

**Date: 13 July 2017**

**Item: Garden Bridge – TfL Response to the Hodge Review**

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**This paper will be considered in public**

**1 Summary**

- 1.1 This paper describes the background to TfL’s involvement in the project for a footbridge with garden features, a “Garden Bridge”, to be built across the Thames between the Southbank and Temple station (the Project).
- 1.2 On 19 October 2016, the Mayor of London appointed the Rt. Hon. Dame Margaret Hodge MP to undertake a review of the Project. That review produced a report which was published on 7 April 2017 (the Report) and contained a number of recommendations, including for TfL. A copy of the report is attached at Appendix 1.
- 1.3 This paper sets out TfL’s response to the recommendations addressed to it in the report. The paper was also considered by the Programmes and Investment Committee at its meeting on 28 June 2017 which supported the proposals.

**2 Recommendation**

- 2.1 **The Committee is asked to note the Review. The views of the Committee and the Programmes and Investment Committee will be considered by the Board when it agrees how TfL proposes to respond to the recommendations.**

**3 Background**

- 3.1 TfL first became involved in the Project in late 2012 when the previous Mayor expressed his desire for TfL to consider whether the construction of a bridge with an innovative and novel design would be feasible.
- 3.2 Since then TfL has carried out work on the project under a series of four Mayoral Directions, including securing planning permission on behalf of the Garden Bridge Trust in Westminster and Lambeth in late 2014, and have provided approximately £37m of funding to the Project, of which around £13.5m has been provided by the Government and the remainder has been provided by TfL. The Government has provided an additional underwriting of up to £9m, payable to the Garden Bridge Trust in the event of the project’s cancellation.
- 3.3 The four Mayoral Directions are summarised in Appendix 2.

- 3.4 In 2015, the Project was handed over to the Garden Bridge Trust, an independent charity established to deliver, operate and maintain the bridge.
- 3.5 In accordance with Mayoral Directions, TfL has been required to remain engaged with the project. TfL's involvement has been to provide funding, as required by the Mayoral Directions, and as a landowner on the North Bank (at Temple station).
- 3.6 The procurement processes and the involvement of the Mayor described above have been scrutinised by the Greater London Authority's Oversight Committee.
- 3.7 TfL's Internal Audit department also carried out a review of two preliminary procurements conducted by TfL. At the request of TfL's Audit and Assurance Committee, a further review was undertaken by EY, TfL's External Auditors; the findings of that review have also been published.
- 3.8 The first of those preliminary procurements was for a design adviser and lasted for a four month period from March 2013 with a capped fee of £60,000; Thomas Heatherwick Studio was appointed. The second procurement was for the development of a technical design to enable a planning application to be submitted; Arup was appointed in July 2013 with the intention that the appointment would be transferred to the Garden Bridge Trust shortly afterwards. That transfer took place later than planned in April 2015 by which time costs of c.£8.4m had been incurred. The sums paid by TfL under these appointments were deducted from the public funding described in paragraph 3.2 above.
- 3.9 In common with the standard practice under the previous Mayor, the Mayoral Directions referred to above were reported to the Board as part of the Commissioner's Report. A specific paper was presented to the Finance and Policy Committee on 18 July 2013. The EY audit report was presented to the Audit and Assurance Committee on 11 October 2016.
- 3.10 The National Audit Office has investigated the Department for Transport's funding contribution to the Project and the Charity Commission has reviewed the governance of the Garden Bridge Trust. The findings of these reviews affected the Department for Transport and the Garden Bridge Trust respectively, rather than TfL.
- 3.11 The response of the Garden Bridge Trust to the Report is attached as Appendix 3.
- 3.12 TfL has, since autumn 2015, published key information on the Project on its website at: <https://tfl.gov.uk/corporate/publications-and-reports/temple-footbridge>, including project, procurement and planning documentation, correspondence with the GLA's Oversight Committee and correspondence contributing to the Report, together with the various Mayoral Directions on the Project. TfL has also responded to some 46 requests for information under the Freedom of Information Act 2000.

## 4 Actions to Date

4.1 As noted above, there has been a high level of scrutiny of the Project and TfL's involvement before the Report. In particular, TfL's Internal Audit team made a number of recommendations, all of which have already been addressed.

4.2 Those recommendations were that:

- (a) individuals involved in the management and delivery of procurement activities are responsible for ensuring they are fully aware of the requirements placed on them and TfL by guidance and statute to ensure best practice is followed. Planning staff involved in procurement activities should make themselves aware of these requirements;
- (b) at the start of any procurement, and commensurate to the size and level of risk, TfL Commercial should brief all staff involved in the process giving clear instructions relating to:
  - (i) the process that will be followed;
  - (ii) roles and responsibilities;
  - (iii) the documentation they will be expected to produce and provide to TfL Commercial; and
  - (iv) escalation procedures for reporting non-compliance.

This briefing will emphasise the rules of engagement with bidders and the need for segregation of duties during the evaluation of bids;

- (c) TfL Commercial should develop a training package on TfL's procurement processes for use with staff who are not familiar with them, and for staff who are new to TfL. The purpose of this training material should be to raise awareness of the guidance available, the policy and procedure that must be followed and the potential ramifications of non-compliance;
- (d) TfL Commercial should be robust in ensuring that issues in relation to the procurement process are highlighted on a timely basis and escalated as appropriate to ensure action is taken to mitigate any breaches of policy or procedure; and
- (e) TfL Commercial should identify the reason(s) that led to the error in the analysis of Arup's commercial submission error and whether improved controls need to be put in place.

4.3 All those recommendations have been actioned as follows:

- (a) TfL Commercial led a piece of work to identify the methods of tender evaluation across TfL and Crossrail and to use best practice to develop a consistent approach to bid evaluation. This approach has been rolled out and been mandatory from October 2015;

- (b) TfL's Commercial team has reviewed our internal training provision to ensure it is up to date, and prepared tailored briefing packs which have been shared with other parts of the business;
- (c) all our Commercial staff have undergone training on the Public Contracts Regulations 2015 and Utilities Contracts Regulations 2016;
- (d) new training has been developed and rolled out for TfL Commercial staff, focusing on how to design tender evaluations and inform bidders of the outcome;
- (e) all our Planning staff who manage procurements have completed our updated internal training module on procurement processes;
- (f) communications have also gone out to all our staff to explain the information resources available to allow them to stay up to date on the requirements they must follow when carrying out procurement;
- (g) we have updated and shared across the business a collection of guidance documents and briefing packs that explain how procurement should be carried out;
- (h) Commercial Directors (whose roles are now encompassed in the Chief Procurement Officer role) have also issued communications to their departments encouraging staff to escalate any issues where they believe policy or their advice is not being followed;
- (i) a single TfL Commercial team has been established, which will improve the quality and coordination of our commercial services within the organisation; and
- (j) we have reviewed our assurance processes for procurement activity, and we have now introduced the use of a specialist software (called AWARD) to improve these processes and reduce risk and error.

These training and information resources will be provided to new staff as appropriate.

4.4 As reported to the Audit and Assurance Committee on 11 October 2016, the recommendations made by EY together with TfL's response are summarised as follows:

- (a) *Reminders to the Internal Audit Team of a number of points relating to the documentation of audit findings within the audit file.* Internal Audit acknowledges the importance of an appropriate level of documentation of findings, and this is already incorporated into its methodologies. Internal Audit staff will be reminded of the specific points raised by EY.
- (b) *Additional management action to enhance the monitoring of procurements to ensure compliance with policy and procedures, particularly on high profile procurements.* TfL is currently undertaking a review of its commercial

processes and this recommendation will be implemented as part of that review.

