

# **REPORT FOR: OVERVIEW AND SCRUTINY COMMITTEE**

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<b>Date of Meeting:</b>	26 October 2010
<b>Subject:</b>	Investigation into Harrow Association of Voluntary Services
<b>Responsible Officer:</b>	Brendon Hills, Corporate Director Community and Environment
<b>Scrutiny Lead Member area:</b>	Councillor Nana Asante and Councillor Chris Mote, Scrutiny leads for Safer and Stronger communities
<b>Exempt:</b>	No
<b>Enclosures:</b>	None

## **Section 1 – Summary and Recommendations**

This report sets out the findings of the (PriceWaterhouseCoopers) PWC investigation in to Harrow Association of Voluntary Service (HAVS). It also sets out the council's initial response to addressing the issues raised.

### **Recommendations:**

1. To note the council's initial response to the investigation;
2. To request a further update report on the council's response to the issues identified.

## **Section 2 – Report**

### **2.1 Introductory paragraph**

2.1 The Council is currently in the process of drafting a new vision and priorities. The draft vision is '*Working together: our Harrow, our Community*'. A strong and vibrant voluntary and community sector can contribute towards achieving this vision. The role of HAVS as the CVS for Harrow supporting the voluntary sector is in some difficulty since the recent commissioning of an investigation into HAVS following concerns which were raised about the financial and governance controls within the organisation. This report reviews the findings of the investigation and outlines Harrow Council's response and actions following on from the recommendations.

### **2.2 Background**

#### **2.2.1 *Role of HAVS***

HAVS is the second-tier, umbrella organisation for the voluntary and community sector in Harrow. It has operated in the borough for many years and provides support to voluntary organisations through a range of services including capacity building support to small groups; fund-raising advice; CRB (Criminal Records Bureau) checks; recruitment and support with management of volunteers; facilitating representation of the views of the voluntary sector to statutory agencies.

HAVS also plays a key role in the Harrow Strategic Partnership including organising the voluntary and community sector forum; representing the views of the sector at meetings of the Harrow Chief Executives group and Harrow Strategic Board.

Most boroughs have an organisation like HAVS delivering the services of a CVS (Council for Voluntary Service). The role and purpose of a CVS, as set out by NAVCA (National Association of Voluntary and Community Action the national membership association and development agency for local support and development organisations) is to;

- Identify needs and facilitate improvement in service provision.
- Assist local organisations to function more effectively.
- Facilitate effective communication, networking and collaboration amongst local groups.
- Enable the representation of the diverse views of the local sector to external bodies.
- Enhance the sector's role as an integral part of local strategic planning and policy-making

#### **2.2.2 *Background to investigation***

In June 2010 Harrow Council engaged PWC to undertake an independent investigation in to HAVS following concerns raised by HAVS auditor during the audit of 2008-09 financial records. These

concerns were set out in a letter to the Charity Commission dated 3<sup>rd</sup> June 2010.

The investigation was commissioned to look in to:

- a) The governance arrangements and high level financial controls established by HAVS.
- b) Provide an independent assessment of the 'material and significant issues' highlighted by the auditor of HAVS and Harrow Commission for Racial Equality (HCRE) to the Charity Commission.

### 2.2.3 **Findings of PWC investigation**

PWC undertook an investigation in to the allegations made by the auditor and produced a report on its findings. The conclusions of the report were:

- The governance arrangements within HAVS are inadequate when compared to the Charity Commission's good practice guidance.
- The Board of Trustees do not receive sufficient quality or depth of information, particularly financial information, in order to fulfil their governance role.
- There are weaknesses in the internal control environment of HAVS and some serious breaches of governance including the bonus scheme arrangements and the manipulation of reporting to funders.
- The Board of trustees are not operating effectively and there is a need for greater leadership, clarity and understanding of trustees roles and responsibilities and improved reporting.
- During the investigation examples of malpractice in relation to completion of monitoring reports to funders was also highlighted.
- A compromise agreement signed with the former HCRE director and former trustee was withheld from the Auditor which resulted in the auditor being unable to form an audit opinion on the accounts to 31<sup>st</sup> March 2009.
- Bonus and other payments made to the CEO resulted in payments being made that were significantly in excess of her basic salary. Some payments were approved by the former Chair and acting Chair acting upon recommendations from the CEO. Some payments for TOIL (Time off in lieu) not taken and extra work undertaken on behalf of HCRE were authorised by the Board of Trustees.
- Bonus payments were made gross, with income tax and NIC payments calculated after the payments had been made.
- The bonus scheme was deliberately withheld from other trustees, in particular, the trustees appointed by the Council.

