



AUDIT AND PENSIONS COMMITTEE

CONTRIBUTORS

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ALMO CHIEF EXECUTIVE & SENIOR HOUSING MANAGEMENT

This report sets out the rationale and process for the appointment of Nick Johnson as Chief Executive of H&F Homes.

WARDS All

RECOMMENDATION:

1. That the Committee consider the report

1.0 Introduction

- 1.1 This report sets out the rationale and process for the appointment of Nick Johnson as Chief Executive of H&F Homes.

2.0 The Relationship Between the Council and H&F Homes

- 2.1 H&F Homes is an arms length management organisation set up to manage the Council's housing stock. It is a separate legal entity whose day to day activities are controlled by a board. Whilst in technical legal terms it is wholly owned and controlled by the Council it operates on an arms length basis as was required in order to obtain Decent Homes funding. Its operational activities are governed by a management agreement with the Council. In legal terms it is a company limited by guarantee with the company as the sole member. As such H&F Homes has its own auditors and audit requirements.

3.0 The Appointment of Mr Johnson By H&F Homes

- 3.1 The Council had concerns about the performance of H&F Homes over a fairly lengthy period leading up to the Audit Commission inspection of housing management services provided by the ALMO on behalf of the Council in December 2007.
- 3.2 These concerns were absolutely confirmed and magnified by the disappointing result of that inspection with the service being classified as 'fair' with 'uncertain prospects for improvement', which led to the resignation of both Chair and Chief Executive of H&F Homes.
- 3.3 This left the ALMO in complete disarray with a real threat that DCLG would withdraw or at least delay the 'Decent Homes' capital allocation with the risk that tenants would be denied the improvements that were essentially the sole reason for establishing the ALMO in the first place. There was an urgent need to put in place interim management arrangements and to recruit an interim Chief Executive, with strong housing experience and the necessary skills and competence to turn the situation around.
- 3.4 Clearly this was a major concern to the Council and as a result it was agreed that the Council's Chief Executive would be a member of the H&F Homes recruitment panel established to make the appointment. Thus the Panel members were Guy Vincent, Jeff Zitron, Janet Gaston and Geoff Alltimes. There were four short-listed candidates of which Nick Johnson was 'head and shoulders' above the other applicants, and the unanimous choice of the panel.

- 3.5 Given the arms' length nature of H&F Homes the Council was not involved in the detailed arrangements of the contract for Mr Johnson's appointment. The Chief Executive was however aware of the daily rate that he would be paid. This was £950 pounds per day and he has remained on that daily rate ever since. The Chief Executive is of the view that this was, and remains significantly less than a number of other interim appointments at this level that he was and is aware of and this would certainly be less than the sort of rates that would apply from organisations like PWC etc. for someone with Mr Johnson's skills, abilities and experience.
- 3.6 From the Council's perspective senior officers and members were in no doubt that H&F Homes needed to make an appointment of someone of Mr Johnson's calibre and that this level of remuneration was appropriate.
- 3.7 There is no doubt that as interim Chief Executive Mr Johnson has achieved a 'turn around' of H&F Homes performance. Key to this has been the recovery of the 'Decent Homes' programme which now has the potential to deliver on budget and on time. At the same time, significant efficiency savings have also had to be delivered due to significant reductions in the HRA subsidy and the overall poor cost benchmarking performance of housing management services. Crucial to this was the follow-up Audit Commission inspection in 2009 where the 'two star with excellent prospects for improvement' conclusion was a tribute to an enormous amount of hard work by the Board and whole management team.
- 3.8 In the last eighteen months the Council has been giving consideration to the future of H&F Homes following the 'Decent Homes' programme, and how to link this with the significant regeneration opportunities that the Council wants to pursue. At the same time, H&F had been playing a leading role in our integration arrangements for the management of the PCT and the Council, particularly Children's and Adult Social Care. This has subsequently been overtaken by the new Governments agenda, which now requires us to transfer those integration ambitions to work directly with the emerging GP consortia. Initially, the latter led to the Chief Executive asking James Reilly, Director of Community Services, to focus exclusively on the Community Services part of his portfolio, and to develop the detailed integrated commissioning and provider arrangements with the NHS. A few months ago this led to him also taking on a formal role as one of the Directors of the PCT, although this has been overtaken by Mr Reilly being appointed as Chief Executive of Central London Community Health NHS Trust.
- 3.9 These changes meant that initially the Chief Executive took on direct responsibility for the Council's housing and regeneration functions and worked closely with Mr Johnson on how these could be best aligned with the work of H&F Homes both in the short term but also in terms of the

Council plans around the model for the future. A number of discussions took place with leading Board members and ultimately it was concluded jointly that Mr Johnson through his company Davis Johnson Ltd, should have two separate contracts, one with the Council for managing the Council's Housing and Regeneration functions and the other as continuing interim Chief Executive of H&F Homes. Officers were of the view that notwithstanding the relationship between the Council and the ALMO this was a prudent arrangement, in the best interests of both and that mechanisms exist for managing any conflict of interest

3.10 This was and remains a temporary arrangement whilst the Council consulted on the future of H&F Homes and recruited to a new chief officer post. Cabinet has now determined that the ALMO will be brought back in house [see report to Cabinet on 10th January] and a new Director of Housing and Regeneration has been appointed who will join the authority from 28th March 2011.

