



10 December 2009

Len Duvall AM OBE
City Hall
The Queen's Walk
More London
London SE1 2AA

RECEIVED 14 DEC 2009

By email: lenduvall@london.gov.uk

Dear Len

Response to your request for information under the Freedom of Information Act- reference FOI 0630

We refer to your request for information made under the Freedom of Information Act 2000 (FOIA). We advise that Arts Council England (Arts Council) have processed your request in accordance with the FOIA.

We note that you requested the following on 11 November 2009:

'Please provide copies of all correspondence you hold, written and digital, relating to the appointment of the Chair of the London Arts Council from May 2009 onwards.'

We are pleased to provide you with information relevant to your request and have attached the relevant information. We advise that in processing your request for information, we note that there is information already in the public domain where personal views and opinions have been expressed about individuals and we have taken this into consideration.

You will note that there are redactions made to the attached information. The Arts Council is of the view that certain exemptions are applicable to these documents. Further, we advise that we have fully withheld information relevant to your request as exemptions in the FOIA are applicable.

We are of the view that applicable exemptions of the FOIA include section 36 (information effecting the conduct of public affairs), section 40 (information that is 'personal information'), and section 42 (information subject to legal professional privilege).

Arts Council England, 14 Great Peter Street, London SW1P 3NQ www.artscouncil.org.uk
Phone: 44 (0)20 733 0100 Fax: 44 (0)20 7973 6590 Textphone: 44 (0)20 7973 6564

Application of section 40 – FOIA

You will note that there are redactions made to documents numbered 4 – 10, 13, 15, 17, 19 – 29 and 33. We advise that these redactions contain personal information such as names, personal email addresses and phone numbers of which we consider constitute 'personal data.' The Arts Council regards the disclosure of this information as constituting an actionable breach of the principles as outlined under the Data Protection Act 1998.

Application of section 36 – FOIA

We advise that there is information that has been fully withheld on the basis that section 36 of the FOIA is applicable. Information withheld includes drafts and email exchanges.

Section 36 sets out an exemption from the right to know if the disclosure of information, in the reasonable opinion of a qualified person, would prejudice the effective conduct of public affairs through the inhibition of the free and frank provision of advice or exchange of views.

Guidance from the Information Commissioner provides that section 36 *'allows for the exemption of information if its disclosure would, or would be likely to inhibit the ability of public authority staff and others, when deliberating or providing advice, to express themselves openly, honestly and completely, or to explore other options. The exemption allows for information to be withheld if its disclosure would inhibit the imparting or commissioning of advice or the offering or requesting of opinions or considerations, subject to the public interest test.'*¹

In this respect, we advise that the Arts Council Chief Executive, who is a "qualified person" under the FOIA, considers that these documents would, or would be likely to:

- Inhibit the free and frank provision of advice;
- Inhibit the free and frank exchange of views for the purposes of deliberation;
- Prejudice the effective conduct of public affairs

It is imperative that the Arts Council are free to deliberate internally and with external parties considering options and making decisions. The disclosure of deliberation would hinder the ability of the Arts Council and relevant third parties to engage in a free and frank exchange of views which is essential to the decision making process.

¹ See Information Commissioner Awareness Guidance 25 at http://www.ico.gov.uk/upload/documents/library/freedom_of_information/detailed_specialist_guides/effectiveconductofpublic%20affairs.pdf

Having considered a number of public interest issues, we took the following factors into account:

Arguments in favour of disclosure

- There is a public interest in full transparency of public authorities which may lead to increased trust and engagement between the public and our organisation
- Disclosure enables the Arts Council to be transparent and accountable for its decisions and may enhance the quality of discussions and decision making in general
- Consideration of information in the public domain

Arguments in favour of non-disclosure

- There is a public interest in ensuring that Arts Council staff are able to exchange frank views, raise concerns, debate and explore freely and without inhibition relevant considerations away from public scrutiny
- There is a public interest in ensuring that the Arts Council and third parties are able to communicate and discuss freely and without inhibition options for the purposes of making decisions
- There is a public interest in ensuring that all decision-making processes are properly recorded. Disclosure in this instance may inhibit thinking and/or proposals from being recorded in the future to avoid creating information which would be disclosable

We have considered that the public interest in maintaining section 36(2) outweighs the public interest in favour of disclosure.

Application of section 42 – FOIA

We advise that there are documents which have been fully withheld on the basis that it is information that is subject to legal professional privilege (LPP). The exemption is applicable in circumstances where there are communications between a lawyer and client where the dominant purpose is to seek or provide advice. Information held by the Arts Council is subject to LPP in that it includes advice and requests for legal advice between Arts Council senior staff and Arts Council in-house solicitors.

It is important for senior Arts Council staff to have the space to request and receive legal advice from in-house solicitors. Public interest factors we took into account include:

Arguments in favour of disclosure

- There is a public interest in full transparency of public authorities which may lead to increased trust and engagement between the public and our organisation
- Disclosure may enhance the quality of discussions and decision making in general.

Arguments in favour of non-disclosure

- Guidance from the Information Commissioner suggests that there will always be a general public interest in maintaining this exemption given the importance of the principle behind LPP, that is, to safeguard openness in all communications between client and lawyer to ensure access to full and frank legal advice, which in turn is fundamental to the administration of justice.²
- Where the advice requested and received between Arts Council staff and in house solicitors is recent.

In this respect, it is considered that the arguments for non-disclosure outweigh the arguments in favour of disclosure.

If you are not happy with the way we handled your request for information, you can use our complaints procedure or complain to the Information Commissioner.

I have included *Making a complaint* with this letter which contains information on how to make a complaint to us and also how to complain to the Information Commissioner.

Yours sincerely

A handwritten signature in black ink, appearing to read "Jennie Somodio".

Jennie Somodio

Freedom of Information Officer

Phone: 020 7973 5387

Email: jennie.somodio@artscouncil.org.uk

² See - *Bellamy v Information Commissioner* (EA/2005/0023; 4 April 2006) in

http://www.ico.gov.uk/upload/documents/library/freedom_of_information/detailed_specialist_guides/legal_professional_privilege.pdf

2 November 2009

Munira Mirza
 Mayoral Advisor on Arts and Culture
 Greater London Authority
 City Hall
 The Queen's Walk
 More London
 London SE1 2AA

Dear Munira

Thank you for your letter e-mailed on Friday evening.

I think you misunderstand the nature of the Mayor's duties in respect of providing a name to be the chair of the London Regional Council, the short term nature of the acting role I have asked Ajay to undertake, and the terms of reference of membership of Regional Councils.

First, these arrangements are clearly very short term. The process for appointing a permanent Chair, which under the Mayor's duties is initiated at the request of the Arts Council, has not yet been completed. The next stage, as set out with clarity in the GLA application pack, is for the Mayor to consider one of the three names that were before him. In this case the appointment could be made very quickly. Only in extremis should the post be re-advertised. The Mayor would have a duty to complete that as soon as is practicable.

So at the most, whoever, as allowed under the terms of reference for regional councils, is delegated by me, as chair of National Council, to act as chair, will only be doing so for at most two meetings of London and National Councils.

It is worth remembering that the London Council is a subcommittee of the National Council, and as chair of National Council I have the authority to make such arrangements in between full Mayoral nominations in order to secure the proper running of the business. This is fundamental to the governance of the Arts Council as a whole.

You mention the position of Sue Hollick. In this case her original appointment and the extension of that appointment was coming to an end. We asked the Mayor on two occasions to extend her permanent appointment, and obtained his permission and that of the Secretary of State and OCPA, who were the overseeing body in her original appointment, to do so. This is the procedure used when seeking to extend appointments beyond the end of the original term.

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The comment you make in the second part of paragraph six of your letter is therefore not relevant - the permission of the Secretary of State in making short term arrangements outside the regular appointments process is not required (unless, as I said, we are seeking an extension to the terms of an existing chair) and is therefore not assumed. We would tell DCMS, as we have done you, what is happening, as a courtesy.

I was surprised by both the content of the penultimate two paragraphs of your letter and your actions over the weekend, when I gather you have been speaking to other members of London Council. It is not clear to me in what role or on whose authority you undertook that action. As an employee of the Mayor, you do not have a role in making these temporary arrangements.