- An inappropriate contract had been entered into by the CEO with Harrow Council without the knowledge of the trustees. The contract payment was returned to the Council but not until the issue was identified and raised by the auditor with the CEO.

#### 2.2.4. **Report recommendations:**

The report made a number of recommendations including:

1. For HAVS to continue to be the vehicle for supporting the third sector in Harrow, and for the Council to resume funding, robust governance should be put in place to provide funders, the third sector and the public with the necessary level of assurance that the organisation is fit for purpose and that funds are being used effectively and efficiently.
2. The quality of reporting is improved in order to allow trustees to participate in the decision making process and fulfil the obligations of their role. Where it is appropriate, authority should be delegated to the officers of the organisation but important that this is formalised in the constitution of the charity and approved by all the trustees.
3. The position of Chair is clarified and any executive powers exercised by the Chair are agreed by all trustees and that the constitution is amended accordingly.
4. The relationship between HAVS and HCRE is clarified with all HAVS trustees being made aware of their responsibilities in relation to HCRE.
5. That the council continue to be engaged in the governance of HAVS and that regular council assessments continue in order to provide assurance over the robustness of the governance arrangements.
6. A full review of funding streams in order to provide comprehensive assurance that funds are being used appropriately.
7. The calculations of PAYE due on the bonus payments and any tax on the benefit that employees received as a result of the PAYE being paid by HAVS should be recalculated and checked by an independent tax accountant.
8. Internal audit review of HAVS financial controls and annual internal audit of HAVS internal financial control systems.

#### 2.2.5 **Role of the Charity Commission**

The Charity Commission have contacted HAVS to inform them that the Commission would be opening a 'regulatory compliance' investigation looking at the following areas:

- the administration, governance and management of the charity by the trustees;
- potential financial mismanagement;
- the potential risk to the charity's resources and reputation; and
- issues that could damage public trust and confidence in charities or in the Commission as an effective regulator.

The scope of the regulatory compliance case was stated as follows:

- establishing the charity is operating effectively and appropriately applying charitable funds to its beneficiaries;
- ensuring that the trustees are acting responsibly in discharging their legal duties and responsibilities as trustees in dealing with, and responding to, the allegations; and
- the protection of the charity's assets, including its reputation.

The implications of the Charity Commission will be considered when the investigation is complete. No timescale has yet been offered by the Commission for this.

## **2.3 Current situation**

2.3.3 The council recognises that there is a significant role for a strategic, second-tier organisation such as HAVS in the borough, not only in supporting the sector through capacity building and representation but also in providing a channel of communication between the sectors. However, as is clear from the PWC report, in order to improve the organisation's effectiveness, there is a significant amount of work to do to improve governance, leadership, address staffing matters and improve financial policies and practice. In addition to improving organisational effectiveness it will also take time to rebuild the organisation's reputation both locally and sub-regionally.

2.3.1 Harrow Council provided a copy of the PWC report to HAVS trustees on the 10<sup>th</sup> August 2010 and requested their response to the report by 25<sup>th</sup> August 2010. HAVS trustees provided their response by the deadline set. Their response (the 'Way Forward') has been considered by the council and discussed with trustees.

2.3.4 The Council then convened a meeting with HAVS trustees on 10<sup>th</sup> September 2010 at which they agreed to work with the Council for a time-limited period in a 'negotiation group' to develop their 'Way Forward' response. The aim of the group is to assist HAVS in taking action that will provide assurance to the Council, other funders and the third sector that they have taken the necessary steps to improve the governance and organisational policies of HAVS. HAVS trustees were also advised at this meeting to provide a copy of the report to the Metropolitan Police. The council has been advised by HAVS that a full copy of the report has now been handed to the Police and that this will now be under the scrutiny of the Crown Prosecution Service.

2.3.5 The Council has made it clear to HAVS that grant funding will not be reinstated until the council has confidence that agreed actions have been implemented, as monitored by the negotiating group.

2.3.6 The first meeting of the negotiation group has now been set for the 15<sup>th</sup> October 2010 with representatives from the Council and HAVS Trustees and officers. Harrow Council is determined to work with HAVS Trustees on taking the recommendations of the PWC report forward.

## **2.4 Resources, costs**

- 2.4.1 The 'negotiation' group will be chaired by the Portfolio Holder for Community and Cultural Services, Councillor Rekha Shah. It will be supported with officer input from Marianne Locke, Divisional Director for Community and Culture and Kashmir Takhar, Head of Service Community Development. Where necessary, other officers with specialist knowledge (e.g. Finance) may also be called upon to support the work of the group.