- (c) *Reminders to audit managers regarding review of audit working papers prior to issue of the draft report.* Internal Audit's methodologies already require managers to carry out sufficient review of audit working papers to satisfy themselves that the audit has been properly conducted and appropriate conclusions drawn. Audit managers will be reminded of the specific points noted by EY.
- (d) *Suggested enhancements to audit terms of reference/engagement letters.* The points mentioned by EY are included in engagement letters as appropriate to the particular circumstances of each review.

## 5 Hodge Review Recommendations and TfL Response

- 5.1 The report makes the following recommendations in relation to TfL and the GLA, beneath each of which is TfL's proposed response:
- 5.2 Greater transparency should be introduced for procurement processes and more effective checks and balances need to be in place to ensure that public money is properly and well spent. The TfL Board and its committees should receive proper, full and prompt reports setting out information on projects and the performance of contracts in a regular item on their agendas. The Board should have authority to intervene where appropriate and ensure information on performance against contracts is publicly available. While respecting necessary commercial confidentiality, this should not become an excuse for failure to report fully on contracts.

**TfL response:** Since his appointment, the Mayor has implemented significant changes to the structure and role of TfL's Board, Committees and Panels, which were considered and approved by the Board at its meetings on 19 July and 22 September 2016. In particular, these changes included separating the workload of the former Finance and Policy Committee between two new committees to enable the Board and its committees to review delivery and consider priorities more effectively within the overall financial and strategic context.

The reporting and oversight of TfL's Investment Programme is also being enhanced with better reporting of TfL's performance on a programme basis, rather than focussing on individual, high value investment projects. The Programmes and Investment Committee, under authority from the Board, scrutinises each programme in detail annually, with each meeting considering the performance of and proposals for five programmes, as well as considering updates at each meeting on all other programmes within TfL's Investment Programme.

Where there are smaller matters outside the Investment Programme or TfL's commercial development activities, they fall to be approved at officer level in accordance with TfL's Standing Orders, noting that there is always scope for the Board and relevant Committees to be involved in the approval of any matter if they wish to be.

Where the Committee wishes to consider any programme or part of a programme in more detail, it can do so; this includes the scope to consider particular aspects of any procurement as well as the performance of contracts and so provides the necessary checks and balances. Committee involvement is not confined to receiving reports at the programmed meetings and can include briefings and other engagement that will be recorded within the relevant update reports to the Committee which are published.

Mayoral Directions fall into three broad categories: first, those addressing technical issues with TfL's statutory powers; second, those related to TfL's commercial development activities; and third, those related to TfL's projects and programmes, including the Investment Programme.

Proposed Mayoral Decisions (including Mayoral Directions) are subject to scrutiny within the GLA by its Corporate Investment Board before being considered by the Mayor. It is proposed that the papers for Mayoral Directions should make clear the financial and other implications for TfL, as well as for the GLA and, if those implications for TfL change over time, that will be reported to the GLA.

The Mayor has been clear that the Board should have the opportunity for a meaningful discussion of all Mayoral Directions to TfL. It is proposed that all Mayoral Directions to TfL should be brought to the Board for discussion as soon as possible after they are received by TfL. This will mean that, if a similar situation should arise in future, the Board will be involved earlier, rather than retrospectively.

It is proposed that Mayoral Directions falling into the first and second categories above should, for so long as they are applicable, be reported against at each meeting of the Finance Committee and Mayoral Directions falling into the third category should, for so long as they are applicable, be reported against at each meeting of the Programmes and Investment Committee. A list of all relevant Mayoral Directions will be maintained on the TfL website with links to the relevant Mayoral Decisions. The list of current Mayoral Directions will also be considered annually by the Audit and Assurance Committee as part of its consideration of the annual audit plan to ensure that appropriate audit resource is being applied to assurance on TfL's work in implementing Mayoral Directions. This will also be kept under review at each quarterly meeting of the Committee.

- 5.3 The delegations to the Commissioner at TfL should be reviewed. At present the Commissioner is not appropriately and publicly accountable for the public money spent.

**TfL response:** All decisions by the Commissioner to exercise authority delegated to him by the Board are recorded, with their rationale and are reported to the Programmes and Investment Committee (and previously to the Finance and Policy Committee) along with similar decisions made by the Chief Finance Officer at his level of authority.

In addition, since the activities on which the Report is based took place, there have been changes to the Board and Committee structure as described above which will reduce materially the number of expenditure decisions required of the Commissioner.

The scheme of delegations in TfL's Standing Orders and associated transparency will also be reviewed further as part of the 2017 TfL Board Effectiveness Review.

We will also enhance processes for content and circulation of papers to the Commissioner and Chief Finance Officer requesting authorities to ensure that appropriate representatives of all relevant disciplines with TfL are involved.

- 5.4 Decisions about projects taken by senior staff working at TfL should be properly recorded and documented within clearly defined formal decision making processes.

**TfL response:** Please see TfL's proposed response at paragraph 5.2 above and the actions already undertaken as described at paragraph 4.3 above. In particular, it is now required practice that the evaluation of bids is conducted using specialist software which records decisions and facilitates transparency. It is also now required practice that the evaluation of bids is conducted by more than one person. Our new approach to approval and scrutiny of programmes by the Programmes and Investment Committee means that key decisions will be considered by programme boards and, where appropriate be scrutinised by the Programmes and Investment Committee.

- 5.5 TfL's supervisory role and its remit to approve financial decisions should be strengthened so that it is better able to discharge an expanded stewardship role and to guide strategic direction. In this case, the first time a paper was presented to the TfL Board was in July 2013, although this was a novel project involving large sums of money. Sir Peter Hendy, the then Commissioner, was clear that he believed authority lay with the Mayor, not the TfL Board. The review of the TfL's Board powers and functions should aim to ensure that the Board can fulfil its role as a check and balance to the power of the Mayor and the Commissioner.

**TfL response:** Please see the comments at paragraphs 5.2 and 5.3 above. In particular, the changes to the structure and role of TfL's Board, Committees and Panels that have been introduced by the Mayor have a particular focus on investment decisions with the Programmes and Investment Committee dedicated to that purpose. As well as addressing TfL's Business Plan and Budget as a whole, the new approach to approvals and reporting on TfL's performance gives the Committee a broad overview across the Investment Programme, rather than pinpointing only specific high value decisions, and enables detailed scrutiny wherever the Committee considers appropriate. The new structure also reduces the number of expenditure decisions required of the Commissioner. Where such decisions are taken they will continue to be reported to the Programmes and Investment Committee.

- 5.6 Where decisions are taken by the Mayor, or significant advice provided, in informal meetings these should be properly minuted so that there is a record of those decisions.

**TfL response:** TfL agrees with this recommendation and will support the GLA's processes for minuting Mayoral meetings as appropriate.

- 5.7 The Commercial, Legal and Internal Audit teams within TfL all share an obligation to guarantee that procedures and protocols are consistently followed. In this case

advice was not always followed and Internal Audit appeared to be under undue pressure in its final report on the procurement process. The authority and accountability of these three parts of the organisation should be reviewed to make certain that their advice is independent and that their accountability reinforces that independence. Where advice is overruled there should be transparent reporting protocols in place so that there is a proper explanation and account of any decision to overrule or ignore advice.

**TfL response:** TfL will, by the end of October, review the procedures in place to ensure that Commercial, Legal and Internal Audit advice is appropriately considered and followed. In particular, TfL will document the process to be followed in the event that relevant advice from those functions is not being appropriately considered.

