

JERSEY PROPERTY HOLDINGS

STATEMENT BY THE COMPTROLLER AND AUDITOR GENERAL

SEPTEMBER 2011

1. My attention has been drawn to various statements made in the Public Hearings taking place in connection with an enquiry into the States' interest in a property known as Lime Grove House. I am issuing this statement to make clear my awareness of certain allegations made concerning Jersey Property Holdings.

David Flowers

2. Early in 2011, a senior member of the staff of Jersey Property Holdings (JPH) asked to talk to me. I made myself available for a meeting at which he described a number of developments which concerned a proposal that the States of Jersey should acquire a property known as Lime Grove House which would be used to provide headquarters accommodation for the police. In the course of describing these developments, I was handed a copy of a paper entitled 'Initial Review of Phase One Property Strategy Business Case by the Interim Director of Finance', which was dated 14 January 2011.
3. I was told that this paper had been prepared at the request of the deputy Chief Executive, who had taken over responsibility as Accounting Officer for JPH.
4. The paper concluded that there was some evidence of an 'unhealthily close relationship' between JPH and the agent for the vendors of Lime Grove House. The paper also suggested that there was an inappropriate letter to the Planning Minister from the Assistant Treasury and Resources Minister and that the relationship between JPH and a valuer who had prepared a valuation of the property) appeared questionable.
5. The senior member of the staff of JPH told me that he regarded the paper as being critical of his professionalism and integrity and had complained about it on this basis. He told me that he had subsequently been provided with a further version of the paper which had been redacted or amended in certain respects to remove the suggestions of which he complained.
6. He had taken legal advice on the paper which had supported his own view that it contained very serious criticisms.
7. I said that I would consider most carefully the implications of the paper that had been given to me.

8. Subsequently I did consider the significance of the paper. In particular, I considered what action I should take. I was concerned that:
- (1) On its face, the paper suggested that aspects of the proposed Lime Grove House transaction may have been mishandled.
 - (2) I was surprised that these suggestions should have been made in the form of paper without any reference to the member of staff concerned.
 - (3) There was clearly a personal dispute between the member of staff and the management of the States concerning his own position and I was concerned that my office should not be used inappropriately by one of the parties to a personal dispute.
 - (4) In my own dealings with the member of staff (in particular in the context of my review of asset disposals during 2009 which included the Jersey Homebuy disposals) I had found no reason to question his professionalism or integrity although I was aware that there had been a tense relationship between JPH and certain States' departments.
 - (5) The risk to the States of any further mismanagement had been mitigated somewhat by the fact that the Deputy Chief Executive had personally taken over as Accounting Officer for JPH.
 - (6) There was a possibility that the suggestions made in the paper might prove the basis for criminal charges and I did not want to cut across the appropriate processes for dealing with such matters.
9. After some consideration, I decided to seek the advice of HM Attorney General (as the Public Finances Law states that I am entitled to do). I met the Attorney General and provided him with a copy of the paper that DF had provided to me, and set out the position as it appeared to me. I said that I needed advice on the further action that I should take.
10. I heard nothing further from the Attorney General save that in response to a reminder from me some time later, I was told that the matter was receiving consideration.

Deputy Chief Executive

11. Some months after this initial conversation, I was concerned that time had passed and that as far as I was concerned, the matter had not been closed.
12. Accordingly I decided that I should discuss the matter with the Deputy Chief Executive who by this time had taken on the responsibility of Chief Executive, to establish that appropriate action had been taken to deal with risks to the States. Therefore, in a meeting on 20 June 2011 I raised the matter. At the end of the conversation, we agreed that I would send the Deputy Chief Executive an e-mail confirming my understanding of what he had said. This I did in the following e-mail dated 23 June 2011:

“Following our conversation earlier this week, this is to confirm my understanding of the position:

