

Appendix 1

HARROW COUNCIL FOR RACIAL EQUALITY
(HCRE)

INDEPENDENT INVESTIGATION

REPORT

Dr. Khurshid Ahmed CBE
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SUMMARY

INTRODUCTION

This investigation and report was commissioned by the London Borough of Harrow following concerns raised about the management of Harrow Council for Racial Equality (HCRE). The London Borough of Harrow has been the major funder of HCRE, and is in addition the accountable body for other funds, such as the Children's Fund, received by HCRE.

In addition two elected members of Harrow Council sit on the HCRE Executive Committee.

In June 2008 Harrow Council suspended funding to HCRE. The suspension of funding was triggered by allegations about the conduct of the Director of HCRE made in late August 2007 and concerns about the conduct of the Executive Committee of HCRE in conducting the investigation into the allegations.

SCOPE OF THE INVESTIGATION

The scope of the investigation into the current issues facing HCRE falls into four main areas:

Staffing and Employment Practices – in particular

- Investigation into the circumstances surrounding the suspension of the Director.
- Examination of the process and scope of the investigation undertaken by trustees into allegations of gross misconduct.
- Examination of executive committee management and decision - making in relation to the investigation.
- Investigation into the organisation's management of employment practices including handling of staff contracts and payroll.

Financial Management

- Investigation into allegations of financial mismanagement
- Investigation into the use of Council grant funding with regard to Council expectations.

Breaches of Service Level Agreement Conditions.

- Investigation and assessment of breaches of Service Level Agreement terms and conditions.

Overall Organisational Effectiveness

- Investigation into the overall effectiveness of the management committee with particular examination of its effectiveness and ability to manage.

The final report to include recommendations regarding Council options for future funding and monitoring as well as an assessment of general organisational effectiveness and potential for future sustainability.

Conclusions on the way forward should take account of best practice from across the country.

For the purpose of the investigation the investigation was overseen by the Director of Community and Cultural Services, Harrow London Borough Council.

BACKGROUND

Harrow Community Relations Council was formed in 1973 and changed its name in 1989 to Harrow Council for Racial Equality. The organisation describes itself as an umbrella organisation for local communities in the London Borough of Harrow, which maintains an overview of policy and procedures in relation to the Race Relations Act.

Affiliates of HCRE are drawn from voluntary and statutory organisations involved in the promotion of equality of opportunity and good race relations between all sections of the community. Representatives of affiliated organisations and individuals are elected annually to the Executive Committee. The Executive Committee in turn elect the Honorary Officers – Chair, two Vice Chairs, Treasurer and Vice-Treasurer. The Director acts as Company Secretary.

Two elected member of Harrow Council are nominated to the Executive Committee.

Major funding of the organisation's core costs has traditionally come from the London Borough of Harrow and the Commission for Race Equality.

The HCRE also manages a number of other services and projects which are funded through other sources, such as the Commission for Equality and Human Rights, Primary Care Trust, Connexions and Children's Fund.

HCRE is a registered charity and company limited by guarantee.

INVESTIGATION APPROACH

The investigation has taken verbal and written evidence from HCRE executive and staff members, Harrow Council staff members, representatives of affiliated members, successive Chairs, Vice Chairs, Treasurers and Auditor, in order to determine the effectiveness of the management processes.

In addition project files have been inspected to establish the effectiveness and robustness of financial record keeping and performance management.

MAIN FINDINGS AND CONCLUSIONS

The council was wholly justified in taking the action to suspend the 2008/9 community grant to HCRE and conduct an investigation into its affairs.

STAFFING AND EMPLOYMENT PRACTICES

Circumstances Surrounding the Suspension of the Director

Members of staff requested the meeting with Honorary Officers while the Director was on annual leave. This was prompted by the recent loss of contracts and a fear for existing and future contracts and staff's own future and stability.

The allegations made against the Director were serious enough to warrant suspension. The Chair did have the authority to suspend the Director and did so with the agreement of other Honorary Officers.

However having suspended the Director there was a lack of urgency in investigating the allegations.

Although the letter suspending the Director met the published procedures in that the nature of the allegations were disclosed, at no time subsequent to that, were any specific or detailed allegations given to the Director to which he could respond.

The appointment of two trustees to conduct the investigation failed to appreciate the possible conflict of interest that might arise or the fact that staff may not be confident in giving evidence to trustees.

The decision to interview all HCRE members could be construed as a "fishing trip" to gather further allegations against the Director. However the meeting with the Honorary Officers was instigated by the staff and it was believed all had complaints against the Director.

Examination of the process and scope of the investigation by the Trustees

The investigation by the two Trustees should have been a preliminary investigation to establish whether there was any substance to the allegations.

The Trustees failed to identify any specific or detailed allegations that could be evidenced and put to the Director.

The investigation was compromised by the Chair offering to meet the Director prior to him being interviewed by the investigating officers.

The two Executive Committee Members who undertook the investigation provided a written report in January 2008. They found that the allegations could not be proven.

Given the opportunity to provide evidence, no member of staff submitted any formal grievances, or provided any information upon which the Executive Committee could act.

Faced with a report largely exonerating the Director, the Executive Committee failed to make a decision.

Given the seriousness of the allegations against HCRE's most senior employee and the potential danger to the reputation of the organisation, consideration should have been given to appointing an independent person who could establish thoroughly and quickly whether there was substance to the allegations and presented evidence to the Executive Committee with recommendations on how to proceed.

Examination of the Executive Committees Management and Decision Making in Relation to the Investigation.

Although the suspension of the Director took place on 28th August 2007, no action was taken until the Executive Committee Meeting on 20th September 2007.