As a member of the London Council you will be aware from the members' handbook that when you are on that body we require members to abide by the Nolan principles of public life - which means among other things that they should not pursue any particular political or professional interest in their conduct as a member of Regional Council.

I think the distinction between your role as the Mayor's advisor and employee and role as a Regional Council member have become entangled in this matter. It would be helpful to know in which capacity you are acting in the future.

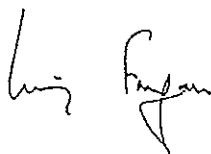
We need to be clear about how we uphold the arms length principle in funding the arts in this country, which all political parties have signed up to protecting.

With regard to the overall process, I hope that it can be settled very quickly so that a Chair can be appointed who will play a full role as Chair of London and in the National Arts Council. As I have always said, I would be very happy to meet with the Mayor at any time to facilitate this. It is not in Arts Council's or the Mayor's interest to see this situation continue and I am sure we could with concerted effort reach a resolution.

I also hope you will give your full support to Ajay over the next short period - the staff and executive in the London office are embarking on a critical phase in the organisation review and are deserving of my and Council's full attention.

I am copying this letter as yours.

Yours sincerely

A handwritten signature in black ink, appearing to read "Liz Forgan".

Dame Liz Forgan
Chair

Mayor's Office

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The Queen's Walk
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London SE1 2AA
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Liz Forgan

Chair of the Arts Council

By e-mail

Our ref:

Date: 30 October 2009

Dear Liz

Thank you for your letter dated today.

I believe you misunderstand the Mayor's power of appointment as enshrined in the Arts Council's Royal Charter. The Charter makes no distinction between appointments of different durations. Indeed it states that:

"The Mayor of London shall, subject to the approval of the Secretary of State, determine the terms of office, period of appointment and have the power to remove for reasonable cause the Chair of the London based Regional Council."

It is exactly because of this stipulation that each time Mayors Livingstone and Johnson sought to extend Sue Hollick's tenure as chair on a short-term basis they first wrote to the Secretary of State to gain his approval before writing to Sue herself with the details of the extension to her time as chair.

The Mayor's power to appoint the chair on a temporary basis does not undermine the arm's length principle because it is the same power to make an appointment on a more permanent basis (just as the Secretary of State does in the other regions). Therefore the action you took yesterday was not within the jurisdiction of the national chair.

I would understand your actions more if your proposal for chair were to cover just one meeting or be in the very short-term; it is not always convenient to seek formal approval in such a situation. Indeed, the close working relationship between the DCMS and the Arts Council might well mean that for other regions you have tended to assume the Secretary of

State's approval without signing off each and every short-term arrangement.

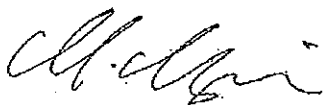
However in this situation it is likely that the interim arrangements for the London chair will go on for some months while the role is re-advertised. Therefore, they should be agreed formally by the person with the power to appoint; in London this is the Mayor and it is important that we are kept fully apprised of the plans moving forward.

I do of course appreciate that the London region has now been without a chair for a month and that action is needed on an interim arrangement so that someone is in place for the next regional council meeting on 18 November. It is for this reason that I have been openly committed to putting someone in place swiftly but only after first canvassing views.

At present more than one council member has offered to act as chair on an interim basis, so I will endeavour to talk to other members and Arts Council colleagues over the next few days to ensure that the Mayor can make an informed decision about who he will nominate early next week.

Finally, you say that both the Secretary of State and the Mayor have turned this into 'an issue of politics'. I cannot accept this. It was the Secretary of State who rejected the Mayor's chosen appointment without adequate reason, and it was his department that leaked private correspondence to the press. The Mayor has acted in the interests of the arts and London, and has sought to consult with the Arts Council throughout this entire process.

Yours sincerely,



Munira Mirza

Mayoral Advisor on Arts and Culture

30 October 2009

Munira Mirza
Mayoral Advisor on Arts and Culture
Greater London Authority
City Hall
The Queen's Walk
More London
London SE1 2AA

Dear Munira

I have sent a note around London Council members responding to your note of yesterday. I have to say I found your note rather surprising.

The position I have set out is as follows. What we are doing is exactly as has happened in other cases where, for whatever reason, there has been a gap which is outside of our control. It is a matter of the internal good workings of the Regional Council and of the National Council, and as such it is up to me as chair to make sure proper arrangements are in place.

The Mayor's duties in relation to the London chair are set out in our Royal Charter and in amendments to statute. These together set out a duty for him to provide, when requested by the Arts Council, a name to the Secretary of State for the Secretary of State to approve or not to serve as chair of the London Arts Council for the prescribed term. It does not extend to our own internal workings which include coming to an acting arrangement while he and the Secretary of State are in the process of agreeing a name.

Were we to treat this as anything other than normal, then we are setting a precedent which would mean that in other cases the Secretary of State could have a role in our internal workings and day to day business conduct. This would clearly breach the arms length principle which governs the way the Arts Council does its job, and under which all members of Regional Councils, whoever nominates them, are there for the experience, talent and skill that they bring, not as representative of any interest group.

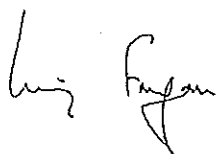
This is an important principle, and one that is fundamental to the way that the Arts Council works at national and regional level. Destroying the principle which has governed the way the Arts in this country have been funded for over 60 years, and is admired and held up as an exemplar by other countries, would be very regrettable.

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I regret that the Secretary of State and the Mayor have turned an issue of proper process about an appointment into an issue of politics. This is for them to sort out and for a name to be arrived at following proper process. In the meantime the Arts Council needs to go about its work as an independent arms length body.

If you would find it useful to discuss any of this please do get in touch.

Yours sincerely



Dame Liz Forgan
Chair

GREATER LONDON AUTHORITY

Mayor's Office

City Hall
The Queen's Walk
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London SE1 2AA
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Dame Liz Forgan
Chair
Arts Council England
14 Great Peter Street
London SW1P 2NQ

Our ref: MGLA080709-4602

Date: 14 July 2009

Dear Liz

Thank you for your letter of 6 July.

As you know, the Arts Council London Chair is a Mayoral appointment and I chose to involve you in the recruitment process as a gesture of goodwill. Thank you for the time and effort you have put into this.

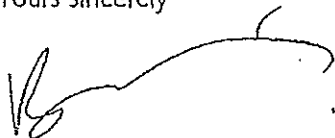
I appreciate you explaining your concerns about the process. I have spoken to Munira Mirza about her view, and have also written to Sir David Durie asking for his opinion.

I note your views about Veronica Wadley. As a result of the interviews and further discussions, plus a review of the marks given to short-listed candidates as well as their application forms, I am minded to meet with four candidates later this month in order to judge the candidates' strengths and weaknesses for myself. These are [REDACTED], [REDACTED], [REDACTED] and Veronica Wadley.

I must also say, the GLA protocol on appointments is quite clear about the role of the independent element. Sir David Durie's role is to confirm, based on the information available, that in his view, I can reasonably make the appointment that I wish to make. He does not have a right of veto in relation to my decision. Sir Simon Milton, my Chief of Staff, is contacting him separately in order to clarify his position before going forward.

I welcome the opportunity to discuss this with you further by telephone. My office will be in touch with yours to arrange this.

Yours sincerely



Boris Johnson
Mayor of London

TEL
FAX

3 August 2009

In Confidence

Mr Jeff Jacobs
The Monitoring Officer
Greater London Authority
City Hall
The Queen's Walk
More London
London SE1 2AA

*copy to
Dame Liz Forgan*

National Member for London, Arts Council England

As you know, I was invited, as an independent member of the Greater London Authority's Standards Committee, to join the Panel to interview five short-listed candidates for the above post, the responsibilities of which include chairing the Arts Council, London. I did so despite making clear that the date was difficult for me, but there were no other volunteers. The members of the Panel were Ms Munira Mirza, the Mayor's Director of Policy, Arts, Culture and the Creative Industries and Dame Liz Forgan, Chair of the Arts Council, England. The Panel had been asked to put forward two candidates to the Mayor to enable him to choose one to recommend for appointment to the Secretary of State for Culture, Media and Sport, who, as I understand it, formally makes the appointment. My role was to confirm that the Mayor could reasonably make the appointment of his chosen candidate (or in this case to recommend the appointment to the Secretary of State).

