEMB in respect of the appointment of Ms Gohil which are outlined below; however there was no criminal intent or criminal actions in respect of the processes undertaken.

- Payments were made to HQN for the services of Ms. Gohil to act as Chair of LWEMB against legal advice. The payment of a Chair on LWEMB constitutes a breach of the constitution. The documentation on file confirms that LWEMB supported the proposal to appoint an interim Chair.
- The Council paid for services for Ms Gohil in respect of July 2009 and August 2010 when Ms Gohil was not a co-optee/Chair of the LW EMB.
- The information on file suggests that the contract for the appointment of Ms Gohil was between the Council and HQN, which may be viewed as a conflict of interest, although no signed contract was in evidence.
- Formal arrangements for payments to HQN were not in evidence, with payments being made through the Council and KCTMO. A single payment was identified that had been made through LWEMB repairs and renewals fund.

The review of your complaint has highlighted concerns in respect of the operation and management of LWEMB as well as the service provision and communication arrangements between LWEMB, the Council and KCTMO. In my role as Head of Audit and Risk Management I will be recommending that steps are taken to provide a robust action plan to address issues such as the management agreement, service level agreements, reporting and performance requirements.

I trust that this answers a number of the queries raised in your correspondence, however should you feel that there have been any omissions from my response, please do not hesitate to contact me. Once again may I apologise for the delay in responding to you.

Yours sincerely

Moyra Mc Garvey  
Head of Internal Audit and Risk Management  
Royal Borough of Kensington and Chelsea  
December 2010.

cc Derek Myers, Chief Executive and Town Clerk  
Jean Daintith, Executive Director for Housing Health and Adult Social Care  
Laura Johnson, Head of Housing