Confusion arose following the expiry of the 4 week medical certificate submitted by the Director in November 2007. While the Director failed to notify the organisation that he was fit for work, the Chair failed to contact the Director to clarify his fitness to return to work after the medical certificate expired.

It should be noted that HCRE has no effective Sickness Absence Management Procedures laid down which spell out the responsibilities of both staff and managers.

In January 2008 the two investigating officers from the Executive Committee reported that none of the allegations could be proven. Despite this no decision was taken.

The Chair advised members of HCRE staff in January 2008 that there was no evidence to support the allegations against the Director. This information was not communicated to the Director who remained suspended.

Members of HCRE staff were told in April 2008 that the likely outcome was that the Director would be re-instated. This was not communicated to the Director.

Advising staff members of the result of the investigation without notifying the Director undermines the duty the Executive Committee had to the Director in terms of confidentiality and decision making.

HCRE staff appear to have been present at Executive Committee Meetings when the Director's continued suspension was discussed. Such discussions should have been held in private in order to protect the Directors reputation and confidentiality.

HCRE procedures were not followed in dealing with the Grievance from the Director. The first stage of the Grievance Procedure was omitted and consequently the Director was unable to submit his detailed Grievance to the Panel in advance of the meeting.

No decision regarding the outcome of the Grievance Hearing was communicated to the Director.

Investigation into the organisation's management of employment practices.

Staff do not have valid contracts of employment.

Staff complain that salaries are not paid in time for cheques to clear by the end of each month and that amounts paid can vary from month to month. However no member of staff has raised this formally in writing with the Director and no one has used the grievance procedures to raise this as an issue.

There appears to be no competent payroll officer employed by the organisation.

Performance and personal development reviews have not been carried out by the Chair in respect of the Director. There is a lack of both control and support in ensuring the Director performs his duties in a satisfactory manner.

The Executive Committee failed to follow its own procedures in respect of the investigation in ensuring that a preliminary investigation was conducted promptly to establish whether there was any substance to the allegations or to present evidence that could have been put to the Director.

The Executive Committee has failed to make any decision in respect of the investigation.

The Executive Committee failed to follow its own procedures in respect of the Grievance submitted by the Director. No decision has been communicated to the Director in relation to the Hearing that was held.

There are no Sickness Absence Management Procedures which set out the roles and responsibilities of staff and managers.

The Director resigned effective from 16th August 2008 and a Compromise Agreement was reached.

FINANCIAL MANAGEMENT

Investigation into allegations of financial mismanagement

Financial management is not sufficiently robust to provide confidence to funders and the public at large that funds have been used effectively in the delivery of objectives set out in various service level agreements and contracts.

It is not clear how core costs such as accommodation, heating and lighting and telecommunications etc are apportioned between project funding. While to some extent this is an issue for how much individual funders will bear, it is not transparent and leads to suspicion and question.

A Contingency Fund has been established using primarily funds contributed from project delivery towards "contributions for overheads". It is debateable whether this is truly "unrestricted" income since it was granted to support the delivery of specific projects.

An accounting convention in the Annual Accounts does not record income from all sources of grant funding. While this might be an acceptable accounting convention, it does not provide the transparency required for an organisation which is funded for the most part by public funds.

Record of income and expenditure is maintained on monthly spreadsheets using SAGE. Whilst this is adequate, it does not provide information on a cumulative basis and does not fully record allocated expenditure to particular projects.

In respect of the allegations that invoices were falsely created to support claims, there was no evidence found of any invoices being falsely created.

Investigation into the use of Council Grant funding

The current Service Level Agreement was negotiated and agreed with HCRE in 2006. There are weaknesses in the Service Level Agreement (SLA) for the main grant from Harrow Council that make robust monitoring difficult:

- It contains entirely quantitative performance targets which may not be fully within the control of HCRE.
- No qualitative targets are included which might measure the quality of service e.g. customer satisfaction ratings (although this is included as part of the monitoring).
- No figure is set against the two members of staff and accommodation costs included in the funding.
- There is a fairly extensive list of services to be provided for it is suggested that funding is granted within the SLA.

The grant is paid automatically every quarter by BACS transfer. No 'in-year' monitoring is undertaken of the grant and a detailed breakdown of expenditure is not required. Whilst a balance is to be struck between over monitoring which becomes onerous and distracts from delivery, it is not unreasonable to expect organisations to submit photocopied evidence of expenditure and provide a brief summary of performance against the SLA before drawing the

next quarter's funds. Grant payments are made automatically and grant monitoring is retrospective; there is no process for making claims against actual expenditure.

Breaches of the Service Level Agreement Conditions

HCRE failed to notify Harrow Council about the investigation into the allegations against the Director. However since the Director was suspended and he was the person with overall control of the Service Level Agreement, Honorary Officers and Executive Board members may not have been aware of this condition in the SLA issued by Harrow Council

Funding was not used exclusively for the employment of two staff members, namely the Racial Harassment Incidents Officer and Administrative Officer. However the post of Racial Harassment Incidents Officer does not exist in that name and some or all of the duties are covered by the Racial Equality Case Worker. It had become custom and practice to set other staff costs, namely the Director's, who would no doubt argue that he also has a role in monitoring racial incidents, against this post. This apportionment of costs across a number of posts had been identified in previous annual monitoring reports. The Monitoring Officer found visits with HCRE were often cancelled or postponed and were extremely difficult when they took place, for example information was not prepared in advance of the meeting, information was promised but often not received within the timescales set. Due to lack of capacity within the Grants Team issues identified through monitoring were left unresolved.