4.0 Payments

4.1 The rate for Davis Johnson Ltd is £950 per day as confirmed by the analysis of invoices below. It should be noted that all VAT can be reclaimed by H&F Homes from HM Revenue and Customs.

Year	Invoiced to:	Number of Days Worked No	Payment for days worked £	Mileage £	Other Expenses £	Total Cost £	VAT £	Total Invoiced £
2007/08	Council	Detailed analysis not available				19,000	0	19,000
2007/08	H&F Homes	24	22,800	67	71	22,938	1,508	24,446
2008/09	H&F Homes	240	228,000	1,085	834	229,919	38,486	268,405
2009/10	H&F Homes	241	228,950	821	-4,160	225,611	35,369	260,980
2010/11 (Part Year)	H&F Homes	126	119,700	0	0	119,700	20,948	140,648
Total						617,168	96,311	713,479

4.2 The total cost of a salary of £160,000 including employers pension contributions and Employers National Insurance Contributions is about £208,200. Terms and conditions in 2008 would have entitled the post holder to 34 days holiday per annum plus 8 bank holidays, this means that there would be 219 working days in a year. As shown above in order to turn around the performance of the ALMO, Davis Johnson Ltd worked additional days in both 2008/09 and 2009/10. After allowing for these additional days

the cost does equate to the total cost of an employee on a salary of £160,000. This is illustrated by the table below:

Year	2008/09	2009/10
Payment for Days Worked (see table above)	228,000	228,950
Number of days worked over 219	21	22
Resultant additional costs	19,950	20,900
Cost after allowing for additional days	208,050	208,050

4.3 Had these additional days not been worked H&F Homes would have needed to invest the monies in other resources.

5.0 COMMENTS OF DIRECTOR OF FINANCE AND CORPORATE SERVICES

5.1 The Director of Finance and Corporate Services has been consulted and concurs with the contents of this report.

6.0 COMMENTS OF THE ASSISTANT DIRECTOR (LEGAL AND DEMOCRATIC SERVICES)

6.1 The Assistant Director has been asked to look at this matter in his capacity as Monitoring Officer.

6.2 He is of the view that both H&F Homes and the Council have acted lawfully in relation to this matter.

6.3 In the event of any conflict in relation to the management agreement the Chief Executive would assume the role of the proper officer.

6.4 The arrangement with Mr Johnson is managed through a company, Davies Johnson Ltd, which provides services to the Council i.e. those of Mr Johnson. This is a common and tax efficient vehicle for such arrangements. Tax efficient mechanisms are entirely lawful and taxpayers are entitled to arrange their affairs to lawfully minimise their tax liabilities.

6.5 Questions have been asked of Mr Johnson's pensioner status in the Local Government Pension Scheme. Mr Johnson is not employed by the Council and therefore the fact that he is a pensioner of the London Borough of Bexley is not relevant. In any event this would be a matter between Mr Johnson and Bexley.

6.6 In terms of procurement the position is as follows:-

- (i) The EU procurement rules, as they apply to services, divide services into two groups, Part A and Part B services. A list of them appear in Schedule 3 of the Public Contracts Regulations 2006
 - (ii) Part A services, where the contract value is over the threshold (roughly £150,000) and the Council wishes to procure outside its own resources, must be tendered in accordance with the rules and follow one of four tendering procedures: open, restricted, negotiated and competitive dialogue (the last two may only be used in specified circumstances). These are complex and expensive processes involving advertisement, the publication of complex contract documentation and evaluation criteria and the following of a detailed process.
 - (iii) Part B services need not be tendered in this way but where there are of interest to contractors outside the UK they must be let in accordance with the principles of equal treatment and transparency.
 - (iv) It is not appropriate to use an expensive EU process involving tendering across the whole of the EU to secure an interim chief officer/deputy chief officer unless compelled to do so by the rules.
 - (v) The service provided by Davies Johnson is merely to place the services of Mr Johnson at the ALMO/Council's disposal. It is therefore a "personnel placement and supply service" (paragraph 20 of schedule 3 of the Public Contract Regulations 2006). This is a Part B service and letting it to Davies Johnson without formal advertisement across Europe does not create any cross border issues and does not therefore breach the equal treatment and transparency principles. There was therefore no obligation to carry out an EU procurement exercise in this case.
- 6.7 The ALMO and the Council have, in the opinion of the Monitoring Officer, acted lawfully in relation to this matter.

**LOCAL GOVERNMENT ACT 2000-
LIST OF BACKGROUND PAPERS**

No.	Description of Background Papers	Name/Ext. of Holder of File/Copy	Department/ Location
1.	None		