The Panel had before it the applications and CVs of the five short-listed candidates who presented for interview and followed a common line of questioning for each candidate. The first candidate we saw was Ms Veronica Wadley. On the basis of the interview and the background papers, I came to the view that Ms Wadley did not have a great deal of relevant background in the arts and had demonstrated insufficient ideas about how to make a success of the role. I concluded therefore that Ms Wadley on the basis of her performance and background was at best marginal for the role. I am advised, however, that the test of reasonableness means that I have to come to a view as to whether the candidate is incapable of coming up to the mark.

Against such a criterion, despite my severe misgivings about Ms Wadley's suitability, I cannot conclude that she would necessarily be incapable of coming up to the required standard. I think it is relevant in this context to note that after all the candidates had been interviewed, Dame Liz Forgan recommended that three other candidates (not two) should be put forward to the Mayor but that Ms Wadley should not. I agreed that these three were strong contenders.

I was therefore surprised to hear that the Mayor had decided to interview four candidates, including Ms Wadley, and that of the four he had decided to recommend Ms Wadley for appointment. I therefore asked to see the papers including my notes at the time of the original interview. I saw nothing in these papers to make me change my view that, on the basis of the earlier interviews, Ms Wadley should not have been included in the later stage of the competition because she had not impressed sufficiently at the initial stage but I am told that such procedural questions fall outside the remit of the independent member.

I feel that strongly that this whole process has been a considerable waste of time and effort. I am writing to you as Monitoring Officer to make my views clear.

I am sending a copy of this letter to Dame Liz Forgan and to Ms Claer Lloyd-Jones, Chair of the Standards Committee.

David Durie

6 July 2009

Boris Johnson
Mayor of London
Greater London Authority
City Hall
The Queen's Walk
More London
London SE1 2AA

Dear Boris

Appointment of Chair, London Committee of Arts Council England

I am writing to express my concern at the manner in which the final shortlist for this appointment has been drawn up.

You and I agreed that we would appoint someone for this extremely important post in whom both you and I had confidence, that we would conduct proper interviews and that the interview board would give you two names from which you would make your choice.

Your Head of Culture outlined a formal and proper process. She said she would arrange for someone from the GLA Standards Committee to be the third person on the panel to ensure propriety. I agreed with all her suggestions and said I was happy with the process.

The interviews took place at City Hall in the normal way with Sir David Durie as the representative of the Standards Committee. Munira chaired them fairly and expertly.

We all three agreed that it was an extremely strong list but that one candidate was definitely not suitable. There was a fair degree of agreement about three clearly appointable candidates whose arts credentials were outstanding but who represented three very different personality types and areas of particular strength. The only real disagreement was in respect of Veronica Wadley whom both Sir David Durie and I put fourth on our list of five but for whom your culture adviser argued strongly.

I regard Veronica as a personal friend and have a high regard for her intelligence, integrity and leadership experience. She does not, however, have any real expertise in the arts or credibility as an arts leader. This would clearly

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[REDACTED]

[REDACTED]

Sir David went so far as to say that he did not consider she met the criteria for appointment.

Munira clearly and consistently made her disagreement plain but despite long discussion Sir David and I could not be persuaded to agree with her.

Munira then said she would prefer to send you three names not two. In an attempt to be as helpful as possible I agreed.

I left that room clearly believing that we had conducted a fair and proper process and that we had agreed to send three names of candidates whom the Board had deemed were clearly appointable. These were [REDACTED], [REDACTED] and [REDACTED]. Each one is an extremely distinguished leader in his field, would be good for London and credible in National Council. They are very different but I would happily work with whichever one of them you decided to appoint.

I now learn that [REDACTED] has been dropped from the list put before you and Veronica Wadley has been added. This decision was made unilaterally on the basis that this is a Mayoral appointment.

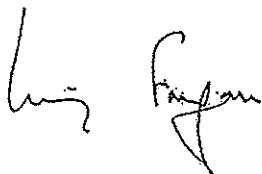
My concern is that you set up a process on the basis of which I, Sir David and five highly respected people took part in what we all thought was a normal, fair and open appointment whose ground rules we all knew and agreed.

If those rules are to be changed retrospectively in order to involve a candidate whose considerable skills clearly do not have the best match with the criteria for the role in question, I will feel I have not been dealt with in good faith and that I have been made a party to a procedure without integrity. Sir David must speak for himself.

I would urge you to think seriously about the reputational risk to us all if three outstandingly well-qualified candidates for this high profile post are to be treated in a manner that would certainly not stand scrutiny under Nolan rules as normally applied.

I know that you are as determined as I am to make an appointment which will be worthy of the importance and international quality of the arts in London. If you would like to talk further please don't hesitate to give me a ring.

Yours sincerely



Dame Liz Forgan
Chair

Hampton, Maria - NAT

From: Munira Mirza [Munira.Mirza [REDACTED]]
Sent: 30 October 2009 20:07
To: Forgan, Liz - NAT; susanwatt [REDACTED]; ajay [REDACTED];
jennifer.francis [REDACTED]; John.Middleton [REDACTED]; alanvibe [REDACTED];
newarton [REDACTED]; Sarah.howard [REDACTED];
tamsin.dillon [REDACTED]; guy.nicholson [REDACTED]; flick.ree [REDACTED];
anjana.patel [REDACTED]; cllr.campbell [REDACTED]
Cc: Sinclair, Moira - L
Subject: RE: London Chair

Dear all,

I must ask for your continued patience in allowing me to comment on the email sent by Liz earlier today. Apologies in advance for the long email but I feel it is important to set this out fully.

I am afraid Liz misunderstands the Mayor's power of appointment as enshrined in the Arts Council's Royal Charter. The Charter makes no distinction between appointments of different durations. Indeed it states that:

"The Mayor of London shall, subject to the approval of the Secretary of State, determine the terms of office, period of appointment and have the power to remove for reasonable cause the Chair of the London based Regional Council."

It is exactly because of this stipulation that each time Mayors Livingstone and Johnson sought to extend Sue Hollick's tenure as chair on a short-term basis they first wrote to the Secretary of State to gain his approval before writing to Sue herself with the details of the extension to her time as chair.

The Mayor's power to appoint the Chair on a temporary basis does not undermine the arm's length principle because it is the same power to make an appointment on a more permanent basis (just as the Secretary of State does in the other regions). Therefore the action taken yesterday was not within the national council's jurisdiction. The GLA is quite clear on this.

It would be understandable if this action was to cover just one meeting or be in the very short-term; it is not always convenient to seek formal approval in such a situation. Indeed, the close working relationship between the DCMS and the Arts Council might well mean that for other regions the Arts Council has tended to assume the Secretary of State's approval without signing off each and every short-term arrangement.

However in this situation it is likely that the interim arrangements for the London chair will go on for some months while the role is re-advertised. Therefore, they should be agreed formally by the person with the power to appoint; in London this is the Mayor and it is important that we are kept fully apprised of the plans moving forward.

I do of course appreciate that the London region has now been without a chair for a month and that action is needed on an interim arrangement so that someone is in place for the next regional council meeting on 18 November. It is for this reason that we have been openly committed to putting someone in place swiftly but only after first canvassing views.

At present more than one council member has offered to act as chair on an interim basis, so I will endeavour to talk to other members and Arts Council colleagues over the next few days to ensure that the Mayor can make an informed decision about who he will nominate early next week.

I hope this reassures everyone, including colleagues at the Arts Council, and that we can work towards a swift conclusion. Of course, please do feel to ring me if you have any questions or thoughts.

Yours

Munira

03/11/2009

Munira Mirza
Mayoral Advisor on Arts and Culture
Greater London Authority

PA: [REDACTED]
[REDACTED]

Back London's bid to the FA to be a host city for the 2018 World Cup. Visit www.England2018bid.com and choose London as your favourite host city when registering your support for bringing the World Cup to England.