It is also proposed that, by the end of October, TfL's processes for handling audit reports be updated to address the review of draft reports and to document the process for such reviews.

- 5.8 The Mayor should conduct a review of employment conditions and the potential for revolving doors among senior staff and the Mayor's own political appointees. He should consider appropriate changes so that there can be no hint of a conflict of interest when contracts are let by TfL or the Greater London Authority whilst recognising the legal requirement to not impose restraints on trade.

**TfL response:** TfL will support the Mayor in any review in response to this recommendation. TfL's Code of Conduct (the Code), which applies to all Board Members and Advisers, employees of TfL and its subsidiary companies and employees of agencies and consultancies contracted to carry out work for TfL, fully embraces the principles laid out in the Nolan Report on standards of behaviour in public life.

In particular, when carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, all those bound by the Code are required to make choices on merit. They are also required to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest. Any conflict must be notified in writing to TfL and updated as appropriate. Those bound by the Code must not place themselves under any financial or other obligation to outside individuals or organisations that might influence them in the performance of their official duties.

In addition to participating in any review undertaken by the GLA, TfL will provide guidance on the handling of potential conflicts of interest in contractual notice periods and will also review the standard contracts for senior staff to consider whether further safeguards should be introduced.



**List of appendices to this report:**

Appendix 1 - Report of the Rt. Hon. Dame Margaret Hodge MP into the Garden Bridge  
Appendix 2 - Summary of Mayoral Directions  
Appendix 3 - Response of the Garden Bridge Trust to the Report

**List of Background Papers:**

Paper to Finance and Policy Committee 18 July 2013  
Paper to Audit and Assurance Committee 11 October 2016  
Paper to the Programmes and Investment Committee 28 June 2017

NAO report: <https://www.nao.org.uk/report/investigation-the-department-for-transport-funding-of-the-garden-bridge/>

Charity Commission report: <https://www.gov.uk/government/news/charity-commission-publishes-report-on-garden-bridge-trust>

Papers to Board: <https://tfl.gov.uk/cdn/static/cms/documents/board-20160719-item16-decision-making-structure.pdf>

<https://tfl.gov.uk/cdn/static/cms/documents/board-20160922-item09-standing-orders.pdf>

Contact Officer: Howard Carter, General Counsel  
Number: 020 3054 7832  
Email: [howardcarter@tfl.gov.uk](mailto:howardcarter@tfl.gov.uk)

## The Garden Bridge

### Executive Summary

1. On 19 October, the Mayor of London, Sadiq Khan formally appointed me to undertake a review of the Garden Bridge project. This review does not seek to assess whether building a Garden Bridge over the River Thames is a good idea; that is a matter for the Mayor, and I made clear at the start of this review process that I had no view. I have studied the papers to which I have been given access and have held meetings with relevant stakeholders and others who have asked to see me.
2. My conclusions on value for money, escalating costs and conduct and procedures are set out in this summary:

#### Value for money

3. Decisions on the Garden Bridge were driven by electoral cycles rather than value for money. From its inception when there was confusion as to its purpose, through a weak business case that was constructed after contracts had been let and money had been spent, little regard has been had to value for money.
4. The original ambition to fund the Garden Bridge solely through private finance has been abandoned. Furthermore the goalposts have moved several times and each time the risks to the taxpayer have intensified. Looking to the future, the costs of construction have escalated and are likely to increase further. What started life as a project costing an estimated £60 million is likely to end up costing over £200 million. At the same time the Garden Bridge Trust has lost two major donors and has only secured £69 million in private funding pledges, leaving a gap of at least £70 million that needs to be raised for the capital investment. No new pledges have been obtained since August 2016.
5. There are continuing risks and uncertainties associated with the capital costs which I set out in detail in this review which can only lead to further increases in the capital costs. In my judgment the Mayor should not sign any guarantees until it is confirmed that the private capital money to build the bridge has been secured by the Garden Bridge Trust.
6. At the same time I am sceptical that the Garden Bridge Trust will succeed in raising all the private capital monies required and I am firmly of the view that more public money will be needed to complete the construction. The Trust's finances are in a precarious state as is clear from their recent Report and Accounts in which the Trust stated it was extremely difficult to conclude a going concern assessment. Furthermore the project has become very controversial with the public. If the Garden Bridge is not treasured by the public in the same way that it is

by its creators, then the business model, based on raising private finance is far less likely to succeed. Philanthropists will be cautious about associating themselves with the project. Finally I do not believe the Trust will secure the philanthropic support it needs to fund the ongoing management and maintenance of the Garden Bridge.

### Escalating Costs

7. The project has already used £37.4 million of public money and the agreement to underwrite cancellation costs by the Government could bring the bill to the taxpayer up to £46.4 million. I believe it is better for the taxpayer to accept the loss than to risk the additional demands if the project proceeds. In the present climate, with continuing pressures on public spending, it is difficult to justify further public investment in the Garden Bridge.

### Conduct and procedure of Transport for London and the Greater London Authority

8. The procurements subject to this review comprised one contract that was awarded to Heatherwick Studio for design and consulting services and one contract that was awarded to Arup for engineering and project management services. These were not open, fair or competitive procurements and my review revealed systemic failures and ineffective control systems at many levels.
9. On the basis of my findings I recommend that greater transparency is introduced for procurement processes and more effective checks and balances are put in place to ensure that public money is properly and well spent. This transparency should start at the top and run all the way through the organisation. My recommendations include improved powers to the TfL Board and its committees so that they can intervene where appropriate. The delegations to the Commissioner at TfL should be reviewed. At present the Commissioner is not appropriately and publicly accountable for the public money spent. All decisions about projects taken by the Mayor in informal meetings as well as those taken by senior staff working at TfL should be properly recorded and documented.
10. The Commercial, Legal and Internal Audit teams within TfL all share an obligation to guarantee that procedures and protocols are consistently followed. The authority and accountability of these three parts of the organisation should be reviewed to make certain that their advice is independent and that their accountability reinforces that independence.
11. Finally the Mayor should conduct a review of employment conditions so that there can be no hint of a conflict of interest when contracts are let by TfL or the Greater London Authority.
12. My full findings and rationale for reaching these conclusions are set out in detail in the review which follows.

## Introduction

13. On 19 October, the Mayor of London, Sadiq Khan formally appointed me to undertake a review of the Garden Bridge project. This review does not seek to assess whether building a Garden Bridge over the River Thames is a good idea; that is a matter for the Mayor, and I made clear at the start of this review process that I had no view.
14. The terms of reference are as follows:
  - To assess the public sector contribution to the Garden Bridge project and whether value for money has been achieved;
  - To investigate the conduct of Transport for London (TfL), the Greater London Authority (GLA) and other relevant authorities in regard to the Garden Bridge project from first proposal to date;
  - To achieve this through assessing the findings of previous reviews, interviewing current and former GLA and TfL staff and other stakeholders and investigating more deeply as required;
  - To set out any lessons that should be learnt in order to improve the conduct of potential and approved projects in the future;
  - To produce a report for the Mayor of London, which will be published in full.
15. I have conducted this review on my own, with the part-time support of a GLA official. I have studied the papers to which I have been given access. I have held meetings with relevant stakeholders and others who have asked to see me. I am grateful to all those who contributed to this review and freely gave of their time to strengthen my understanding of the project in order to deliver this review. I list the people and organisations to whom I talked (Appendix 1) and those who wrote to me with their view (Appendix 2) and a timeline of events (Appendix 3).
16. I deeply regret that Boris Johnson, the London Mayor ultimately responsible for all the decisions and actions taken on the Garden Bridge refused to co-operate with this review, either in person or in writing and despite several requests. In the absence of any input from the former mayor, inevitably my judgments of his actions are based on the papers I have seen and the evidence given to me by those others that were involved and co-operated with this review.
17. During this review I have reviewed the papers that have been made available to me by TfL, the GLA and organisations and individuals involved. I have aimed throughout to add value

rather than simply repeat the findings of previous reviews into aspects of the Garden Bridge project. My observations, judgments and conclusions are entirely my own, based mainly on the papers made available to me.