Furthermore the SLA in Schedule 1, Section 3 Services/Activities a fairly comprehensive list of services are listed under the heading "The organisation will provide the following service/activities for which funding is provided under this agreement." The implication is that the funding from Harrow Council should contribute to all the services listed which range from casework and advocacy to advice to employers and free legal advice. This is at odds with the specification to fund only two posts and accommodation costs. The setting up of the Service Level Agreement and the council's monitoring process is an opportunity for a two-way dialogue and both parties should have identified these issues at an earlier stage.

In addition with regard to outcomes and quantifiable outputs, the monitoring report, which is completed jointly between HCRE and the Council Officer, lists all the projects and activities undertaken by HCRE including those funded by other funding streams. No dialogue appears to have taken place about the very low outputs and outcomes which fell short of the target.

Furthermore, the monitoring process was prolonged. It began with a Monitoring Meeting on 15th May 2007, and took until early August to complete due to HCRE's failure to provide information as requested

Some members of the Council's Grants Advisory Panel seemed fairly ambivalent about their role in relation to funding HCRE having little or no understanding of the role the Council's funding played in furthering race equality within the Borough. This suggests lack of adequate induction or training of elected members in performing their public duties effectively.

In respect of the Children's Fund for which Harrow Council is the accountable Body, the monitoring process was more robust. At meetings in November 2006 at which both the Director and Project Officer were both present it was agreed that only 6% of general bills could be attributed to the project. In addition it was noted that cleaning costs had been charged as travelling expenses and a claim for capital expenses could not be substantiated.

Given this clear direction from the funding body, it should have been relatively straight forward to submit acceptable claims. It is also not credible that the Project Officer did not understand the need to keep records of expenditure attributed to the project as she was at the meetings.

In respect of the allegations made that invoices were created to support claims, there is no evidence of any invoices being falsely created. Indeed the evidence is that HCRE could not provide sufficient supporting documents to substantiate the amounts given on claim forms.

In respect of funding from the Children's Fund for which Harrow Council is the Accountable Body, the failure to provide evidence of expenditure, despite guidance as to what would be

acceptable, is a clear breach of the Service Level Agreement and the decision to discontinue funding was fully justified.

OVERALL ORGANISATIONAL EFFECTIVENESS

Investigation into the overall effectiveness of the Management Committee.

There is some confusion about where responsibility for governance lies. The use of the term Trustee appears interchangeable with the term Executive Committee. Under charity law the term Trustee is used to refer to those who have responsibility for the administration and management of the charity, including ensuring compliance with the law and regulations. Charities incorporated as a company limited by guarantee, such as HCRE, often refer to Trustees as Directors, who as Company Directors assume the same responsibilities as charity trustees for good governance a compliance with the law. The confusion arises in that the Trustees are recorded with the Charity Commission as Mr Zia Sayeed Baig, Mr Ajay Kumar Aggarwal and Mr Trevor Chisholm. The Directors registered with Companies House, as at September 2007 are Mr Ajay Kumar Aggarwal, Mr Asad Omar and Mr Subhash Vanraj Sampat. It is therefore not correct that all members of the Executive Committee are Trustees or Directors of the organisation. It appears that only the Honorary Members are normally nominated as Company Directors. The issue is important because Trustees and Directors have the legal responsibility for the organisation and could be liable if things go wrong.

The Executive Committee is made up of 25 members elected from affiliated organisations. The Executive Committee elects the Honorary Members (Chair, Vice Chairs, Treasurer) Attendance at Executive Committee Meetings tends to range between 10-15 regular members. The Executive Committee is too large to facilitate effective decision making and effectively there are members who never attend after election.

The Executive Committee appears stymied and unable to make any decisions to resolve the current situation and which takes the organisation forward.

Notwithstanding the issues around the position of the Director, in the appointment of the Acting Head, there was a clear opportunity for the Executive Committee to set out clear objectives to rectify systems weaknesses and give confidence to funders. This has not happened and the organisation has effectively simply "marked time" and the inherent weaknesses in procedures have continued without any modification.

Evidence has been provided of a number of ill - tempered e-mails between one Honorary Officer and a staff member. There appears to be friction between certain parties at all levels in the organisation which causes unprofessional behaviour to a rise to the surface.

HCRE staff complain of losing faith with the Executive Committee and their ability to provide the level of support they need and which the organisation needs to move forward.

With regard to the Director, given the circumstances and the passage of time it is likely that the position of trust between the Executive Committee and Director has been broken. A compromise agreement has been reached and the Director resigned effective from 16th August 2008.

REPORT

Staffing and Employment Practices

Overview of Events

Members of staff met with Honorary Officers on 23rd August 2007. This was prompted by the recent loss of contracts and a fear for existing and future contracts and staff's own future and stability. Allegations made against the Director, involved bullying, falsifying financial records and failure to implement contractual grant requirements. These were serious enough to warrant suspension.

The HCRE Manual gives authority to the Chair to suspend members of staff. This he did with the agreement of other Honorary Members.

The letter given to Mr Parwar on the day of his suspension did set out the broad allegations made against him and the letter was adequate at that time. However it should have been the purpose of the investigation to determine whether the allegations could be substantiated. If there was evidence to support the allegations, this specific evidence should have been given to Mr Pawar for his response.

The Director, Mr Prem Pawar was suspended on 28th August 2007. But the Executive Committee did not commence an investigation into the allegations until 20th September 2007.

The Chair, Mr Ajay Aggarwal resigned on 27th September 2007 over comments made by another Executive Committee member, and Councillor Asad Omar replaced him.

Two Executive Committee members were appointed as investigating officers and in their written report January 2008, they concluded that none of the allegations were proven.

No decision was made on the findings of the investigation and the Director remained suspended.