GREATERLONDONAUTHORITY

EMAIL NOTICE:

The information in this email may contain confidential or privileged materials. Please read the full email notice at <http://www.london.gov.uk/email-notice.jsp>

Hampton, Maria - NAT

From: Forgan, Liz - NAT
Sent: 02 November 2009 17:19
To: 'Munira Mirza'; susanwyatt [redacted]; ajay [redacted];
jennifer.francis [redacted]; John.Middleton [redacted]; alanvibe [redacted];
newartom [redacted]; Sarah.howard [redacted];
tamsin.dillon [redacted]; guy.nicholson [redacted]; flick.rea [redacted];
anjana.patel [redacted]; cllr.campbell [redacted]
Cc: Sinclair, Moira - L; Exeter, Sarah - NAT; Davey, Alan - NAT
Subject: London Chair

Dear All

I am extremely sorry that you have been caught up in an unnecessary confusion over the arrangements for the London Committee pending the Mayor's appointment of a new Chair.

Just to clarify the position:

The Mayor's nominee for the post has been rejected by the Secretary of State. In accordance with the advertised process, the next step is for the Mayor to pick another name from the list recommended by the interview panel. Only in "extreme circumstances" which I can't imagine obtain here, would the whole process need to be rerun. The Mayor has three excellent candidates to choose from, any one of which would be a first class Regional Chair and representative of London on the National Council. There seems no reason why this could not be completed in a very short time.

In the meanwhile, however, it is my job to ensure that we have an acting chair to preside over your next meeting and attend the National Council meeting on November 24. I don't want either the staff or you to endure this unhelpfully distracting circumstance for longer than absolutely necessary so after consultation with Moira I asked Ajay Chowdhury to take on that role and he has agreed (while making it very clear that he would not be available to continue on anything but a very short term basis). I hope you will all be able to give him the help and support he will need to see that London's business continues as smoothly as possible.

Just to be clear: the Mayor's duties apply only to full appointments. When we extended Sue Hollick's term, the agreement of both the Mayor and the Secretary of State were required, because it was a variation of a full appointment.

I hope this clarifies matters. I am keen that the emails now stop as multilateral traffic is confusing. Please do get in touch if there are other points you would like to raise with me. If by the time of the next London Committee there are still issues people would like to discuss I would be glad to come to the start of the meeting.

Yours,

Liz

Liz Forgan
Chair
Arts Council England

Hampton, Maria - NAT

From: Forgan, Liz - NAT

Sent: 30 October 2009 11:55

To: 'susanwyatt'; 'ajay'; 'jennifer.francis';
'John.Middleton'; 'alanvibe'; 'newarton';
'Sarah.howard'; 'tamsin.dillon';
'guy.nicholson'; 'flick.rea'; 'anjana.patel';
'cldr.campbell'; 'munira.mirza';

Cc: Sinclair, Moira - L

Subject: London Chair

Dear All

Munira has written to London Council members expressing a view on my decision to ask Ajay Chowdhury to serve as Acting Chair for the London Council until an appointment is made by the Secretary of State acting on the Mayor's nomination of a name.

I thought I should clarify that what we are doing is exactly as has happened in other cases where, for whatever reason, there has been a gap which is outside of our control. It is a matter of the internal good workings of the Regional Council and of the National Council, and as such it is up to me as chair to make sure proper arrangements are in place.

The Mayor's duties in relation to the London chair are set out in our Royal Charter and in amendments to statute. These together set out a duty for him to provide, when requested by the Arts Council, a name to the Secretary of State for the Secretary of State to approve or not to serve as chair of the London Arts Council for the prescribed term. It does not extend to our own internal workings which include coming to an acting arrangement while he and the Secretary of State are in the process of agreeing a name.

Were we to treat this as anything other than normal, then we are setting a precedent which would mean that in other cases the Secretary of State could have a role in our internal workings and day to day business conduct. This would clearly breach the arms length principle which governs the way the Arts Council does its job, and under which all members of Regional Councils, whoever nominates them, are there for the experience, talent and skill that they bring, not as representative of any interest group.

This is an important principle, and one that is fundamental to the way that the Arts Council works at national and regional level. Destroying the principle which has governed the way the Arts in this country have been funded for over 60 years, and is admired and held up as an exemplar by other countries, would be very regrettable.

I have written to Munira in these terms.

In the meantime we have important work to do for the Arts in London and indeed the country, and I hope you can give Ajay your full support for the short time he will be acting as chair and member of National Council.

If any of you would like to discuss this or any other matter, I would be very happy to do so. The best number to reach me on is [REDACTED]

Best

03/11/2009

Liz

Liz Forgan
Chair
Arts Council England
uk

Hampton, Maria - NAT

From: Munira Mirza [Munira.Mirza [REDACTED]]
Sent: 29 October 2009 19:23
To: cllr.campbell [REDACTED]; anjana.patel [REDACTED]; flick.rea [REDACTED];
guy.nicholson [REDACTED]; tamsin.dillon [REDACTED];
Sarah.howard [REDACTED]; newarton [REDACTED]; alan [REDACTED];
John.Middleton [REDACTED]; jennifer.francis [REDACTED];
susanwyatt [REDACTED]; ajay [REDACTED]
Cc: Exeter, Sarah - NAT; Sinclair, Moira - L; Forgan, Liz - NAT
Subject: RE: London Chair

Dear all,

The Mayor wrote last week to Secretary of State Ben Bradshaw defending his decision to recommend Veronica Wadley for the role of Chair of Arts Council London and setting out why it accorded fully with Nolan principles. He also explained that he was left with no choice but to re-run the recruitment process: www.london.gov.uk/view_press_release.jsp?releaseid=24081

Whilst this process is underway, the Mayor said we would discuss with regional council members the best way to manage in the interim, to ensure that there was a chair for the region and proper representation on the national council.

I had discussed with members and also Moira Sinclair (most recently, yesterday) the importance of agreeing an interim arrangement before the next council meeting on 18 Nov that we all were supportive of, and also ensuring that council members were involved in this decision.

I was therefore dismayed to learn a few hours ago that Dame Liz Forgan, the chair of the national council, had taken it upon herself to select a council member to do this role, without consulting us or the other members. Effectively, the national chair has decided who will represent London, rather than the members, or without any input of the Mayor, whose appointment this is. London now has a different arrangement to the other regions and we would expect the procedures to reflect this. We have asked the Arts Council to send us the rationale for their approach.

At this critical time for London, and in the spirit of devolved government, we feel that it is important that such decisions are not decided by the national council alone but in a process of consultation. This is particularly important because it is widely known that there has been a disagreement about the nature of the appointment process itself.

This is in no way to discredit the abilities of the person Liz has asked to step forward - they may be the best person to represent us - but I must express my concern about the way this has been handled and the fact that we have been given no say in the matter.

We will be writing separately to the Arts Council and also to the Secretary of State about this matter, and I will endeavour to keep you all updated.

With best wishes,

Munira

Munira Mirza
Mayoral Advisor on Arts and Culture
Greater London Authority

PA: [REDACTED]

-----Original Message-----

From: Liz.Forgan [mailto:Liz.Forgan]

Sent: 29 October 2009 13:10

To: Munira Mirza; cllr.campbell; anjana.patel; flick.rea;
guy.nicholson; tamsin.dillon; Sarah.howard;
newartonmondays; alanvibe; John.Middleton;
jennifer.francis; susanwyatt

Cc: ajay; Sarah.Exeter; Moira.Sinclair

Subject: London Chair

Dear all

I am writing to update you on the current situation.

The terms of reference for your Regional Council state that your meetings will be chaired by the London Regional Chair or a delegated nominee. As the London Regional Chair position is still vacant I have followed our normal practice in these situations, and have asked Ajay Chowdhury to act as Chair of the London Regional Council. In this capacity he will also attend National Council meetings.

I propose that this is effective immediately and continues until the appointment of a new National Member for London.

I hope you will give Ajay your full support. Whilst he is new to the Arts Council, he has great Board experience and I know he will do a good job in temporarily representing your views at national council.

With best wishes and thanks for your patience and continuing hard work

Liz

Liz Forgan
Chair
Arts Council England

www.artscouncil.org.uk

Arts Council England is the trading name of the Arts Council of England registered charity no. 1036733

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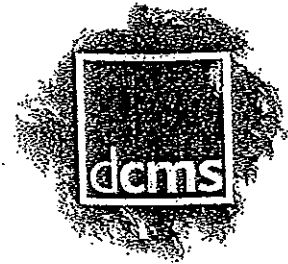
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Dame Liz Forgan
Chair
Arts Council England
14 Great Peter Street
London
SW1P 3NQ

14 August 2009



department for
culture, media
and sport

Dear Liz,

Arts Council England – Appointment of London Chair

Boris Johnson has now written to the Secretary of State to recommend Veronica Wadley as the new Chair of the Arts Council London.

