

**LONDON BOROUGH OF BRENT**

**MEETING OF THE GENERAL PURPOSES COMMITTEE  
22 MAY 2003**

**FROM THE DIRECTOR OF HOUSING SERVICES**

**FORWARD PLAN REF:**

**NAME OF WARD(S)  
ALL**

**REPORT TITLE: REPLACEMENT OF BOARD MEMBER FOR BRENT HOUSING  
PARTNERSHIP**

**Above**  **Below**

**For: Action**

**Confidential Line**

**1. Summary**

- 1.1 A vacancy has arisen for one of council nominated directors on the board of Brent Housing Partnership (BHP), the council's wholly owned company responsible for managing the council's housing stock.
- 1.2 This report details the reasons as to why this vacancy has occurred and asks members to nominate a replacement.

**2. Recommendations**

- 2.1 Members are asked to nominate a replacement councillor to sit as a director on the board of Brent Housing Partnership
- 2.2 Members are asked to authorise the Director of Housing to write to the Company Secretary of BHP giving notice of the appointment.

**3. Financial Implications**

- 3.1 There are no specific financial implications arising from this report

**4. Staffing Implications**

- 4.1 There are no specific staffing implications arising from this report

## 5. Legal Implications & Details

- 5.1 The council has been advised by Brent Housing Partnership that one of the councils nominated Directors Cllr Allie has had his Directorship of BHP board terminated. This decision followed a number of actions undertaken by Cllr Allie which BHP's board considered to be incompatible with his position as a Director of BHP, and which continued after Councillor Allie received notice of the Board's dissatisfaction and intention to exercise its powers of removal.
- 5.2 The specific issue concerned a number of published statements concerning the decision taken by the BHP board to commence a pilot warden scheme.
- 5.3 Members will be aware that Brent Housing Partnership ("BHP") assumed responsibility for managing the Council's housing stock on 1 October 2002, having been established as an Arms Length Management Organisation of the Council with the consent of the Secretary of State.
- 5.4 BHP is run by a Board of 18 Directors, all of who owe a primary duty to BHP regardless of whatever other affiliations they may have. Of the 18 directors 6 are nominated by the Council, 6 are elected by tenants and 6 are independents chosen by the other Directors for their expertise.
- 5.5 BHP is a company limited by guarantee whose operation is governed by its Memorandum and Articles of Association, along with its standing orders and the management agreement that it has with the Council. Appointment and removal of Directors of BHP is governed primarily by the Articles of Association.
- 5.6 Both the external legal advisor to the Board and Brent's Legal Service have advised on the removal and appointment that forms the subject of this report and are satisfied that the process is lawful.
- 5.7 The Articles of Association provide the following means of removal:
- Article 14(1) and (2) gives the Council power to remove any of its nominees by notice in writing to the Company Secretary at any time, and to nominate a replacement in the same way
  - Article 14(3) gives the Council the power to remove any director by notice to the Company Secretary
  - Article 18 (6) provides that any director can be removed by resolution or written notice signed by at least three quarters of all directors
- 5.8 Although on the face of it the Council can exercise powers of removal, the management agreement with BHP limits the circumstances in which removal will be exercised by the Council to those situations where BHP has done something to warrant termination of the agreement. The circumstances that gave rise to this report did not fall within that definition.

- 5.9 In any event the Board itself exercised its power to remove one of the 6 Council nominees, Councillor James Allie, as follows:
- On 16 December 2002 2 BHP Board Members initiated the removal process by writing to the Company Secretary requiring her to initiate the written notice procedure of Article 18 (6) for the removal of Councillor Allie from the Board.
  - The Company Secretary wrote to every Board Member, including Councillor Allie, with a copy of the letter of request.
  - On 20 December the Company Secretary wrote to Councillor Allie asking him to give written reasons for his conduct and explaining the procedure under Article 18(6). Councillor Allie was asked to respond by 5pm on 2 January 2003.
  - Councillor Allie replied to the Company Secretary on 23 December 2002. A copy was provided to all other Board Members. Councillor Allie also wrote to the Director of Liberty on 17 December 2002 in terms critical of BHP and issued a news release in similar terms on 18 December 2002. Following that a press release was sent to Inside Housing magazine on 7 January 2003; a letter by Councillor Allie in similar terms was published by the Wembley Observer on 9 January 2003 and a further article appeared in that publication on 16 January 2003.
  - Councillor Allie's response was considered by Board Members on 22 January 2003 who then unanimously signed a notice in writing removing Councillor Allie from the Board with immediate effect. That notice was duly served on Councillor Allie.
- 5.10 The Articles of Association require the Council, as sole Member of the company, to give written approval of the appointment of any Council Board Member. This approval takes effect when it is lodged at the registered office of the company, or such later date as may be specified. Written approval should be in the form of a letter by a duly authorised signatory of the Council, such as the Director of Housing, to the Company Secretary, informing her of the Council's decision (Article 14 (2)).
- 5.11 In agreeing a replacement for Cllr Allie Members are reminded that Directors' owe a duty of care to act in the best interests of the company. Directors also owe the company a duty to avoid any conflicts of interest and to avoid doing anything for collateral reasons. Detailed guidance on the role and duties of BHP's directors', provided by the external legal advisor to the Board, is available as a background document to this report.
- 5.12 As reported to the Board of BHP at their April Board meeting by their external legal advisor, the Higgs report on corporate governance stresses the need to Board Members to act independently of extraneous influences or interests and to use their judgement as to what is in the best interests of the company.
- 5.13 As a matter of good practice, when taking a decision as to whom to nominate to the Board, the Council should seek confirmation that that person will act in the best interests of BHP.

- 5.14 There is no legal requirement for political balance on the Board.
- 5.15 Members are however reminded that as directors of a company they have specific obligations to that company and are likely to face sanctions from that organisation if they act in a manner that the company considers prejudicial to its interest as covered in some detail in the guidance mentioned above.

## **6.2 Background Information**

Memorandum and Articles Brent Housing partnership  
Guidance to Directors by Prince Evans, Solicitors

**Martin Cheeseman**  
**Director of Housing Services**