The Director submitted a Grievance on 25th February 2008 and a Hearing was held on 25th March 2008. No decision was communicated to Mr Parwar.

The Director remained suspended until his resignation in August 2008 following a Compromise Agreement.

23rd January Harrow Council instigated meetings with HCRE trustees to get an update on the situation regarding the Director.

In response to concerns raised Harrow Council suspended funding in June 2008 and commissioned an independent investigation.

Examination of the process and scope of the investigation by the Trustees

The investigation by the two Trustees should have been a preliminary investigation to establish whether there was any substance to the allegations. However, the Trustees failed to identify any specific or detailed allegations that could be evidenced and put to the Director.

In September 2007 the Chair resigned and was replaced by a member of the Executive Committee who was also an elected member of Harrow Council and a member of the Grants Advisory Panel. Given that the nature of the allegations involved misuse of Harrow Council funds, and the potential for a conflict of interest, it was ill advised for the Councillor to have accepted the Chair at that time. Despite this, and given that there were two elected members on the Executive Committee representing the Council; it failed to take action until June 2008. This must bring into serious question the role and the responsibilities of such representatives, especially where public funds are involved.

The investigation was compromised by the Chair offering to meet the Director prior to him being interviewed by the investigating officers.

The two Executive Committee Members who undertook the investigation provided a written report in January 2008. They found that in respect of the allegation of bullying, there was no evidence to substantiate the allegations. Similarly in respect of allegations of falsifying financial records, there was no evidence to substantiate the allegations. In respect of the allegation of failure to implement contractual grant requirements, the investigators concluded that there was a collective responsibility of all officers concerned to respond effectively to the funders requirements and that any blame could not be laid entirely on the Director. There is no reason to question the integrity of the investigating officers, who were faced with vague, unsubstantiated claims and unwillingness by staff to follow through on their claims when given the opportunity to do so. Indeed some of the evidence collected contradicted the original allegations i.e. that the Director could be very supportive and that some staff members could also be aggressive and abusive. However faced with a report largely exonerating the Director, the Executive Committee failed to make a decision.

It is claimed that certain members of staff threatened to resign or instigate legal action against the HCRE or Executive Committee. This may have influenced some members, however given the opportunity to provide evidence, no member of staff (other than Mr Parwar) submitted any formal grievances, or provided any information upon which the Executive Committee could act. It is unacceptable that the Executive Committee failed to act on the outcome of its own investigation.

Given the seriousness of the allegations against HCRE's most senior employee and the potential danger to the reputation of the organisation, consideration should have been given to appointing an independent person who could establish thoroughly and quickly whether there was substance to the allegations and presented evidence to the Executive Committee with recommendations on how to proceed.

Disciplinary Procedures

Staffing and Employment Practices for HCRE are set out in a Manual which covers various aspects of working for HCRE including Mission Statement, Equal Opportunities Policy, Recruitment Procedures, and Financial Procedures etc. and in the Employee Handbook.

The HCRE's published Disciplinary Procedures are as follows:

In cases of minor misconduct or unacceptable performance or behaviour, managers should exhaust all other means of achieving the required standards before formal disciplinary action is taken. This will include setting clearly defined objectives and standards of monitoring them over a reasonable time period and providing additional coaching or training. In some cases this may also include reference to other appropriate sources of counselling and assistance.

No disciplinary action will be taken until a case has been thoroughly investigated. When commencing an investigation into an allegation of misconduct there shall be no assumption that disciplinary action will automatically follow.

At every stage of the procedure, workers will be advised of the nature of the complaint against them and will be given the opportunity to state their case before any decision is made.

The level of management required to authorise suspension is Director or Chairperson. This is set out in the Manual.

HCRE's procedures emphasise that matters must be investigated in a systematic and thorough manner by gathering information promptly, establishing relevant facts and taking into account statements of witnesses if appropriate.

Following the investigation the worker should, without unavoidable delay, be given a written statement of the allegation and advised of the intention to hold a disciplinary hearing. This will state her/his rights under the procedure, including the right to be accompanied by a trade union representative or work colleague. At the same time the worker will be provided with copies of all documentation and supporting evidence to be presented at the hearing.

In the case of the suspension of Mr Pawar

A meeting was held between staff members and Honorary Officers including the Chair, Vice Chairs and Treasurer on 23rd August 2003. The Mentoring & Advocacy Project Officer with the backing of other staff members initiated this meeting.

The allegations put the Honorary Members at that meeting were of a very serious nature and if substantiated could be construed as Gross Misconduct. The authority to suspend a member of staff lies with the Chair. As a consequence Mr Pawar was suspended on his return from Annual Leave on 28th August 2007, and was given written confirmation of the suspension by the Chair.

The Memorandum and Articles of Association allows the Chair to call an extra-ordinary meeting of the Executive Committee less than 7 days notice. Given the serious circumstances prevailing, it would have been reasonable to call an extra-ordinary meeting of the Executive Committee within a few days of the suspension of the Director.

The Personnel Sub Committee and the Finance and General Purpose Committee met on 5th September 2007. Both committees were advised of the suspension of the Director and were re-assured that processes were in hand.

However the Executive Committee did not meet until their scheduled meeting on 20th September 2007. The minutes of the meeting make no reference to the suspension and in fact note that the Director is on annual leave. It is reported that there was reluctance by most members to act as investigating officers. Two Executive Members did agree to investigate the complaints.

HCRE staff were interviewed between 21st September 2007 and 7th November 2007.

Without the knowledge of the Investigating Officers, Mr Pawar was invited to meet Honorary Officers on 6th November 2006 to discuss an exit strategy. Mr Parwar declined to attend. This approach had the potential to compromise the investigation and demonstrated the lack of cohesion amongst Executive Committee members.