As you are aware, under the terms of the Arts Council's Royal Charter, the Mayor of London is responsible for the appointment, subject to approval by the Secretary of state.

Before taking a decision, the Secretary of State would like to take full account of your own views, as Arts Council England Chair, on the recommendation.

I am therefore writing to seek your views on the appointment process and on the recommended candidate. Your comments would be gratefully received.

Yours,
Mick

Michael Elliott
Director, Culture

18 August 2009

Mick Elliot
 Director Culture
 DCMS
 2-4 Cockspur Street
 London
 SW1

Dear Mick

Chair of Arts Council England, London

You asked my view on the Mayor's nomination of Veronica Wadley to chair the London Regional Council of Arts Council England and to serve as a member of National Council.

I am unhappy with this nomination for the following reasons:

- A process was followed with independent participation by Sir David Durie, a member of the GLA standards committee, the Mayor's culture adviser and me. The original agreement was that the panel would select two names and the mayor would make his choice. This was done in order to ensure that this appointment would be made to standards of probity equivalent to Nolan, and so in line with other appointments to National Council.
- We interviewed five shortlisted candidates. One was eliminated at once. Three were deemed by all of us to be very strong across the range of skills and experience required. Sir David Durie described the fifth candidate, Veronica Wadley, as not meeting the standard. I said she was a person with strong general skills but almost no arts credibility and should therefore be eliminated. Munira argued hard for Veronica but did not move either Sir David or me from our view that she was manifestly the least qualified of the four. I thought her lack of arts experience or knowledge meant she would not do the best job for London and would make an inadequate contribution to National Council.
- I left the interview process with the impression that the Mayor would see the three appointable candidates (I agreed to put forward three rather than two in order to give the mayor more choice)- any of whom would make a credible chair of London and contribute in arts terms to National Council.
- I was therefore shocked to be told that Mayor was only seeing two of the appointable candidates plus Veronica. I wrote to him expressing unhappiness

and spoke to him. He agreed to see the three appointable candidates plus Veronica.

- He then rang me to tell me that he wanted to appoint Veronica because she gave a good interview. He also said she agreed with his policy on music in schools and that she had some good ideas on private fundraising. Neither of these is at the forefront of criteria for the job.
- I left him in no doubt I was unhappy with this decision but he said he was writing to the Secretary of State anyway.

So we are left with a due process that was not followed, a candidate who was manifestly less qualified than three of her competitors and three distinguished candidates put through a process that seems to have had questionable validity. My conclusion is that the Mayor's intended appointment is based on reasons other than selection of the best candidate for the post. Had the appointment been run to the standard applied to other appointments on Council Veronica would not have been seen by the Mayor.

This unhappy story illustrates that the system of having the London chair and member of National Council appointed by a different mechanism from other Council members is fundamentally flawed. I would urge the Secretary of State to reconsider this arrangement which seems to mean that one member of National Council is not chosen on merit. I think we all agree that National Council members need to be there on merit only. That is at the core of the arms length principle.

Yours sincerely,



Dame Liz Forgan
Chair

Somodlo, Jennie -NAT

From: Forgan, Liz - NAT
Sent: 30 October 2009 11:55
To: 'Munira Mirza (munira.mirza [REDACTED])'
Cc: Sinclair, Moira - L; Exeter, Sarah - NAT; Davey, Alan - NAT
Subject: London Chair
Attachments: Munira Mirza 30.10.09.doc

Liz Forgan
Chair
Arts Council England

13

30 October 2009

Munira Mirza
 Mayoral Advisor on Arts and Culture
 Greater London Authority
 City Hall
 The Queen's Walk
 More London
 London SE1 2AA

Dear Munira

I have sent a note around London Council members responding to your note of yesterday. I have to say I found your note rather surprising.

The position I have set out is as follows. What we are doing is exactly as has happened in other cases where, for whatever reason, there has been a gap which is outside of our control. It is a matter of the internal good workings of the Regional Council and of the National Council, and as such it is up to me as chair to make sure proper arrangements are in place.

The Mayor's duties in relation to the London chair are set out in our Royal Charter and in amendments to statute. These together set out a duty for him to provide, when requested by the Arts Council, a name to the Secretary of State for the Secretary of State to approve or not to serve as chair of the London Arts Council for the prescribed term. It does not extend to our own internal workings which include coming to an acting arrangement while he and the Secretary of State are in the process of agreeing a name.

Were we to treat this as anything other than normal, then we are setting a precedent which would mean that in other cases the Secretary of State could have a role in our internal workings and day to day business conduct. This would clearly breach the arms length principle which governs the way the Arts Council does its job, and under which all members of Regional Councils, whoever nominates them, are there for the experience, talent and skill that they bring, not as representative of any interest group.

This is an important principle, and one that is fundamental to the way that the Arts Council works at national and regional level. Destroying the principle which has governed the way the Arts in this country have been funded for over 60 years, and is admired and held up as an exemplar by other countries, would be very regrettable.



I regret that the Secretary of State and the Mayor have turned an issue of proper process about an appointment into an issue of politics. This is for them to sort out and for a name to be arrived at following proper process. In the meantime the Arts Council needs to go about its work as an independent arms length body.

If you would find it useful to discuss any of this please do get in touch.

Yours sincerely

A handwritten signature in black ink, appearing to read "Liz Forgan".

Dame Liz Forgan
Chair

Somodlo, Jennie -NAT

From: Munira Mirza [Munira.Mirza [REDACTED]]
Sent: 30 October 2009 20:10
To: Forgan, Liz - NAT
Cc: Sinclair, Moira - L; Exeter, Sarah - NAT; Davey, Alan - NAT; [REDACTED] Tom Middleton; Jeff Jacobs; Justine Simons
Subject: RE: London Chair
Attachments: Liz Forgan, 30.10.09.doc

Munira Mirza
Mayoral Advisor on Arts and Culture
Greater London Authority

PA: [REDACTED]

-----Original Message-----

From: Liz.Forgan [mailto:Liz.Forgan [REDACTED]]
Sent: 30 October 2009 11:55
To: Munira Mirza
Cc: Moira.Sinclair [REDACTED]; Sarah.Exeter [REDACTED]; Alan.Davey [REDACTED]
Subject: London Chair

Liz Forgan
Chair
Arts Council England

www.artscouncil.org.uk

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Mayor's Office

City Hall
The Queen's Walk
More London
London SE1 2AA
Switchboard: 020 7983 4000
Minicom: 020 7983 4458
Web: www.london.gov.uk

Liz Forgan

Chair of the Arts Council

By e-mail

Our ref:

Date: 30 October 2009

Dear Liz

Thank you for your letter dated today.

I believe you misunderstand the Mayor's power of appointment as enshrined in the Arts Council's Royal Charter. The Charter makes no distinction between appointments of different durations. Indeed it states that:

"The Mayor of London shall, subject to the approval of the Secretary of State, determine the terms of office, period of appointment and have the power to remove for reasonable cause the Chair of the London based Regional Council."

It is exactly because of this stipulation that each time Mayors Livingstone and Johnson sought to extend Sue Hollick's tenure as chair on a short-term basis they first wrote to the Secretary of State to gain his approval before writing to Sue herself with the details of the extension to her time as chair.

The Mayor's power to appoint the chair on a temporary basis does not undermine the arm's length principle because it is the same power to make an appointment on a more permanent basis (just as the Secretary of State does in the other regions). Therefore the action you took yesterday was not within the jurisdiction of the national chair.

I would understand your actions more if your proposal for chair were to cover just one meeting or be in the very short-term; it is not always convenient to seek formal approval in such a situation. Indeed, the close working relationship between the DCMS and the Arts Council might well mean that for other regions you have tended to assume the Secretary of

Direct telephone: 020 7983 4100 **Fax:** 020 7983 4057 **Email:** Mayor@london.gov.uk

State's approval without signing off each and every short-term arrangement.

