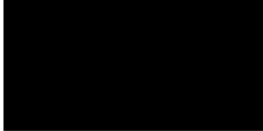


Housing, Health and Adult Social Care
Kensington Town Hall, Hornton Street, Kensington, London, W8 7NX

Executive Director Housing Health and Adult Social Care
Ms Jean Dainlith

Chief Housing Officer
Ms Laura Johnson

Mr F. O'Connor



THE ROYAL BOROUGH OF
**KENSINGTON
AND CHELSEA**

My reference: RBKC/00881

Your reference:

Please ask for: Pam Sedgwick
29 April 2010

Dear Mr O'Connor,

Stage 1 complaint

I write in response to your complaint to Mr Myers dated 16th April which has been passed to me for a response under the Council's complaints procedure. This letter constitutes the formal response at Stage 1 of the Council's corporate complaints procedure, a copy of which was provided to you on 19 April 2010.

You begin your account of events as you see them in April however you should note for context that in the preceding months two meetings had been arranged between myself, the Chief Housing officer and the Chair and representatives of the EMB both of which were cancelled at the EMB's request. These meetings were set up discuss continuing underperformance by the EMB and we were very concerned when they were cancelled at short notice and were subsequently informed that the Chair of the EMB had stepped down and there was no one able to "step into his shoes" so to speak at a meeting with the Council.

Dealing with your points in turn I would firstly note that Ms Gohil is not as you suggest an appointee of the Council. The Council was approached by three Board members and a meeting, as you say, did take place in May 2009 between Ms Johnson and myself and the three EMB Board members to discuss what appeared to be major problems with the governance of the EMB. At that meeting the Board members identified that they had no capacity to arrange or administer meetings and no one was prepared to become Chair and take on such responsibilities. It was agreed that in order to allow the EMB to continue to function an external chair would be sought. The Council's role in this it was also agreed would be to assist the remaining Board members by contacting reputable agencies with a view to developing a shortlist of candidates for the representatives of the Board to interview and recommend to the full Board for appointment.

Direct Line: 
Fax: 
Email: @rbkc.gov.uk
Web: www.rbkc.gov.uk

As I understand it this approach was agreed by the Board of the EMB and I made arrangements for shortlisted candidates agreed with the Board representatives to attend for interview by Board representatives. It is quite possible that at this stage, before interview there may have been a degree of confusion around roles as I was to that point the main contact with the agencies, however although I facilitated the interviews I took no part in them.

The interviews were undertaken by three Board representatives with Ms Johnson present as an observer at the Board Members' request. The decision to recommend Ms Gohil to the Board as a prospective Board member and subsequently to appoint her as Chair was the Board's alone and the Council took no further part in the arrangements.

It is true to say that at the meeting in May we did discuss the need for the EMB, once it had a functioning Board and a Chair to review whether it was a sustainable organisation and whether it could add value to services to tenants and leaseholders on Lancaster West estate. That would be seen as good practice and in the circumstances we all needed to understand whether the organisation was viable and whether it could deliver against the Modular Management Agreement (MMA) between us.

Your second point under the allegation that Council officers in some way acted inappropriately is around the interventions suggested by the MMA. It is important to note that the situation we were presented with was in fact outside the scope of the Management Agreement and was of such severity that we would in all likelihood (though a legal opinion was not sought specifically on this point) have been able, had we wished, to terminate the MMA as the Board were unable to manage the organisation and there was no prospect, without our speedy assistance that they would be able to do so in the future.

It was the view of legal colleagues and Ms Johnson and myself that where there is agreement between the EMB and the Council on a course of action that might not be laid down specifically by the MMA that it is acceptable to agree different approaches which help to remedy things. At that point there was no one involved in the Board as far as we understood who was prepared to arrange Board meetings let alone work through the MMA in respect of requirements around underperformance. The solution to bring in an experienced external Chair agreed by the Board was in my view the only one which could have saved the organisation at that time.

The majority of your other points concern matters which are governed by the Constitution of the EMB and not matters over which the MMA has any locus and therefore not issues over which the Council has any accountability, however where I have some knowledge of issues I will comment

Ms Gohil's appointment as Chair as I understand it was carried out in accordance with EMB rules and I believe Board members sought advice on this.

I am not aware that any Council officer has instructed payments to Ms Gohil out of EMB funds although I did seek a legal view from the Council's legal services at the request of the meeting in April as to whether it would be possible to pay an EMB Board member. The advice which was not, unfortunately, in writing was that there was nothing that precluded payment to Board Members. In terms of the EMB's process in agreeing remuneration for Ms Gohil that is not something over which I had any influence or control.

I am unable to comment on your further specific allegations as they relate to the conduct of meetings of an independent organisation and are for the EMB Board to address.

You make a comment around the TMO and the Breach Notice served on them by the Council a year ago. Since that point the new TMO Chief Executive Robert Black has engaged with the Council and brought about significant improvements and changes to the services offered to tenants and leaseholders. The Breach notice was complied with and the Improvement Plan signed off in January 2010 as implemented.

As stated above if there had been a desire as you state to destroy the EMB when we met with Board members in May 2009 then I believe we would have had sufficient evidence to terminate the agreement at that point. The assistance that the Council gave to the EMB Board at that time allowed the EMB to continue until a proper view could be taken of its performance and viability.

You suggest that Ms Gohil's approach has been to disregard the principles of good governance. I would disagree with that strongly although as I have stated I cannot comment on specific issues around the rules of the EMB. Principles of good governance suggest that organisations are governed by Boards with suitable capacity, expertise and commitment and should regularly review themselves based on organisational performance and for their continued relevance. I am concerned that the residents of Lancaster West get the best possible services and I think the discussions introduced by Ms Gohil to the Board around these issues were appropriate and necessary.

I think in the circumstances described above it hopefully can be seen that the Council did its best between May and July last year to support Lancaster West EMB in the short term with a view to allowing the EMB to conclude how Lancaster West residents can receive the quality of service they deserve.

The allegations you make that Council officers acted inappropriately in I believe unfounded and I think overall we helped the EMB faced with a crisis which was not foreseen either by the Constitution or MMA.

If you are unhappy with my findings into your complaint, you can write stating the reasons why and request that the matter be referred to Stage 2 of the complaints process. This will require that the Chief Housing Officer, Ms Laura Johnson carry out a review of your complaint and provide you with a full written response.

Yours sincerely,



Pam Sedgwick
Housing Clientside Manager

cc Mr Derek Myers - Chief Executive