The Investigating Officers informally reported a lack of evidence to the Executive Committee on 26th November 2007.

An Extra-Ordinary Meeting of the Executive Committee was held on 17th December 2007.

Mr Pawar heard nothing more, despite writing to the Chair on a number of occasions. He wrote again on 18 February 2008 asking for an update. The Chair's response was "In the first instance you must appreciate that as our work is voluntary there are difficulties in devoting ourselves full time to any investigation". This is an inadequate response to the very serious allegations made and the delay in concluding the investigation. As an Honorary Officer and a member of the Executive Committee, there was a duty on the Chair to ensure that the investigation was progressed with all urgency and a conclusion reached. It also suggests that Trustees were not fully aware of their roles and responsibilities as Trustees.

In addition reference is made to the 4 week medical certificate. Mr Pawar submitted a 4 week medical certificate in November 2007, when the medical certificate expired; Mr Pawar failed to notify the Chair that he was fit for work. However, by the same token the Chair also failed to contact Mr Pawar to enquire about his status. To raise the matter in February, two months after the medical certificate had expired, as an excuse for inaction is inadequate.

Dissatisfied with the reply, the Director submitted a formal grievance on 25th February 2008. The grievance was submitted to a member of the Executive Committee rather than to the Chair of the Personnel Sub Committee (PSC) as stipulated in the Grievance Procedure. Given that part of the grievance was against some members of the PCS this is understandable. However there were some members of the PCS who were not named in the Grievance who might have been a more appropriate person to lodge the Grievance with.

As Stage 1 of the Grievance Procedure, the person receiving the Grievance should have met Mr Pawar to discuss his Grievance and make a decision, with reasons for the decision, within the timeframe set out, and inform Mr Pawar in writing. If Mr Pawar remained dissatisfied he had the right to proceed to Stage 2 which would be a formal Hearing.

Stage 1 was missed out altogether and the Executive Committee convened a Hearing held on 25th March 2008. Mr Pawar complains that he was allowed to submit his written evidence. This should have been collected at Stage 1 and presented to the Hearing in advance. The Grievance Hearing appears to have become confused with issues of discipline and the allegations, which was not the purpose of the Grievance Procedure. It is reported during the Hearing Mr Pawar was advised that there were grounds for disciplinary action against him, although no formal decision had been communicated to Mr Pawar. It is also reported that at the end of the grievance Hearing reference was made to a compromise agreement. This was never followed up. The Hearing Panel should have notified Mr Pawar of their decision, in writing, within 10 days of the Hearing. No decision has been communicated to Mr Pawar.

Honorary Officers are reported to have informed HCRE staff members of the outcome of investigation and the likely consequence before any such decision was communicated to Mr Pawar. This is a serious error of judgement and undermines the duty the Executive Committee had to Mr Pawar.

HCRE staff appear to have been present at Executive Committee Meetings when the Director's continued suspension was discussed. Such discussions should have been held in private in order to protect the Directors reputation and confidentiality.

A Compromise Agreement has been reached and Mr Pawar has resigned effective from 16th August 2008.

Financial Management

A search of Companies House shows that company accounts were filed on 28 July 2007. However a search of the Charity Commission shows that no returns have been made since November 2004 and consequently returns for 2004/05, 2005/06, 2006/07 and 2007/08 are overdue.

As part of investigation HCRE was asked to provide details for all funding for the four years 2004/2005, 2005/2006, 2006/2007, and 2007/2008 with a view to reconciling funds applied for with service level agreements and evidence of expenditure and outcomes and outputs.

Project files produced were generally inadequate to be able to conduct any meaningful investigation. Documents were not filed in date order and there was generally little or no evidence to support the quarterly invoices submitted for each project. Often invoices were very brief with a sum attributed to salaries costs and a sum attributed to a contribution to overheads including travelling. No notes accompanied the invoice to explain how the amount had been arrived at.

It should be said that this method of invoicing appears to have been acceptable to many funders. But for the sake of transparency and clarity an explanation about apportionment of costs associated with the project should have been recorded.

Files of BACS vouchers and invoices were provided but these were not necessarily attributed to any project or linked to the project file.

Regarding the Annual Accounts published annually in the Annual Report and widely made available, there is a convention not to record all sources of grant funding by name under the heading Incoming Resources. Instead the line Project Management Fees shows the funds obtained as “contribution to overheads” as part of project delivery. There is nothing particularly wrong with this accounting convention. However this does not assist the transparency and openness that might be expected of a largely publicly funded organisation.

Furthermore these are not strictly speaking “Management Fees”. They are contributions to the overheads incurred by the organisation in order to facilitate a particular project. It is the inability to show a logical apportionment of overheads such as rent, utilities, core staff salaries etc that has caused concern recently.

It is also debateable whether they are truly “unrestricted” funds as they were granted to assist in the delivery of a specific project as an apportionment of the total overheads incurred by the organisation.

The “under spend” on these “management fees” or overhead contributions results in what is effectively an operating profit, a proportion of which is transferred into a contingency fund.

The Contingency Fund was created at the end of March 2005 as a result of concern about the level of future funding, particularly from the Commission for Racial Equality. As a result £41,438 was transferred from the Appropriation Account to the new Contingency Fund Account. The combination of Debts no longer payable and surpluses from the unrestricted funds enabled a further £22,193 to be transferred at the end of March 2006. However these surpluses have become more modest in recent years and only £3,136 was transferred in March 2007 and £5,380 in March 2008. The total held in the Contingency Fund at 31st March 2008 is £72,616.