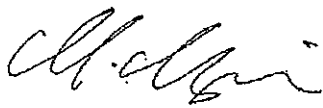
However in this situation it is likely that the interim arrangements for the London chair will go on for some months while the role is re-advertised. Therefore, they should be agreed formally by the person with the power to appoint; in London this is the Mayor and it is important that we are kept fully appraised of the plans moving forward.

I do of course appreciate that the London region has now been without a chair for a month and that action is needed on an interim arrangement so that someone is in place for the next regional council meeting on 18 November. It is for this reason that I have been openly committed to putting someone in place swiftly but only after first canvassing views.

At present more than one council member has offered to act as chair on an interim basis, so I will endeavour to talk to other members and Arts Council colleagues over the next few days to ensure that the Mayor can make an informed decision about who he will nominate early next week.

Finally, you say that both the Secretary of State and the Mayor have turned this into 'an issue of politics'. I cannot accept this. It was the Secretary of State who rejected the Mayor's chosen appointment without adequate reason, and it was his department that leaked private correspondence to the press. The Mayor has acted in the interests of the arts and London, and has sought to consult with the Arts Council throughout this entire process.

Yours sincerely,



Munira Mirza

Mayoral Advisor on Arts and Culture

Somodio, Jennie -NAT

From: Forgan, Liz - NAT
Sent: 02 November 2009 17:11
To: 'Munira Mirza'
Cc: Sinclair, Moira - L; Exeter, Sarah - NAT; Davey, Alan - NAT; [REDACTED] Tom Middleton; Jeff Jacobs; Justine Simons
Subject: London Chair
Attachments: Munira Mirza 2.11.09.doc

Liz Forgan
Chair
Arts Council England

2 November 2009

Munira Mirza
 Mayoral Advisor on Arts and Culture
 Greater London Authority
 City Hall
 The Queen's Walk
 More London
 London SE1 2AA

Dear Munira

Thank you for your letter e-mailed on Friday evening.

I think you misunderstand the nature of the Mayor's duties in respect of providing a name to be the chair of the London Regional Council, the short term nature of the acting role I have asked Ajay to undertake, and the terms of reference of membership of Regional Councils.

First, these arrangements are clearly very short term. The process for appointing a permanent Chair, which under the Mayor's duties is initiated at the request of the Arts Council, has not yet been completed. The next stage, as set out with clarity in the GLA application pack, is for the Mayor to consider one of the three names that were before him. In this case the appointment could be made very quickly. Only in extremis should the post be re-advertised. The Mayor would have a duty to complete that as soon as is practicable.

So at the most, whoever, as allowed under the terms of reference for regional councils, is delegated by me, as chair of National Council, to act as chair, will only be doing so for at most two meetings of London and National Councils.

It is worth remembering that the London Council is a subcommittee of the National Council, and as chair of National Council I have the authority to make such arrangements in between full Mayoral nominations in order to secure the proper running of the business. This is fundamental to the governance of the Arts Council as a whole.

You mention the position of Sue Hollick. In this case her original appointment and the extension of that appointment was coming to an end. We asked the Mayor on two occasions to extend her permanent appointment, and obtained his permission and that of the Secretary of State and OCPA, who were the overseeing body in her original appointment, to do so. This is the procedure used when seeking to extend appointments beyond the end of the original term.

The comment you make in the second part of paragraph six of your letter is therefore not relevant - the permission of the Secretary of State in making short term arrangements outside the regular appointments process is not required (unless, as I said, we are seeking an extension to the terms of an existing chair) and is therefore not assumed. We would tell DCMS, as we have done you, what is happening, as a courtesy.

I was surprised by both the content of the penultimate two paragraphs of your letter and your actions over the weekend, when I gather you have been speaking to other members of London Council. It is not clear to me in what role or on whose authority you undertook that action. As an employee of the Mayor, you do not have a role in making these temporary arrangements.

As a member of the London Council you will be aware from the members' handbook that when you are on that body we require members to abide by the Nolan principles of public life - which means among other things that they should not pursue any particular political or professional interest in their conduct as a member of Regional Council.

I think the distinction between your role as the Mayor's advisor and employee and role as a Regional Council member have become entangled in this matter. It would be helpful to know in which capacity you are acting in the future.

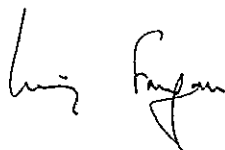
We need to be clear about how we uphold the arms length principle in funding the arts in this country, which all political parties have signed up to protecting.

With regard to the overall process, I hope that it can be settled very quickly so that a Chair can be appointed who will play a full role as Chair of London and in the National Arts Council. As I have always said, I would be very happy to meet with the Mayor at any time to facilitate this. It is not in Arts Council's or the Mayor's interest to see this situation continue and I am sure we could with concerted effort reach a resolution.

I also hope you will give your full support to Ajay over the next short period - the staff and executive in the London office are embarking on a critical phase in the organisation review and are deserving of my and Council's full attention.

I am copying this letter as yours.

Yours sincerely


 A handwritten signature in black ink, appearing to read "Liz Forgan".

Dame Liz Forgan
Chair

[REDACTED]

From: Fadda, Reema - L
Sent: 28 October 2009 16:33
To: Exeter, Sarah - NAT
Subject: LRC members List

Hi Sarah,

Please find members and emails attached.

Munira Mirza	[REDACTED]
Barbara Campbell	[REDACTED]
Anjana Patel	[REDACTED]
Flick Rea	[REDACTED]
Guy Nicholson	[REDACTED]
Tamsin Dillon	[REDACTED]
Sarah Howard	[REDACTED]
Cecilia Wee	[REDACTED]
Alan Miller	[REDACTED]
John Middleton	[REDACTED]
Jennifer Francis	[REDACTED]
Ajay Chowdhury	[REDACTED]
Sue Wyatt	[REDACTED]

Thanks

Reema

Reema Fadda
Executive Assistant, Executive Director's Office
Arts Council England, London
Direct Line: +44 (0)20 7608 6181
Email: Reema.Fadda [REDACTED]

[REDACTED]

From: Forgan, Liz - NAT

Sent: 29 October 2009 13:10

To: 'munira.mirza [REDACTED]'; 'cllr.campbell [REDACTED]'; 'anjana.patel [REDACTED]';
'flick.rea [REDACTED]'; 'guy.nicholson [REDACTED]'; 'tamsin.dillon [REDACTED]';
'Sarah.howard [REDACTED]'; 'newartonmondays [REDACTED]'; 'aianvibe [REDACTED]';
'John.Middleton [REDACTED]'; 'jennifer.francis [REDACTED]';
'susanwyatt [REDACTED]'

Cc: 'ajay [REDACTED]'; Exeter, Sarah - NAT; Sinclair, Moira - L

Subject: London Chair

Dear all

I am writing to update you on the current situation.

The terms of reference for your Regional Council state that your meetings will be chaired by the London Regional Chair or a delegated nominee. As the London Regional Chair position is still vacant I have followed our normal practice in these situations, and have asked Ajay Chowdhury to act as Chair of the London Regional Council. In this capacity he will also attend National Council meetings.

I propose that this is effective immediately and continues until the appointment of a new National Member for London.

I hope you will give Ajay your full support. Whilst he is new to the Arts Council, he has great Board experience and I know he will do a good job in temporarily representing your views at national council.

With best wishes and thanks for your patience and continuing hard work

Liz

Liz Forgan
Chair
Arts Council England

[REDACTED]

From: Munira Mirza [Munira.Mirza@glta.gov.uk]
Sent: 29 October 2009 19:23
To: cllr.campbell@glta.gov.uk; anjana.patel@glta.gov.uk; flick.rea@glta.gov.uk; guy.nicholson@glta.gov.uk; tamsin.dillon@glta.gov.uk; Sarah.howard@glta.gov.uk; newartonmondays@glta.gov.uk; alanvibe@glta.gov.uk; John.Middleton@glta.gov.uk; jennifer.francis@glta.gov.uk; susanwyatt@glta.gov.uk; ajay@glta.gov.uk
Cc: Exeter, Sarah - NAT; Sinclair, Moira - L; Forgan, Liz - NAT
Subject: RE: London Chair

Dear all,

The Mayor wrote last week to Secretary of State Ben Bradshaw defending his decision to recommend Veronica Wadley for the role of Chair of Arts Council London and setting out why it accorded fully with Nolan principles. He also explained that he was left with no choice but to re-run the recruitment process: www.london.gov.uk/view_press_release.jsp?releaseid=24081

Whilst this process is underway, the Mayor said we would discuss with regional council members the best way to manage in the interim, to ensure that there was a chair for the region and proper representation on the national council.