## Concept

18. One of the most important responsibilities that the Mayor of London enjoys is to take action to continually enhance London and make it a better and more attractive place for people to live in, work in and visit. Renewing the infrastructure through innovative “grands oeuvres” is vital to ensuring that London maintains its leading edge as one of the most appealing capital cities in the world.
19. The ambition to create a Garden Bridge is a perfectly legitimate way that any mayor might choose to improve London’s offer for its citizens and visitors.
20. However if taxpayers’ money is used to deliver that ambition the mayor must also ensure that proper procedures are followed and that value for money is secured. In order for this to happen, there must be a strong clarity of purpose as to what the project is about and what it is intended to achieve. Informed judgments on affordability must be made and the level of risk needs to be openly assessed and acknowledged. The project itself must be properly specified, appropriate governance arrangements need to be put in place, data must be transparent to all parties involved, especially if changes are made. The whole process needs to be open and robust with clear project management systems in place.

## Confusion of purpose

21. It is my view that there was no agreement among those to whom I talked about the purpose of the Garden Bridge. The absence of clarity created confusion which undermined value for the taxpayers’ money. The following are a few examples of the myriad of views about the purpose of the Bridge:
  - Official papers submitted to the Finance and Policy Committee at TfL, and incorporated into the Mayor’s decisions after early design and engineering contracts had already been let, talked of “an iconic new pedestrian garden bridge across the River Thames, linking Temple Underground station to the South Bank, with construction and maintenance funded by third parties.” The stated objectives in that paper were to create new walking links, a new amenity space, a visitor attraction and economic benefits for both the North and South of the River at this location.
  - Isabel Dedring, the then Deputy Mayor for Transport (who had day-to-day responsibility for the Garden Bridge on behalf of the Mayor) told me: it “serves two functions. It serves a movement function and it also has something else that’s unique about it which was going to be something about a living bridge of some description.”
  - Sir Edward Lister, who was a Deputy Mayor and Chief of Staff at the GLA under Boris Johnson said: “We were thinking about bridges, but the Garden Bridge came really

not as a – it didn't start its life as a means of transport. It really came in more as a cultural idea" and he told me that they had decided to use the South Bank crossing rather than the Vauxhall location "because that really is a tourist location."

- The designer Thomas Heatherwick talked of the 'multiple dimensions' and said he had spoken to the cultural team at the GLA about his idea at an early stage.
- Justine Simons, then in the culture team and now Deputy Mayor for Culture wrote to me: "As you are aware this is a transport initiative and my area of responsibility is culture, so I have not been directly involved in the Garden Bridge".
- Lord Paul Deighton speaking on behalf of the Government in the House of Lords on 9th January 2014 on the other hand told the House: "It will be a garden and a bridge and will combine benefits of both."
- Joanna Lumley, who was one of the people responsible for raising the idea of a Garden Bridge, firmly told people on Vanessa Feltz's BBC Radio London programme in September 2016 that the Garden Bridge was "a facility for Londoners." Indeed she claimed responsibility for influencing the decision not to allow cycling on the bridge telling me "how can you walk peacefully with little babies, with cyclists doing this."
- Boris Johnson himself reflected the confusion of purpose when he was asked about it by The New Civil Engineer, in January 2014. They reported he "wasn't really sure what it was for", other than making a "wonderful environment for a crafty cigarette or a romantic assignation."

22. This absence of clarity of purpose inevitably influenced the implementation, from the business case to the funding, to the ability to raise private finance and finally to the procurement processes and decisions. The only thing that was clear to me from the evidence provided was that building the Garden Bridge was a top and urgent priority for the then Mayor and as a result this impacted on the actions and the behaviour of those around him.

### Business Case

23. The strategic outline business case was produced in May 2014. By this time the following had already been completed:

- Heatherwick Studio had secured a contract from TfL for Bridge Design Consultancy services;
- Arup had secured a contract from TfL for engineering and project management services;

- the Mayor had issued a Mayoral Direction to TfL instructing them to undertake activities to develop and help enable a proposed footbridge;
- The Mayor and the Chancellor had announced a £60 million package of public funding; and finally
- The Garden Bridge Trust had been established.

24. A timely and robust business case is essential for any project and vital if taxpayers' money is at risk. The business case for the Garden Bridge was in my view completed too late, given contracts had already been awarded, and was unconvincing. It therefore did not help to ensure that the project represented value for money.

25. However, it was a condition of central Government's £30 million share of the funding that a satisfactory business case was produced, demonstrating the project provided value for money. On 14 January 2014, the Chief Secretary to the Treasury confirmed in his 2013 autumn settlement letter to the Secretary of State for Transport that the government would fund £30 million for the Bridge. This was on the basis that:

- the Mayor of London would match this funding from Transport for London (TfL) resources;
- a satisfactory business case would be produced, demonstrating that the project provided value for money;
- TfL would fund the Bridge's ongoing maintenance; and
- the Mayor would cover cost overruns or shortfalls in funding.

26. Looking at the evidence provided to me, the business case was constructed after contracts had already been awarded. In my view, this is an unsatisfactory way of implementing a major infrastructure project involving public money. I agree with the assessments carried out by both the Department for Transport and the Treasury that the business case itself is a questionable and weak justification for public investment. Ultimately that arises from the confusion of purpose. If the Mayor, his advisers and the officials at TfL and the GLA had simply argued that this was a cultural investment, the value for money justification might have been different and more credible.

27. Richard de Cani then the key official at TfL who was responsible for progressing the project, told me that "the business case was one of the most thorough business cases that we've done for an infrastructure project....the business case for it is quite robust." He also noted that the business case was "done by consultants". Isabel Dedring, as the Mayor's representative for



the Garden Bridge, disclaimed any responsibility for the business case and said she only saw a summary table and thought responsibility lay with officials at TfL.

28. In my view the claimed benefits of the projects are not grounded in any evidence. I am not alone in questioning the strength of the business case. The National Audit Office investigated the Department for Transport's funding of the Garden Bridge. It reported that DfT had concluded, on reviewing the business case in July 2014, that:
- there was a significant risk that the Bridge could represent poor value for money;
  - the monetised transport benefits arising from faster journey times were minimal;
  - the Bridge was not predominantly a transport scheme; and
  - wider benefits, such as those associated with tourism, were highly uncertain.
29. Had the Government at that point in 2014 challenged the business case more rigorously, less public money might have been spent until the benefits and risks had been more thoroughly examined.
30. Most recently my view about the weak business case was supported by the Treasury, which reviewed the business case for the Public Accounts Committee and concluded that "the potential of the scheme to deliver reasonable value for money is highly sensitive to a number of key assumptions, in particular regarding the property values and business impacts. We also found that several of the assumptions could have been more strongly supported by evidence, in particular the tourism and construction export benefits, while we have identified some risk of double counting in the assessment of property and business impacts, and tourism."
31. According to the Treasury assessment of the business case, the transport benefits in the business case are – even if valid in their calculation - marginal, with savings in journey times amounting to less than 1% of the total benefits. Improvements in health from walking amount to around 4% of the quantified benefits.
32. There is scant assessment in the business case of whether alternatives, like improving the pedestrian experience on Waterloo Bridge or constructing the Garden Bridge in another location, where there is a greater need for pedestrian links, would provide better value for money.
33. The Treasury assessment points out the "business and property impacts assessment is a critical element of the business case." But it also says "little or no supporting evidence is provided in the business case" for the quoted 5% uplift in property values. Similarly the 30% figure quoted for an increase in revenues in new retail units on the North Bank "is not supported by evidence and should be treated with caution." There is in my view insufficient

supporting evidence for these optimistic assertions. The Treasury also claim that there is no proper assessment of whether the anticipated benefits would displace economic activity elsewhere and there is a risk of double counting in the methodology. The Treasury also rightly finds that the financial assessment of the project – based on most of the funding being raised through private donations – has not been rigorously measured and the risks have not been openly evaluated.