Notes to the Financial Accounts for 2005/2006 do give some clue to the success of HCRE in attracting funds, from sources in addition to Harrow Council and Commission for Racial Equality. For example of the total grants received from Connexions, City & Parochial Foundation, Sports England, Harrow Sports Council, Harrow Children's Fund, Harrow Primary Care Trust the total amounts to £166,748.

However Notes to Financial Accounts for 2006/07 are not so comprehensive and it is not possible to identify all the HCRE funders for that year, purely from the accounts.

Many community and voluntary organisations face ongoing concern about funding, and this is a particular issue for specialist organisations like HCRE where funds are likely to be available from a limited pool of resources. It is not unreasonable that contingency funds be established to offer some security against shortfalls in funding. However it is essential that such a process is transparent and is based on truly unrestricted donations and grants given for general purposes, or from earned income from the provision of expertise and knowledge through services such as consultancy or training etc.

HCRE staff report that they are unaware of how their particular service or project is funded and they have no individualised budget for each project and have no authority to commit expenditure within a given budget or in order to meet project delivery. It is reported that the Director maintained overall control of all funding.

However there is evidence in the project files of Project Officers sending memos to the Honorary Treasurer asking to purchase stamps or request permissions for the purchase of materials for their project. This is not consistent with the role of an Honorary Treasurer, and there should be clear management lines for such requests.

During the course of this investigation the Part-Time Finance Assistant was absent on Annual Leave for five weeks. During that time nobody covered her work and invoices were passed to

the Treasurer for payment without being logged on the SAGE computerised financial information system.

In respect of the allegations that invoices were created to support claims, there is no evidence of any invoices being falsely created. Indeed the evidence is that HCRE could not provide sufficient supporting documents to substantiate the amounts given on claim forms.

Breaches of Service Level Agreement Conditions

Harrow Council Community Grant

Harrow Council has been a major contributor to the HCRE over many years. In 2007/08 the grant from the Council was for £54,695.

The SLA with Harrow Council sets out under Section 26 regarding investigations into Misconduct and Whistle blowing, "The organisation shall provide a report to the Authorised Officer of the Council on the outcome of the investigation within 30 days or such other period as the parties may agree. HCRE failed to notify Harrow Council about the investigation into the allegations against the Director.

Funding was not used exclusively for the employment of two staff members, namely the Racial Harassment Incidents Officer and Administrative Officer. However the post of Racial Harassment Incidents Officer does not exist in name and some or all of the duties are covered by the Racial Equality Case Worker. It had become custom and practice to set other staff costs, namely the Directors, who would no doubt argue that he also has a role in monitoring racial incidents, against this post.

Furthermore the SLA in Schedule 1, Section 3 Services/Activities a fairly comprehensive list of services are listed under the heading "The organisation will provide the following service/activities for which funding is provided under this agreement." The implication is that the funding from Harrow Council should contribute to all the services listed which range from casework and advocacy to advice top employers and free legal advice. This is at odds with the specification to fund only two posts and accommodation costs.

Although an Annual Monitoring return was completed for 2006/2007 it does not appear that any challenge was made to the expenditure item Volunteers Expenses of £2,400 or Other costs of £1,483 and no explanation was sought for the breakdown of staff costs of £39,032. Indeed further on in the Monitoring Report under the Part 5 Services, in answer to the question "Which services outlined does Harrow Council fund?" the response is simply recorded as Staff Costs 67.78%. No reference is made to which posts are funded.

In addition with regard to outcomes and quantifiable outputs, the monitoring report lists all the projects and activities undertaken by HCRE including those funded by other funding streams. No challenge or dialogue appears to have taken place about the very low statistics presented in the Monitoring Report i.e. 130 people assisted against a target of 490, or 34 referrals to the Police against a target of 150 referrals to statutory or voluntary agencies.

Furthermore, although the monitoring meeting was on the 15th May 2007, the process does not appear to have been completed until early August 2007 due to HCRE failure to provide information as requested. Since payments were made quarterly in advance, there appears to have been no real incentive for the organisation to respond to queries or sign off the monitoring report within a reasonable time.

Children's Fund – Activity for Young Refugee & Asylum Seekers

Harrow Children's Fund Management Group for which Harrow Council was the accountable body granted funding.

The file was in poor order with documents not filed in date order and consequently it was difficult to follow.

At meetings on 14th and 26th November 2006 at which both the Director and Project Officer was present it was agreed that only 6% of general bills could be attributed to the project. This was calculated on the percentage of full time staff equivalents of staff employed on the project in relation to all staff employed by HCRE. A more generous calculation would have allowed 6.25%, but nevertheless the basis for the calculation is sound. In addition it was noted that cleaning costs had been charged as travelling expenses and a claim for capital expenses could not be substantiated.

Given this clear direction from the funding body it is puzzling why claims continued to be made in 2007 that clearly could not be substantiated, as a clear formula for apportionment had been agreed. It is also not credible that the Project Officer did not understand the need to keep records of expenditure attributed to the project as she was at the meetings.

On 9th August 2007 the Chair of the Children's Fund Management Group write to the Director, HCRE, copied the Chair of HCRE discontinuing the project. The letter read "We believe that HCRE has been given numerous opportunities and support over the last 8 months to provide the outstanding financial evidence that has been requested (see attached chronology of events) Despite this we have not received satisfactory evidence to substantiate your expenditure during the 2 periods in question "

In respect of funding from the Children's Fund for which Harrow Council is the Accountable Body, the failure to provide evidence of expenditure, despite guidance as to what would be acceptable, is a clear breach of the Service Level Agreement and the decision to discontinue funding was fully justified.