I had discussed with members and also Moira Sinclair (most recently, yesterday) the importance of agreeing an interim arrangement before the next council meeting on 18 Nov that we all were supportive of, and also ensuring that council members were involved in this decision.

I was therefore dismayed to learn a few hours ago that Dame Liz Forgan, the chair of the national council, had taken it upon herself to select a council member to do this role, without consulting us or the other members. Effectively, the national chair has decided who will represent London, rather than the members, or without any input of the Mayor, whose appointment this is. London now has a different arrangement to the other regions and we would expect the procedures to reflect this. We have asked the Arts Council to send us the rationale for their approach.

At this critical time for London, and in the spirit of devolved government, we feel that it is important that such decisions are not decided by the national council alone but in a process of consultation. This is particularly important because it is widely known that there has been a disagreement about the nature of the appointment process itself.

This is in no way to discredit the abilities of the person Liz has asked to step forward - they may be the best person to represent us - but I must express my concern about the way this has been handled and the fact that we have been given no say in the matter.

We will be writing separately to the Arts Council and also to the Secretary of State about this matter, and I will endeavour to keep you all updated.

With best wishes,

Munira

Munira Mirza
Mayoral Advisor on Arts and Culture
Greater London Authority

PA: [REDACTED]

-----Original Message-----

From: Liz.Forgan [mailto:Liz.Forgan]

Sent: 29 October 2009 13:10

To: Munira Mirza; cllr.campbell; anjana.patel; flick.rea; guy.nicholson; tamsin.dillon; Sarah.howard; newartonmondays; alanvibe; John.Middleton; jennifer.francis; susanwyatt

Cc: ajay; Sarah.Exeter; Moira.Sinclair

Subject: London Chair

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With best wishes and thanks for your patience and continuing hard work

Liz

Liz Forgan
Chair
Arts Council England

www.artscouncil.org.uk

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GREATERLONDONAUTHORITY

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[REDACTED]

From: Forgan, Liz - NAT

Sent: 30 October 2009 11:55

To: 'susanwyatt [REDACTED]'; 'ajay [REDACTED]'; 'jennifer.francis [REDACTED]';
'John.Middleton [REDACTED]'; 'alanvibe [REDACTED]'; 'newartonmondays [REDACTED]';
'Sarah.howard [REDACTED]'; 'tamsin.dillon [REDACTED]';
'guy.nicholson [REDACTED]'; 'flick.rea [REDACTED]'; 'anjana.patel [REDACTED]';
'cllr.campbell [REDACTED]'; 'munira.mirza [REDACTED]'

Cc: Sinclair, Moira - L

Subject: London Chair

Dear All

Munira has written to London Council members expressing a view on my decision to ask Ajay Chowdhury to serve as Acting Chair for the London Council until an appointment is made by the Secretary of State acting on the Mayor's nomination of a name.

I thought I should clarify that what we are doing is exactly as has happened in other cases where, for whatever reason, there has been a gap which is outside of our control. It is a matter of the internal good workings of the Regional Council and of the National Council, and as such it is up to me as chair to make sure proper arrangements are in place.

The Mayor's duties in relation to the London chair are set out in our Royal Charter and in amendments to statute. These together set out a duty for him to provide, when requested by the Arts Council, a name to the Secretary of State for the Secretary of State to approve or not to serve as chair of the London Arts Council for the prescribed term. It does not extend to our own internal workings which include coming to an acting arrangement while he and the Secretary of State are in the process of agreeing a name.

Were we to treat this as anything other than normal, then we are setting a precedent which would mean that in other cases the Secretary of State could have a role in our internal workings and day to day business conduct. This would clearly breach the arms length principle which governs the way the Arts Council does its job, and under which all members of Regional Councils, whoever nominates them, are there for the experience, talent and skill that they bring, not as representative of any interest group.

This is an important principle, and one that is fundamental to the way that the Arts Council works at national and regional level. Destroying the principle which has governed the way the Arts in this country have been funded for over 60 years, and is admired and held up as an exemplar by other countries, would be very regrettable.

I have written to Munira in these terms.

In the meantime we have important work to do for the Arts in London and indeed the country, and I hope you can give Ajay your full support for the short time he will be acting as chair and member of National Council.

If any of you would like to discuss this or any other matter, I would be very happy to do so. The best number to reach me on is [REDACTED].

Best

Liz

Liz Forgan
Chair
Arts Council England
uk

Arts Council England
2009

[REDACTED]

From: Forgan, Liz - NAT
Sent: 02 November 2009 17:19
To: 'Munira Mirza'; susanwyatt[REDACTED]; ajay[REDACTED];
jennifer.francis[REDACTED]; John.Middleton[REDACTED]; alanvibe[REDACTED];
newartonmondays[REDACTED]; Sarah.howard[REDACTED];
tamsin.dillon[REDACTED]; guy.nicholson[REDACTED]; flick.rea[REDACTED];
anjana.patel[REDACTED]; cllr.campbell[REDACTED]
Cc: Sinclair, Moira - L; Exeter, Sarah - NAT; Davey, Alan - NAT
Subject: London Chair

Dear All

I am extremely sorry that you have been caught up in an unnecessary confusion over the arrangements for the London Committee pending the Mayor's appointment of a new Chair.

Just to clarify the position:

The Mayor's nominee for the post has been rejected by the Secretary of State. In accordance with the advertised process, the next step is for the Mayor to pick another name from the list recommended by the interview panel. Only in "extreme circumstances" which I can't imagine obtain here, would the whole process need to be rerun. The Mayor has three excellent candidates to choose from, any one of which would be a first class Regional Chair and representative of London on the National Council. There seems no reason why this could not be completed in a very short time.

In the meanwhile, however, it is my job to ensure that we have an acting chair to preside over your next meeting and attend the National Council meeting on November 24. I don't want either the staff or you to endure this unhelpfully distracting circumstance for longer than absolutely necessary so after consultation with Moira I asked Ajay Chowdhury to take on that role and he has agreed (while making it very clear that he would not be available to continue on anything but a very short term basis). I hope you will all be able to give him the help and support he will need to see that London's business continues as smoothly as possible.

Just to be clear: the Mayor's duties apply only to full appointments. When we extended Sue Hollick's term, the agreement of both the Mayor and the Secretary of State were required, because it was a variation of a full appointment.

I hope this clarifies matters. I am keen that the emails now stop as multilateral traffic is confusing. Please do get in touch if there are other points you would like to raise with me. If by the time of the next London Committee there are still issues people would like to discuss I would be glad to come to the start of the meeting.

Yours,

Liz

Liz Forgan
Chair
Acting Council England

[REDACTED]

From: Exeter, Sarah - NAT
Sent: 05 November 2009 10:39
To: 'Jeff.Jacobs' [REDACTED]
Subject: London Chair

Jeff

Alan Davey asked me to forward the basis on which the Chair of Arts Council England normally acts in respect of making temporary arrangements in the case where a full appointment to a Regional Council is vacant for a short period of time – usually while a process is still underway or there is an unexpected absence due to sickness etc.

First, it is clear that Regional Councils are subcommittees of National Council – the Royal Charter states that they are 'Regional Councils of the Council.' They are established by the Council with the approval of the Secretary of State. Arrangements for the appointment of the chair come into play if Council wills that the Regional Council should exist.

The members of Regional Council are given delegated responsibilities and are subject to rules of conduct as decided by National Council and its National Chair.

(1) The terms and conditions of appointment of the chair explicitly state that one of her responsibilities includes *Ensuring that the Council is a successful team and that it provides effective corporate governance, in accordance with best practice* (cited in 'Duties' point 4).

(2) Our Regional Council terms of reference state that the 'Regional arts council meetings are chaired by the regional chair (or a delegated nominee).'

In light of the formal responsibility Liz Forgan holds as described in (1) above, it has been its practice that in cases where the absence of a Regional Chair is known before the meeting and the National Chair is advised, she then delegates a person from the Regional Council to take the Chair.