34. It is implicit in the materials I reviewed that time was a critical factor driving the process. The Business Case was produced when the Mayor was half-way through his second term of office and it was the pressure of time arising from the political cycle that appears to have trumped the need for a robust business justification of the value of the Garden Bridge and a thorough assessment of the risks. As Treasury observes in their report to the Public Accounts Committee, the government's financial exposure to the project has increased since the business case was first approved and "this suggests the overall case for the project is weaker today than it was in 2014."

#### The first procurement: tender for design consultancy services awarded to Heatherwick Studio

35. The inspiration for a Garden Bridge came from both Thomas Heatherwick and Joanna Lumley. Joanna Lumley had campaigned for some time for a Garden Bridge and wrote to Boris Johnson after he was re-elected for a second term and proposed that he should consider a Garden Bridge.
36. The Mayor bought into the concept and there were a series of meetings between Thomas Heatherwick, Joanna Lumley, the Mayor and his advisers at City Hall and officials from TfL. These meetings took place at City Hall, at Heatherwick Studio and elsewhere.
37. The importance of these early discussions is their impact on the awarding of two contracts to take forward the design services for the Garden Bridge. The contracts were funded by the taxpayer and were awarded to Heatherwick Studio in March 2013 and to Arup – to whom Heatherwick Studio was sub-contracted – in July 2013. Thomas Heatherwick told me his practice had earned £2,601,438 from the two contracts by the end of November 2016 and expected to earn £2,736,338.
38. In examining the evidence available to me on the awarding of these contracts I explored whether the procurements were fair and transparent, with an absolute level playing field between all of those asked to tender. We know that this issue was discussed at the Mayor's regular meetings but my review has been severely inhibited by the failure to keep proper documented records of all discussions and decisions taken at these meetings. This is completely unacceptable when decisions around spending public money are being made.

39. Boris Johnson held regular meetings with his key political appointees and senior staff at TfL. I have been unable to trace proper minutes of these meetings and the former Mayor has refused to engage with the review. The Garden Bridge appears to have been frequently discussed at these meetings, often based on verbal reports from officials and others. In the absence of written or verbal evidence I have been left with the distinct sense that discussions and decisions taken at these weekly meetings influenced and ultimately biased the procurement process.
40. For example, there was a key briefing paper for the Mayor that went through a number of iterations and that set out options for the procurement of the Garden Bridge. Isabel Deding told me that she had no recollection of taking part in any discussion of this document. She could not recall being involved in the discussion on the options in the paper that then determined the procurement process chosen and enabled Heatherwick Studio to compete. When I asked her about the key briefing document that was used to determine the procurement process she said “I just genuinely don’t remember any of that”. And went on to add “I’ve never procured anything. I don’t know what you do.”
41. I do accept that she may have forgotten some of the details of her involvement in something that happened four years ago. However, from the trail of emails I have seen her involvement was extensive. For instance:
- On the 9th January 2013, one of Sir Peter Hendy’s staff, wrote to colleagues: “Isabel is going to let them [Heatherwick Studio] know that there will be a proposed way forward [a procurement process] that might be shared with them early next week.”
  - On the 21st January 2013 Isabel Deding wrote about the procurement to Michèle Dix (then Managing Director of Planning at TfL): “Why don’t we discuss it at our 121 and then you can come back to [one of Heatherwick Studio’s employees] this afternoon.”
  - Sir Edward Lister told me that “the decision to go through that procurement route would have emerged from there” (the regular meeting with the Mayor.)
42. Before dealing with further details of these contracts, the procedures followed and the events surrounding the procurement, I need to set out overarching concerns that were evident throughout the review. Key stakeholders refused to accept responsibility and laid the blame on others. This made my job much more difficult as I had to come to a view as to where the truth lay and where accountability for what happened should rest. I set out below some of the conflicting accounts following my conversations with key individuals:
- Isabel Deding stated in her interview with me: “Peter [Sir Peter Hendy, the then Commissioner of Transport for London] runs the organisation. It’s his structure and

he's ultimately accountable for what happens within TfL for the stuff that's day to day operations of TfL." "I was not involved in any of the actual procurement of the bridge design or bridge conversations or all that stuff." "Then you've got TfL going 'but it's not your business to run procurement. They would not show us documents that go out, requests for proposals, all that stuff would never get run past City Hall."

- In other interviews I conducted there was blame shifting, one official told me "Isabel was on our backs every day...I can tell you that the pressure on a daily basis was absolute....I don't suppose there was one when we weren't being heavily pressed to get on with it."
- Another official commented that: "Isabel was the main driver on the Mayor's side, on behalf of the Mayor in terms of next steps on the project.....Isabel might phone us up and she would invariably phone Richard [de Cani] up."
- Sir Edward Lister said: "The obvious person was Heatherwick. He was the strongest possible contender for this." When I asked him whether TfL was instructed by the Mayor to award the contract to Heatherwick he replied: "No I don't think he ever said it in so many words but it was pretty clear there was Heatherwick Studios with a beautiful design on the table."

43. Heatherwick Studio was closely involved with City Hall and TfL well before the practice tendered for the work. Heatherwick carried out pro bono work developing the Garden Bridge concept and brought in both Arup and Mace to do more detailed engineering work and costings. The studio built a model of the bridge and was engaged in design work well before the invitation to tender for design services was issued. It was Thomas Heatherwick's idea and he was clearly enthusiastic about making progress. It was open to the Mayor and TfL to work with Heatherwick Studio without a competitive procurement process but they chose not to do so.
44. Having decided to pursue a competitive public procurement both politicians and officials needed to proceed in a fair and open way so that all parties tendering for the project were on a level playing field. I found it difficult to find evidence that demonstrated that this was the case.
45. Even before a formal decision had been taken to proceed with a competitive tender there were a significant number of meetings between Heatherwick Studio and the Mayor as well as his political appointees and TfL officials where the proposed Garden Bridge was discussed and progressed.