Overall Organisational Effectiveness

There are individual aspects of the work of HCRE which are good. Letters of thanks and praise appear in some of the project files. However this is more likely to be attributed to the personal endeavours of individual project officers rather than to the organisation as a whole. The organisation appears fractious and staff complain of not being aware of the whole picture and are in some respects siloed in their own area of work. This is not good for the overall development of the organisation and the staff concerned.

Despite this, staff appear capable, enthusiastic, committed to their work and have vision for where HCRE should be and what needs to be done to get there.

On the issue of monitoring and casework, in the first quarter (April to June 2008), 60 enquiries related to harassment and discrimination were received and there are currently 47 open cases. In addition in the next few months the number of reporting centres will be increased and a new awareness campaign is to be launched.

If HCRE did not exist it is not clear who would take up the advice and monitoring role.

However, staff do not have valid contracts of employment. There is also a concern that salaries do not relate to the funds paid by funders for particular posts or projects. Staff also complain that salaries are not paid on time and that the amount paid can vary from month to month with no clear understanding of how deductions for income tax, national insurance, pension are arrived at.

Overall there is no meaningful professional control or guidance to staff and the organisation is failing in its duty of care to staff. Evidence has been provided of ill-tempered e-mail exchanges between at least one Honorary Member and a member of staff, which is unacceptable and unprofessional.

The Council's monitoring of the grant for 2006/2007 noted that the Director had not had any performance and personal development reviews with the Chair. Such reviews are essential to ensuring that the Director understands his role in delivering the business of HCRE in an effective manner and is supported in doing so.

HCRE have been aware of developments in the field of equality and human rights and commissioned a report which was presented to the Executive Committee on 13th November 2007. The report noted that since HCRE's formation in 1972 the agenda had changed and there was a need to respond more effectively to the new agenda and emerging needs, especially with the formation of the Equalities and Human Rights Commission. The report to the Executive Committee highlighted that HCRE was out of step with the prevailing ethos and political agenda, that HCRE had weak systems and processes and that standards of accountability, transparency and professionalism were not sufficiently high to meet the standards expected of future funding bodies.

However no decisions were made at the meeting and HCRE appears stymied by the suspension of the Director and lack of vision and direction from the Executive Committee.

Notwithstanding the issues around the position of the Director, in the appointment of the Acting Head, there was a clear opportunity for the Executive Committee to set out clear objectives to rectify systems weaknesses and give confidence to funders. This has not happened and the organisation has effectively simply "marked time" and the inherent weaknesses in procedures have continued with out any modification.

There is a lack of effective leadership from the Executive Committee. There is a desperate need for "new blood" to revitalise the management of HCRE and make it more representative of the communities served and more able to respond to the task in hand.

HCRE staff complain of losing faith with the Executive Committee and their ability to provide the level of support they need and which the organisation needs to move forward.

With regard to the Director, given the circumstances and the passage of time it is inevitable that the position of trust between the Executive Committee and Director has been broken. A Compromise Agreement was reached in August 2008 whereby a payment was made to the Director to facilitate his resignation with effect from 16th August 2008.

The Council's nominated representatives onto the HCRE Committee have not been clear about their role on behalf of the Council. These nominees could have reported HCRE's problems in its operational challenges and ineffective practices back to the Council. In fact it could be argued that it was part of their obligation to the Council, and as elected guardians of public funds they should have taken action.

Options for Future Funding and Best Practice

The Equality and Human Rights Commission came into being on 1st October 2007, bringing together the three previous equality commissions, the Equal Opportunities Commission, Commission for Racial Equality and Disability Rights Commission.

The new Commission also takes responsibility for other aspects of equality: age, sexual orientation and religion or belief, as well as human rights.

The Commission has a number of key areas of work which include:

- Enforcing the law
- Influencing the development of law and policy
- Promoting good practice
- Campaigns, events and communications
- Fostering better relations
- Developing understanding and evidence

Most Race Equality bodies throughout the country have restructured to reflect the new national developments. Some have closed down and re-opened as new “Equality” and/or “Diversity” organisations. Where this has not been possible the existing structure has been closed down completely. HCRE have yet to grasp this reality and have failed to plan for future sustainability.

There is a need to ensure Harrow as a Borough moves with this new agenda and that there is an organisation or number of organisations which mirror the role of the Commission for Equality and Human Rights at a local level.

The creation of a new Equalities organisation in Harrow would impact on existing voluntary sector organisations which currently exist and provide an advocacy role in the areas of disability, age, and sexual orientation. These groups however may not see their function as one of supporting employment tribunal claims, monitoring reporting procedures etc in quite the same way that HCRE does or an Equality Council might do.

There is a strong view that a role still remains for an organisation that focuses clearly on issues of race equality.

There is a role however for a “critical friend”, to advice statutory organisations such as the local authority on issues of equality. Such a role requires trust and diplomacy and there is a fine line between being a “critical friend” and a “thorn in the side”. It needs to be able to strongly challenge – yet also constructively support.

It should be remembered that Harrow Council for Racial Equality is an independent organisation and cannot be closed down without the consent of the members. However if the present conditions continue it is likely that the organisation will lose support from its sponsors and therefore lose the legitimacy by which it exists.

The HCRE has sufficient reserves to survive for some months and therefore could maintain its current services during an interim period while changes are implemented. However the present management arrangements are ineffective.

Although HCRE is financially viable, a substantial Compromise Agreement and lack of continuation funding or new grants and contracts will diminish this reserve rapidly.

General Observations

Although with considerable past achievements to its credit, there appears to be a clear consensus amongst all those interviewed that the HCRE in its present state has become stagnant and lacking strategic direction. This includes HCRE's own Management Committee members.