In cases where the issue is that there is a chair whose term is coming to an end, and an extension of the term of appointment is sought, then those responsible for making the appointment's agreement is sought.

(3) The London Mayor and the Secretary of State have the right of full appointment of the chairs of Regional Councils. It does not state in the Charter or in the Legislation that they have any part in temporary internal arrangements that may be needed to keep the business of the Council running normally.

Sarah

19/11/2009

Arts Council England

Ph [REDACTED]

Page 45 of 45

[REDACTED]

From: Exeter, Sarah - NAT
Sent: 06 November 2009 18:29
To: 'Jeff Jacobs'
Cc: Davey, Alan - NAT
Subject: RE: London Chair

Jeff

The most recent example was in March 2009 when Andrew Brewerton retired and Chris Clarke (an existing member of the South West Regional Arts Council) was asked to act as chair until a replacement was appointed by the secretary of state.

In this case, an acting chair was put in place because the vacancy occurred with very little notice.

I can confirm that until now, no such action has needed to occur in London since the GLA was established or since the Mayor of London was given power of appointment.

It was thought that the acting chair would undertake the role until such a time that the London Mayor had made an appointment. It is reasonable to anticipate that the Mayor would make an appointment within 3 months or less. Therefore the acting chair is likely to be in place for no more than 2 meetings of the Regional Council and 2 meetings of the National Council.

This was an internal matter related to the smooth continuation of Arts Council business and decision-making, and the National Chair's responsibilities to ensure good governance. We had already informed the Mayor; through his cultural adviser that this was going to happen (an email went from our Executive Director, London to the Mayor's cultural adviser on 29 October). We do not regard that consultation was a requirement, as this is a matter related to the internal workings of the Arts Council.

Regards

Sarah

Sarah Exeter
Head of Governance
Arts Council England
Ph [REDACTED]

From: Jeff Jacobs [mailto:Jeff.Jacobs@arts-council.org.uk]
Sent: 06 November 2009 17:19
To: Exeter, Sarah - NAT
Cc: Davey, Alan - NAT
Subject: RE: London Chair

Sarah

Thanks for this .

19/11/2009

Can you explain when you have, over, say, the past 5 years, taken action of this kind - you say 'it has been the practice' for the National chair to act in this way

Can you describe the circumstances in which such action has been taken eg was it because the regional chair was sick; or was it akin to the circumstances in this case

Can you also confirm that no such action has been taken in London over the period since the Mayor of London was given the power of appointment or even since the GLA was established

Can you say what thought was given - in the light of current circumstances, the uncertain period of time that a temporary arrangement might last and the fact that the Mayor has the appointment power he has - to consulting him about the proposed temporary arrangement before it was put in place

My expectation is that we will be taking up the actions taken by the Arts Council with DCMS so I would be grateful for a swift reply.

In the meantime, the mayor will be writing shortly to Ben Bradshaw about next steps on the permanent appointment

jeff

-----Original Message-----

From: Sarah.Exeter [mailto:Sarah.Exeter] [redacted]
Sent: 05 November 2009 10:39
To: Jeff Jacobs
Subject: London Chair

Jeff

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2.

3. (2) Our Regional Council terms of reference state that the 'Regional arts council meetings are chaired by the regional chair (or a delegated nominee).'

4.

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6.

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8.

9. (3) The London Mayor and the Secretary of State have the right of full appointment of the chairs of Regional Councils. It does not state in the Charter or in the Legislation that they have any part in temporary internal arrangements that may be needed to keep the business of the Council running normally:

10.

11.

12. Sarah

Sarah Exeter
Head of Governance
Arts Council England
Ph: [REDACTED]

www.artscouncil.org.uk

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[REDACTED]

From: Jeff Jacobs [Jeff.Jacobs@ [REDACTED]]
Sent: 06 November 2009 17:19
To: Exeter, Sarah - NAT
Cc: Davey, Alan - NAT
Subject: RE: London Chair

Saarah

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jeff

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Sent: 05 November 2009 10:39
To: Jeff Jacobs
Subject: London Chair

Jeff

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Sarah

Sarah Exeter
Head of Governance
Arts Council England
[REDACTED]

www.artscouncil.org.uk

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[REDACTED]

From: Exeter, Sarah - NAT
Sent: 10 November 2009 17:30
To: 'MITCHELL SIMON'
Subject: RE: Protected: Appointments - Arts Council London Chair

Hi Simon

I've seen that letter. Will find out where we are at with this and let you know. The CE is away at the moment so I may not have all the answers tomorrow, but will endeavour to get them.

Sarah

Sarah Exeter
Head of Governance
Arts Council England
Ph [REDACTED]

From: MITCHELL SIMON [mailto:SIMON.MITCHELL@arts-council.org.uk]
Sent: 10 November 2009 17:16
To: Exeter, Sarah - NAT
Cc: KAREER SUJAN
Subject: Protected: Appointments - Arts Council London Chair

Sarah,

We've had a response from the Mayor, saying that he intends to re-run a new appointment process ie. he is not content to go back to the other candidates from the first process.

We're taking legal advice on options but the SoS' private office have said that the Arts Council are also taking legal advice.
If that's the case, it would be helpful to get a sense of what that is (I can let you know the outcome of our own enquiry too).

Could we speak in the morning (ie. Wednesday?)

Thanks

Simon

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From: Munira Mirza [Munira.Mirza@london.gov.uk]

Sent: 11 November 2009 13:04

To:



Cc: Forgan, Liz - NAT; Sinclair, Moira - L; Exeter, Sarah - NAT; Davey, Alan - NAT; Jeff Jacobs; Tom Middleton; Justine Simons; Jan Boud

Subject: RE: London Chair

Dear all,

Following Liz's last email last Monday we decided the best thing was to liaise with Arts Council England privately and ask them about their rationale and basis for installing an interim chair. We eventually received a statement from ACE on Thursday morning but it did not provide any new legal information or change the GLA's view that the Mayor should have been consulted in advance by the Arts Council about this decision. More generally, I also still feel that Regional Council members should have been consulted about the interim chair arrangements

However, we are where we are, and the GLA has no desire to enter into a lengthy debate about this issue. It is clear that the Arts Council has taken a position and will not contemplate an alternative chair. There was one other regional member who did wish to stand but, understandably, they have decided to withdraw in light of these circumstances.

The Chief Executive of the GLA is writing to the DCMS Permanent Secretary to outline his concerns about the way this has been handled. If other regional members wish to express views, I imagine there will be an opportunity to discuss further at the meeting on 18 Nov.

The process for appointing the new chair is underway and the Mayor proposes to re- advertise the role shortly.

Of course, if you would like to discuss with me further, please don't hesitate to get in touch.

Best wishes,
Munira



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[REDACTED]

From: Exeter, Sarah - NAT
Sent: 29 October 2009 18:17
To: Hampton, Maria - NAT
Cc: Davey, Alan - NAT
Subject: RE: Council composition
Attachments: App A_RaC terms of reference.doc; Section 2 Council regulations.doc

Hi Maria and Alan

Three things:

- The composition of regional Councils is stated in the RAC terms of reference and in the regulations. Attached – sorry for delay.
- How this is reflected in the actual composition. I will have to check on this with Reema Fadda tomorrow. I presume it is as prescribed, other than any vacancies and I don't think there are any at the moment.
- Tom Middleton from the GLA called and asked me for these documents on request from the Mayors office following Liz's email – I presume to check whether we have the procedural ability to delegate an acting chair – which we do as per the RAC Terms of Reference. The Regulations and the Charter are silent regarding this matter. I will send them to him now.

Sarah

Sarah Exeter
Head of Governance
Local Authorities Council England
Ph [REDACTED]

From: Hampton, Maria - NAT
Sent: 29 October 2009 14:56
To: Exeter, Sarah - NAT
Subject: Council composition
Importance: High

Hi Sarah

Alan has asked that you send me details of the composition of the regional councils – what the regulations state (with particular reference to local authority representatives so different for London, the South East and the rest) and how this is reflected in the actual composition.

Please can you let me have this soonest.

Thanks,

Maria

19/11/2009

Maria Hampton
PA to the Chief Executive & Chair
Arts Council England
14 Great Peter Street
London, SW1P 3NQ
Tel: [REDACTED]
Email: maria.hampton@[REDACTED]