46. Thomas Heatherwick joined Boris Johnson, Sir Edward Lister and Isabel Dedring at a meeting seeking private funding that took place with Apple in San Francisco in February 2013. The Mayor did not openly disclose this visit at the time and it took place before the invitation to tender had been issued and before it was publicly known that the proposed pedestrian crossing would be a Garden Bridge.
47. The purpose of the visit was to lobby for money from Apple to fund the construction of the Garden Bridge. Isabel Dedring was clear that “My presence was because of the bridge element, exactly.” Sir Edward Lister said that Heatherwick was brought into the meeting with Apple “to help make the sale” and that Thomas Heatherwick’s presence gave the sales pitch “credibility.” And Thomas Heatherwick himself said that Boris Johnson “did suggest to get money from Apple.” Although it was before procurement had commenced.
48. TfL officials drafted a briefing note that outlined options for the procurement process in January 2013. This briefing went through a number of iterations with changes being made through TfL, namely:
- The original draft of the briefing paper made explicit reference to the proposal being championed by Heatherwick and Lumley and included design details: “The designer Thomas Heatherwick, supported by the actress Joanna Lumley, has proposed a new footbridge in central London connecting Temple with the South Bank. The bridge would be highly sculptural with columns in the River Thames supporting the structure. The Mayor is extremely supportive of the need for additional footbridges across the Thames and **is keen for TfL to support this proposal.**” [bold mine] In later versions this was taken out and amended to “A new footbridge has been proposed in central London connecting Temple with the South Bank.”
  - Similarly the early versions of the briefing note when discussing the funding strategy for the project says: “In any sponsorship process, the combination of the Mayor, Joanna Lumley and Thomas Heatherwick would be instrumental in attracting the right kind of interest.” There is no reference to this in the final version.
  - Early versions state: “Expenditure by TfL will be caught by public procurement regulation so the continued involvement of those involved in the development of the concept is likely to need to be subject to competition.” This may well be the reason why those involved decided to proceed with a formal procurement.
  - There is written advice from officials about ensuring the integrity of the procurement process. The briefing paper says: “TfL would have to ensure that the procurement of the design team was robust and could withstand scrutiny and challenge. It would be very important not to make premature announcements around particular designs or

proposals ahead of the procurement process being completed.” This point was reinforced by Sir Peter Hendy when he wrote to Isabel Dedring on 1<sup>st</sup> February 2013 warning: “It’s really important that from now onwards this project is a bridge idea for which we are about to run a design competition for which Heatherwick are one of a number of bidders please.”

- The Mayor was also advised to exercise caution. The January 2013 briefing note stated: “The bridge would be considered a major development. It will be important that the Mayor therefore avoids expressing an opinion on this particular structure.” The fact that the Mayor and Thomas Heatherwick met with Apple in San Francisco in February 2013 leads me to believe that he did not follow this advice.

49. As outlined in the points above, the evidence leads me to believe that the procurement options were intentionally developed to enable Heatherwick Studio to qualify. Indeed the first draft of the January 2013 briefing document refers to the impact of the different options on Heatherwick Studio. The first option would enable “TfL to provide specialist support to the Heatherwick team.” The second option would enable “TfL to be responsible for promoting the project, as it did with the Air Line, but working with the Heatherwick design.” Later drafts discuss the use of existing frameworks that TfL have in place for engineering design consultants and observe that “At present, Heatherwick Studio is not on any of the existing TfL procurement frameworks although they are a registered TfL provider.” A scenario is suggested that would involve Heatherwick “**continuing** [my bold] to lead the project and TfL providing support as necessary....This approach would be quicker than TfL led options as there would be no requirement to comply with public procurement rules but it would mean that Heatherwick would be responsible for funding the ongoing work of the design team; negotiating land and rights for the bridge and funding the construction work. Following some informal discussion with Arup, it appears that there has been an element of engineering design already undertaken by the team working with Heatherwick which includes Arup and Mace. We understand that this work has been undertaken on a pro-bono basis. In the absence of funding being secured, it is unlikely that Arup and Mace would agree to continue working on a pro-bono basis, although this is a matter for them to decide.”
50. Heatherwick Studio was consulted on which of the procurement options they would prefer. I found no evidence to suggest that any other bidders were consulted in the same way. In advance of the invitation to tender being issued on 13<sup>th</sup> February, a member of Sir Peter Hendy’s team emailed Michèle Dix on 18<sup>th</sup> January 2013 to tell her that “he [Sir Peter Hendy] suggests you discuss this further with Thomas Heatherwick on Monday.” Michèle Dix then wrote an email to Isabel Dedring, also on 18<sup>th</sup> January and said: “We are meeting TH [Thomas Heatherwick] on Monday at the cable car – he wanted a ride on it and to discuss possible next steps.” This was followed by a further email to Sir Edward Lister from Michèle Dix on 21<sup>st</sup>

January: “I met TH and he was keen on TfL’s involvement and option 3.” On the same day an email from a team member at Heatherwick Studio to Michèle Dix said: “Thanks for trip to Air Line...Following on from the discussions regarding our project and Thomas’s desire to take option 3, how can we keep momentum and get things moving?”

51. In my discussion with Sir Peter Hendy he made it clear that his view was that the Mayor enjoyed a bigger democratic mandate than any other elected politician and should therefore have the authority to pursue his own priorities. “I took the view – and I still do – that actually if you’ve got a mandate of between four and five million voters, then if you want to do something which isn’t in the Mayor’s transport strategy...a Mayoral Direction allows you to tell the organisation what to do.” A number of people to whom I talked said that the Mayor had issued a Mayoral Direction instructing TfL to deliver the Garden Bridge. In fact the first Mayoral Direction was issued in August 2013 after the two contracts had been let in March and July that year.
52. Officials and politicians should have followed open, non-discriminatory and fair processes. Even if a Mayoral Direction had been in place, requiring TfL to deliver the Garden Bridge, a duty to follow due process endures and the Mayoral Direction does not give authority to manipulate procurement processes involving the spending of public money in favour of one supplier.
53. The Invitation to Tender for the bridge design services contract was formally launched on 13<sup>th</sup> February 2013, although all three firms that were invited to tender were notified of the impending tender on 8<sup>th</sup> February. The firms were Marks Barfield Architects, Wilkinson Eyre and Heatherwick Studio.
54. They were given a deadline for their submissions of 25<sup>th</sup> February. Heatherwick had been working on the project for around five months; the other two firms (Wilkinson Eyre and Marks Barfield) were given eight working days, which in my view was too little for a project of that magnitude. The head start enjoyed by Heatherwick Studio and the very short time allocated to the other two firms for such a major project is yet another factor that created an unfair playing field, especially because the other competitors were completely unaware of Heatherwick’s prior involvement.
55. Julia Barfield and David Marks of Marks Barfield told me that they had been reluctant to participate in the competition for a number of reasons. First they would normally enter a competition like the one proposed with an engineer in the team designing a bridge. They were told that that was not necessary as this would follow in a future stage. Second they were concerned about the very short time they were given to submit a tender. By comparison, they had taken a year to develop proposals for a bridge from Nine Elms to Pimlico and thought the

six week time limit on the contract was seriously short for a substantial feasibility study. They had to be persuaded by the persistence of Richard de Cani to take part in the competition.

56. The specification was very short. It did not mention a Garden Bridge. It asked for design advice to help to develop the concept of a new footbridge, in effect a feasibility study. It emphasised the need to improve pedestrian connectivity and the transport objectives. It did not ask for an iconic new addition to London's landscape, although it did specify that the footbridge "would also be a positive contribution to this important cultural and leisure destination." It specifically said that the design study would help examine the potential for a footbridge, would consider a number of different locations within the South Bank/Temple area and would consider the constraints in the area. The contract was for just six weeks which clearly implied a feasibility study.
57. Neither Wilkinson Eyre nor Marks Barfield knew of the existence of Heatherwick Studio's design for a Garden Bridge. I was told by Jim Eyre of Wilkinson Eyre that it was not uncommon for clients to have a design in mind, but that in those circumstances the design would be shared with other competitors as "a reference design." This did not happen in this competition.
58. The specification was prepared by TfL Planning. The evaluation of the tenders has also been subject to criticism, including from London Assembly's GLA Oversight Committee's review of The Garden Bridge Design Procurement which stated: "The technical and commercial evaluation of the three bids for the design contract was undertaken by the same person in TfL Planning. This is inconsistent with TfL procedures and guidance on managing procurements and accepted good practice. The respective roles of TfL Planning and TfL Commercial (in effect, the procurement department) were not well defined at the outset of the procurement process and thus there was some confusion among those departments". From the evidence I saw, I share those concerns.
59. In my interview with Richard de Cani, we discussed this assessment:
- MH: "We" is "you", isn't it? You were the one who did it. That's the other point. You were the only one who evaluated.
- RDC: So I reviewed the bids, yes.
- MH: But you did it on your own.
- RDC: I did the review of them and I went to Michèle with the results of that and said, "This is what the procurement is, are you happy with this?" So, yes, I did that. It was, as you say, it was a very quick procurement, we were under pressure to do it very quickly."