However, there is strong demand for an "inclusive" race and equalities body in Harrow. Even those opposed to and excluded from the current body support this view.

There is implicit agreement also amongst all political parties of the desire to support an equalities body that would help to strengthen the Borough's identity as a strong and diverse, but an integrated community.

Any new structure would need to build on the successes of HCRE to establish and sustain a clear lead on issues of equality and diversity and synergise with the Borough's existing and proposed structures and strategies. It must not only attempt to reflect the diversity within the community and the equality strands but be able to proactively engage in providing strategic lead in policy development and be a critical but constructive support in policy implementation and monitoring.

Conclusions

The council was wholly justified in taking the action to suspend the 2008/9 community grant to HCRE and conduct an independent investigation into its affairs.

Continued funding to preserve the “status quo” is clearly not an option.

I therefore recommend that the following 3 alternative options be explored further:

- 1 Re-structure the current HCRE to include the wider equality strands to reflect the developments at national level.
- 2 Establish a new independent Equality and Diversity Partnership, with race and equality stakeholders represented at strategic management level, reinforced by a community based support structure to provide a two-way consultation and monitoring mechanism. The Partnership would be focused on research and policy development, and not service delivery.
- 3 Establish a semi-independent Equalities Unit within the Council with representation from all race and equality strands to provide strategic direction, but day to day management to be provided by the Council.

Way forward

1. HCRE should be invited to agree to dissolve the current organisation.
2. The Council to facilitate the establishment of a ‘Transition Board’. The Board to have a (limited) representation of elected Members alongside a similar number of current HCRE Trustees, with the option to co-opt appropriate additional members if required.
3. Current HCRE resources, reserves and staff to transfer to the Council on an interim basis, to be overseen by the Transition Board.
4. The Board to explore future options in detail and oversee the establishment of a new independent organisation within 6 months, making best use of internal/external support as necessary.

Dr. Khurshid Ahmed CBE
September, 2008

APPENDIX 1

CHRONOLOGY OF EVENTS

23 August 2008	Meeting between HCRE staff and Honorary Officers
28 August 2007	Letter of suspension handed to Mr Pawar by the Chair.
5 September 2007	Meeting of Personnel Sub Committee and Finance and General Purpose Committee. Members advised of Directors suspension.
20 September 2007	Meeting of Executive Committee and appointment of two trustees as investigating officers.
21 September 2007 to 7 November 2007	Investigating Officers interview staff members.
5 November 2007	Offer to Mr Parwar to meet to discuss way forward
7 November 2007	Investigatory Meeting with Mr Parwar
16 January 2008	Chair and Vice Chair advised HCRE staff that allegations were unfounded.
18 February 2008	Mr Pawar wrote to Chair for update
25 February 2008	Chair reply to Mr Pawar, suggesting files were missing.
27 February 2008	Formal Grievance submitted by Mr Pawar.
25 March 2008	Grievance Hearing
22 April 2008	Acting Chair and Treasurer met HCRE staff and told them that the Director was likely to be re-instated.
7 June 2008	Harrow Council inform HCRE of investigation
9 June 2007	Press Release by Harrow Council referring to suspension of funds.
30 June 2008	Letter to Harrow LBC Portfolio Holder, Community & Cultural Services from Acting Chair HCRE requesting clarification regarding suspension of funds.
16 August 2008	Director resigns following Compromise Agreement.

LIST OF PEOPLE CONSULTED

- Javed Khan- Community & Cultural Services
- Kashmir Takhar- Community Resources
- Cllr Asad Omar- Labour
- Deven Pillay- Community Development
- Ms Charlotte Clark- Senior Grants Officer
- Tom Whiting- Policy
- Cllr Chris Mote- Cabinet Member
- Cllr David Ashton- Council Leader
- Ms Audrey Salmon- Children’s Fund Programme Manager
- Saeed Ahmed- Acting Head HCRE
- HCRE Staff Davinder- Caseworker, Shamina-Immigration advisor, Hanna-admin officer, Asia-Carers project co-ordinator
- Cllr Navin Shah- Labour & GLA Member
- Rob Lewis-HCRE Executive Member
- Jon Turner- HR Manager
- Ms Julia Smith- HAVS
- Grants Advisory Panel- Conservative Group- Cllr Ashok Kulkarni, Cllr Joyce Nickolay, Cllr Gholam Chowdhury
- Asoke Dutta-Chair HCRE
- Paul Najsarek- Adults & Housing
- Hiten Shah-HCRE Executive
- Ms Poorna Shah- Finance Assistant Book Keeper- HCRE
- Grants Advisory Panel- Labour Group- Cllr Asad Omar, Cllr Sashi Suresh, Cllr Nana Asante, Cllr Rekha Shah
- Cllr Chris Noyce-Liberal Democrat Leader

- Mike Howes and Ms Vijay Malik- Equalities
- Prem Pauer- Director HCRE
- Ms Janice Wright
- Paul Clark- Children's Services
- Community Groups- Kanti Nagda-Sangat Centre, Baldev Sharma-Anti Racist Alliance, Angela Dias-Harrow Association of Disabled People, Somali Group Representatives, Alex D'Costa- Harrow Refugee Forum, Arpita Dutta-Hate Crime Forum
- Zia Beg-HCRE Executive
- HCRE Staff Meeting- Saeed ,Shamina, Davinder, Hanna,Asia, Apologies Poorna.
- Digi Jadeja- HCRE Executive
- Ms Phiroza Gan- Interfaith Council
- Community Premises- Tony O'Hara, Mohammed Rizvi, Dr M Rahim, Mr Abdi
- Subhash Sampat- HCRE Treasurer and Ms Seema Siddiqui-HCRE Auditor