## **2.5 Equalities impact**

- 2.5.1 The aim of the negotiation group will be to work with HAVS trustees to improve the governance and organisational policies to reassure the council, other funders and local groups that the organisation can continue to operate and is fit for purpose. This will ensure that voluntary and community organisations within Harrow will continue to receive support in order to deliver services to vulnerable and other community groups.

## **2.6 Legal comments**

- 2.6.1 HAVS is an independent voluntary organisation, registered as a charity and company limited by guarantee. The Harrow voluntary sector compact is a written agreement, setting out a framework for the working relationship between the voluntary and statutory sectors. It sets out shared principles and commitments to underpin the working relationship between the sectors. The council is committed to working within the principles set out in the compact.

## **2.7 Financial Implications**

- 2.7.1 The council had awarded a grant of £94,439 to HAVS to deliver its core activities in 2010/11. Payment of this grant funding has been suspended until the Council is satisfied that the PWC recommendations have been acted upon.
- 2.7.2 In addition HAVS also receives council funding for £20,000 per annum for two years (ceasing in March 2011) for the post of External Funding Officer. HAVS also received one off payments in 2009/10 £9,082 from Children's Services to fund a post that delivers the Independent Visiting Scheme.
- 2.7.3 Funding agreements are managed through Service Level Agreements and the council has a responsibility to ensure that public funds are being used for the purposes stated. The council grant funding is monitored annually through a self-assessment return and monitoring visit.
- 2.7.4 The PWC report highlighted potential malpractice in reporting on the use of funds to funders. HAVS have been asked to undertake a full

review of funding streams by an external auditor in order to provide comprehensive assurance that funds are being used appropriately.

- 2.7.5 The report also recommended that the calculations of PAYE due on the bonus payments and any tax on the benefit that employees received as a result of the PAYE being paid by HAVS should be recalculated and checked by an independent tax accountant.

## **2.8 Performance Issues**

- 2.8.1 The Council's corporate priorities are to: deliver cleaner and safer streets; improve support for vulnerable people and build stronger communities.
- 2.8.2 A strong second tier, infrastructure voluntary sector organisation has a key role in building the capacity and providing representation for the voluntary and community sector. It can make a major contribution to the delivery of the corporate priority to build stronger communities.
- 2.8.3 An umbrella organisation such as HAVS has a role to play in helping to meet targets around National Indicator 7 – environment for a thriving third sector. In particular HAVS disseminates information to the voluntary sector through its monthly mail-out and website and provides capacity building support and training.
- 2.8.4 The current performance of NI7 as measured by the national third sector survey is 10.4% the target for this year is 14.4%. The second national third sector survey is currently being distributed to local organisations and the results will be known in early 2011.
- 2.8.5 The current situation with HAVS has the potential to have a negative impact on the results of this survey as HAVS' regular monthly mail-out and provision of services have been disrupted by the investigation. In addition the negative publicity surrounding HAVS may have a detrimental impact on morale within the sector.
- 2.8.6 The council's action to support HAVS in its recovery has been taken within this context. The council recognises the valuable role that a second tier, infrastructure organisation can play in supporting the voluntary and community sector in Harrow.

## **2.9 Risk Management Implications**

- 2.9.1 The Community and Environment directorate risk register identifies the following risk:
- *The readiness of the Third Sector to manage and implement the major changes ahead in terms of decision-making and delivery.*

The mitigating action identified in the risk register is to:

- Deliver and resource the Third Sector Strategy and implement the action plan. HAVS has been identified as a partner organisation in the delivery of the strategy and this may impact on it's delivery.

2.9.2 A risk register will be developed as part of the actions for the negotiation group. The main risk is that the 'negotiation group' fails to deliver the improvements required for HAVS to recover its position as an effective second-tier, infrastructure organisation. If this happens the council may consider alternative options for procuring these.

## 2.10 Environmental Impact

2.10.1 There are no direct environmental impacts.

## 2.11 Corporate Priorities

2.11.1 This report incorporates the draft corporate vision and priorities which are currently under consultation.

## Section 3 - Statutory Officer Clearance

Name: <b>Kanta Hirani</b>	<input checked="" type="checkbox"/>	on behalf of the* Chief Financial Officer
Date: <b>19 October 10</b>		
Name: <b>Hugh Peart</b>	<input checked="" type="checkbox"/>	on behalf of the* Monitoring Officer
Date: <b>19 October 10</b>		

## Section 4 - Contact Details and Background Papers

**Contact:** Kashmir Takhar, Head of Service – Community Development,  
Tel: 020 8420 9331

### Background Papers:

PwC report available on Harrow website