- *Earlier this year [the Interim Director of Finance] circulated a paper recording the outcome of his examination of events surrounding the proposal that a property at Lime Grove might be suitable for use by Jersey police.*
- *That paper concluded by making some extremely concerning suggestions concerning the way in which the States’ financial exposures had been handled in this connection.*
- *These suggestions have been investigated.*
- *The outcome of the investigations is that some misconduct has indeed been identified*
- *However that misconduct has been associated not with the most senior management in JPH but at the next level down.*
- *That identified misconduct is being managed in a number of ways:*
- *Firstly, the person identified as responsible is going through a disciplinary process.*
- *Secondly, management of the Lime Grove proposal was transferred away from the JPH team.*
- *Thirdly, AO responsibility was for other reasons transferred so that any risk of mismanagement was mitigated.*
- *Fourthly, JPH will be re-organised which will help to limit the risk of recurrence of the misconduct that was established.*
- *From the outcome of the investigation, it is clear that Hugh’s original work correctly identified that there had been some unsatisfactory conduct. However, the paper was mistaken in making a suggestion that the behaviour may have been worse.*

I would be grateful if you would confirm to me – as we agreed – that I have understood the position correctly.”

13. As he and I had agreed, the Deputy Chief Executive subsequently (also on 23 June 2011) sent me the following e-mail:

"I confirm that I investigated the issues identified in [. . .] report.

The first area of concern with the most senior person in JPH had no substance and whilst it might have constituted an error of judgment, I am satisfied that it did not have any material impact on the negotiations being carried out in connection with the purchase of Lime Grove.

The matters concerning the [. . .] are currently subject to a disciplinary investigation, all of which surround the way in which the transactions over Lime Grove were handled at the time.

As a result of my concerns with the business case as presented to me in October 2010, I excluded all members of JPH from further negotiation for Lime Grove and appointed a new project director with direct reporting to myself as AO.

I also confirm that I am in agreement with the other points you raised in your e-mail to me."

Public Accounts Committee

14. The Public Finances Law requires that I should liaise with the Public Accounts Committee on all aspects of the discharge of my responsibilities. However, it appeared to me that a description of all of the circumstances surrounding the conversation with DF would merely give further currency to allegations which I viewed with some concern. I decided that I should await advice from the Attorney General before discussing this matter in full with the Public Accounts Committee.
15. However, in the monthly summary of my activities which I customarily share with the Committee, I referred to the allegations in the following words:

<i>Title</i>	<i>Current state</i>	<i>Next stage</i>
Allegation of fraud	Legal advice sought on the nature of the allegation	Evaluate in the light of the advice

16. This reference first appeared in my February 2011 work summary and also appeared in all subsequent monthly summaries.
17. At the July meeting of the Committee (of which by then the former Assistant Treasury and Resources Minister had become a member), there was discussion of the

circumstances surrounding the Lime Grove transaction. In that discussion I explained my exchanges with DF.

Serious Concerns report

18. On 5 July 2011, I received by e-mail the following letter from a senior member of the JPH staff:

"I enclose a copy letter and its enclosures regarding a proposed disciplinary hearing in respect of an alleged lack of communication regarding the purchase of Lime Grove.

Originally it was intended, I understand, to try to make a case for Gross Misconduct which has clearly fallen away and now is apparently a matter of Minor Misconduct. There are a significant number of issues behind this matter which I would welcome the opportunity to discuss with you.

As you will see the enclosed report has very serious allegations and no action was taken at the time and I was assured that a redacted report was created as all allegations were unfounded. I believe I am being bullied[sic] and victimised for reasons unclear and am formally raising my concerns with you.

I look forward to hearing from you."

19. To this e-mail was attached a copy of the paper that I had been given in the initial meeting that I have described above..

20. As it is my normal practice to avoid involvement in matters which are subject to disputes with the States or disciplinary processes (for concern that I should in some way undermine those processes), I responded (also on 5 July 2011) in the following terms:

"Thankyou for your e-mail - please tell xxxx that I will consider carefully all the matters raised in the e-mail and the attachments."

21. The letter sent to me made clear that the States Human Resources Department (HR) were aware that I been brought into this matter. I subsequently (on 12 July 2011) made clear to HR the approach that I had adopted:

"When I received the original correspondence from xxxx I responded saying that I would consider all the points he made. I have not so far responded to his suggestion that he and I should meet - and even if I were to decide that there is something to gain from a meeting, would not allow that to happen before any disciplinary process has been concluded - I do not wish to cut across that process.

I would therefore be grateful if you could in due course let me know when the disciplinary process has reached a conclusion.”

22. I have been given to understand that this process has been concluded but there has not so far been an opportunity for HR to brief me on the outcome, as I requested.

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