60. This is in direct contravention of TfL procedures. It is clear that Richard de Cani was acting in an atmosphere of time pressure from the Mayor through Isabel Dedring and from his superiors in TfL. I recognised that he was not leading the project in isolation and without input and endorsements from others. As he told me: “The timescale pressure was coming from City Hall because this was seen as a second-term deliverable, so there were pressures to do this quickly and, as was referred to me, we need to get the A team on it and we need to progress this quickly because it was a mayoral priority in the second term.” However as the senior official who did the work, he must bear responsibility for failing to follow public procurement protocols and TfL procedures.
61. It would appear from the scorings that the evaluation was not based on the specification. Heatherwick Studio’s tender appears to have been evaluated on their particular design proposal; but the brief did not ask for a design proposal. It specified “an initial study” “to help develop this concept” and “to identify and test broad options.” The other two practices submitted bids against the written specification so could not compete with Heatherwick Studio’s specific design proposal. Clearly the tenders should have been evaluated against the specification.
62. The failure to assess against the specification helps to explain the odd scorings. In their tenders Marks Barfield highlighted twelve bridges in which their practice had been involved, five of which had been built. Wilkinson Eyre highlighted twenty bridges they had built and referenced another 100 in their report. Heatherwick Studio talked of five pieces of relevant design; a park in Abu Dhabi, the London bus, the Olympic cauldron, the bridge over the canal in Paddington and the temporary expo building in Shanghai. Yet Heatherwick Studio scored 4 on ‘relevant design experience,’ while the other two practices scored only 3.
63. Heatherwick Studio scored 4 on understanding the brief whereas the other two firms scored 2.5 and 3 on this criterion. In my view this reflected more the failure of the specification to be clear and transparent about the brief, rather than the capability of the two experienced practices.
64. The commercial evaluation has already been assessed and criticised by the GLA Oversight Committee, TfL’s Internal Auditor and Ernst and Young in their independent evaluation of the Internal Audit. The commercial evaluation was based on day rates alone and the total estimated prices they were required to submit were ignored in the evaluation. Yet Heatherwick Studio’s figure of £173,000 was much higher than Marks Barfield’s bid of £15,125 and Wilkinson Eyre’s bid of £49,939.
65. Furthermore Richard de Cani contacted Heatherwick Studio asking for clarification on their rates and this led to a discussion between Heatherwick Studio’s former Head of Business and Richard de Cani. Subsequently Heatherwick Studio decided to reduce its fee (via a reduction in

day rates) because of the Studio's "ongoing support and hopes for the project." This discussion between Richard de Cani and Heatherwick Studio contravened TfL standard procedures.

66. Ernst and Young in their report found that following the discussion between Richard de Cani and Heatherwick Studio, only the day rates of key individuals were evaluated and by this means the evaluation was able to conclude that the Heatherwick tender was as commercially competitive as the other two tenders. Paul Plummer, a TfL official in the commercial division, expressed his concerns on the commercial evaluation to Richard de Cani in an email on 8<sup>th</sup> March 2013:

"I note your comments that the brief is based on daily rates not fixed sum as clarified. However, all three submissions clearly state fixed sums and I assume the bidders have an expectation of the amount they tendered being invoiced.....How was the Commercial Criteria scores reached as given the range of daily rates submitted? All three cannot have scored 15%. I don't agree with the summary comments that I have seen suggesting rates are consistent across all three bidders. One of the submissions quotes hourly (not daily rates.).....I appreciate there is a requirement to move this forward, but I am not comfortable that we proceed at the moment given the issues highlighted above."

67. The response from Richard de Cani concluded: "In terms of next steps I have already notified Heatherwick Studios that it is our intention to appoint them, subject to agreeing the contract and we need to quickly progress to the next stage of formalising letters etc."

68. Neither Marks Barfield nor Wilkinson Eyre challenged or commented publicly on the unfair procurement process. In part they might have been unwilling to criticise one of their big clients for whom they wished to continue working. In part they were constrained by confidentiality clauses in the tender documents. But, in their representations to me, Marks Barfield in particular were irritated by the use of their name in Boris Johnson's response to a Mayoral question seeking to defend the process. For example, in his response to a Mayoral question from Caroline Pidgeon:

Caroline Pidgeon MBE AM: Thank you very much. Yes, I have had a look at that information. In the assessment to design and build the bridge, Heatherwick Studio was awarded more points for relevant design experience than either of the rival bidders, despite the fact that they have only ever built one bridge, whereas one of the other bidders had built over 25 bridges, even winning the Stirling Prize. Are you 100% satisfied that the process was not prejudged in any way?

Boris Johnson (Mayor of London): Yes, of course. Michelangelo had probably never built a duomo or had never painted the roof of a chapel before he did the Sistine Chapel. It is a

totally ludicrous complaint, in my view. The process was entirely reasonable. I can give you them: Wilkinson Eyre, Marks Barfield and Heatherwick Studios all entered.

69. Marks Barfield said to me: "Now that the facts have slowly begun to emerge, it is clear that we were just there to make up the numbers and the outcome of the so-called competition had in reality already been pre-determined. We feel deeply embarrassed to have been used in this way by a publicly accountable body who should know better."

#### The second procurement of engineering and project management services awarded to Arup

70. The second tender was issued under one of TfL's procurement frameworks in April 2013. Thirteen companies tendered for the work and Arup was awarded the contract in July 2013. A new contract to continue the work was agreed with the Garden Bridge Trust (the Trust) in April 2015. By that point Arup had been paid £8,422,000 by TfL for their work. They earned further monies from their contract with the Trust.
71. The procurement process was again not consistent with TfL procedures. There were two aspects of the procurement that caused me some concern and that in my view undermine the fairness and transparency of the process. Under the original assessment of the tenders Arup was placed seventh out of thirteen bidders because their costs were higher. Richard de Cani said it was fair that they should be invited for interview as they had the strongest technical bid.
72. It is worth pointing out that Arup had an advantage in that they had been involved with Heatherwick Studio and Mace in developing design proposals for the Garden Bridge for some time. One would expect that their technical bid would therefore be stronger. As Ernst and Young observe in their report: "There is also a challenge as to the extent to which Arup had an advantage over the other bidders from having a more technical understanding of the proposed bridge. Their tender document does not hide the fact that they have had involvement from early on in the Heatherwick Studio design process, however it is unclear due to the lack of detailed assessment documentation the extent to which this had any major impact on their scoring."
73. The detailed comments made by the assessors have been destroyed so it is impossible to come to a conclusion on this issue. Again the rules require the notes to be kept for seven years and this did not happen.
74. Arup's commercial submission took the form of a spread sheet, which I have learnt through this review is out of sync with what is normally submitted for projects of this scale. Arup was the only company that was approached directly by Richard de Cani to ask them to review and reduce their fees. It is worth noting that I found no evidence to suggest that Arup was aware that they had been singled out.

75. No other bidder was asked to revise their charges as part of a 'Best and Final Offer' process. Indeed the Assembly review, quoted a response from TfL's Audit and Assurance Committee about this very issue: "However there were again some failings in the process including the request made to Arup to review their fees when none of the other bidders were asked to do the same. It is good commercial practice and TfL policy to ask all second round bidders for a Best and Final Offer. The understanding of the committee is that there were five bidders still in the process at this point." This was clearly a breach of procurement rules and, given his experience and seniority, Richard de Cani must have been aware of the protocols. Arup did reduce their charges and was subsequently awarded the contract.

### The internal audit of the two contracts

76. Both procurements were subject to an internal audit. TfL's Internal Audit conducted a review and this review was later reviewed by Ernst and Young. I agree with the Ernst and Young findings, which stated that there were elements of the internal audit that were neither as thorough nor as robust as it would have expected. I have my own concerns. Marks Barfield told me that they were contacted by the Internal Audit team who appeared only to be interested in whether the practice were going to talk to the press.
77. While audit reports are always subject to changes to ensure factual accuracy, in this case the changes made to the original draft report were more fundamental. The original purpose of the audit was to provide assurance that the procurements had been made in accordance with procurement regulations and approved procedures, and were open, fair and transparent. Yet the principal conclusion in the Executive Summary of the final document focussed on a different purpose - value for money: "The audit did not find any evidence that would suggest that the final recommendations did not provide value for money from the winning bidders." In unpublished drafts only released at the request of the GLA Oversight Committee the conclusion read: "Our audit identified a number of instances where the procurement deviated from TfL policy and procedure and OJEU guidance....taken together these adversely impacted on the openness and objectivity of the procurements."
78. In early versions of the audit report, the conclusion included the following: "The nature of the findings from this audit we believe increase the risk of legal challenge by the unsuccessful bidders for both contracts. It is the informal contact between TfL and individual bidders that has had an adverse impact on the transparency of each procurement." This was deleted from the final audit report.
79. Elsewhere the criticisms made by Internal Audit were watered down. For example, in discussing the contact with Heatherwick Studio over their day rates, the original report said: "the communication did not follow standard TfL standard procedures." This was changed to "should have been made through the e-procurement portal." On the Arup contract, when

discussing how Arup came to be interviewed when they had not scored well, a sentence that originally said: “TfL Planning requested that Arup should be interviewed” was amended to: “a decision was taken to interview Arup.” References to ‘contravening’ procedures were weakened by talking about action being “inconsistent with” TfL procurement policy or that it “did not follow” TfL policy.

### Conclusions on the procurement process

80. My review of the available materials, supported by interviews, has led me to the view that both procurements were not open, fair or competitive. Ultimately the then Mayor, Boris Johnson, must be held responsible for this. However those who worked with and for him, at both the political and administrative level, **had a duty to protect and adhere to the processes to ensure value for money**. Both contracts (Arup and Heatherwick Studio) were let before Boris Johnson had issued any Mayoral Direction. Even if there had been a Mayoral Direction in place, this would not have justified the actions taken which have the appearance of manipulating the procurement to achieve a predetermined outcome.
81. The contracts were funded by taxpayers. There is an overriding duty on all public servants and elected politicians to act with integrity in administering public money. The money they are using is not their money; it is the taxpayers’ money. The Mayor’s appointees in City Hall should have stood up to Boris Johnson’s determination to achieve the outcome he wanted. TfL’s commissioner and his staff should not have interpreted a clear and proper desire of the Mayor to build a Garden Bridge as a licence to contravene procedures. The rules exist to protect public money and ensure due process is followed. They were not followed appropriately. Later in the report I set out some recommendations as to how City Hall and TfL should work in the future to avoid this happening again.

### Controls in TfL

82. Throughout my review both officials and City Hall political appointees argued that the decisions on the Garden Bridge project were different because they were informed by Mayoral Directions. Mayoral Directions enable a mayor to direct TfL as to how to perform its functions. A mayor may also delegate his powers to TfL to carry out projects and duties outside its normal functions. Often these two things happen in tandem and did so on the Garden Bridge project.
83. Mayoral Directions and Delegations are issued under the cover of a formal Mayoral Decision; and there were four important Mayoral Decisions relating to the Garden Bridge: in August 2013, June 2014, June 2015 and April 2016. All were taken only after the time the contracts to Heatherwick Studio and Arup were issued.

84. The first decision delegated the Mayor's powers to TfL to "develop and help enable the footbridge project" and directed TfL to use these powers to "make budgetary provision in this regard." The second directed TfL to provide from its budget "funding of up to £30 million to the Garden Bridge Trust." The third gave delegated powers to TfL to enable it to fulfil the obligations set out in guarantees to be provided by the GLA to the Port of London Authority, Westminster City Council and the London Borough of Lambeth. The fourth amended the requirements for the Trust, in relation to those guarantees, to have "secured a satisfactory level of funding" to "demonstrating to the Mayor's satisfaction that it has a satisfactory funding strategy [my bold] in place to operate and maintain the Garden Bridge for at least the first five years from its completion."
85. But Mayoral Directions do not absolve the Mayor, his representatives at City Hall or officials at both TfL and GLA from their duty to follow their correct procedures in procurement. Neither does it absolve them from ensuring value for money in public expenditure. In my view, the existence of a Mayoral Direction should act as a 'red flag' for Internal Audit in TfL and they should be vigilant around how public money is spent when a Mayoral Direction has been issued to ensure that proper processes are followed.
86. There is clearly ambiguity in people's understanding of the power of the Mayor. It would appear that the authority of a Mayoral Direction was seen to take precedence over obligations in relation to due process and value for money. Let me make it clear: a Mayoral Direction does not take precedence.
87. Sir Peter Hendy talked about the overarching power of the Mayor. "Though TfL is legally a Board, which is chaired by the Mayor.....the sequence of events in an eight year mayoralty is that the Mayor relies on the Board very strongly in years one, two and three, and then the influence of the Board diminishes because the Mayor starts to get a grip on both the job and what the Mayor wants to do, so that by the time you get to years six, seven and eight, the Board is still performing its legal functions and it's still advising him or her but the Mayor has developed their own ideas about what they want the organisation to do.....You're responsible directly to the Mayor, your board and the Mayor, but you see the Mayor more often."
88. The Garden Bridge was only introduced to the Finance and Policy Committee of TfL Board on 18th July 2013, after contracts to Heatherwick Studio and Arup had been let. That paper sought authority to spend £4 million "for project development costs for the feasibility and planning stage." (In the end Arup was paid £8.422 million for their work for TfL.) It described TfL's role as the "enabler, securing the necessary powers and consents, helping to secure the funding for the construction and future maintenance from third parties." It estimated that the total capital cost would be around £60-£100million. It stated "The project would only continue beyond the feasibility and planning phase should the charitable entity be in a position to fund the project." And it stated: "It will be important that mutually compatible and

legally binding funding agreements are in place for all costs associated with the design, construction and ongoing operation and maintenance of the bridge, with the various parties, before procurement of a contractor commences.”

89. The TfL Board was informed very late after the design contracts had been let the Board was not able or expected to come to a view on the contracts or the project, although this was a novel – and risky – project. The Board was informed of the Mayoral Direction to TfL in September 2013 through the Commissioner’s report. Subsequent reports to the Board reported on the Mayoral Directions as the project clearly overrode the limits and constraints set out in the first paper to the Finance and Policy Committee, in terms of TfL’s role and in terms of TfL’s financial commitments. It is clear that the Board lacked the proper system of control and authority that in my view is appropriate for a body charged with securing value for money.
90. TfL’s Commissioner has delegated authority to spend large sums of money. They can spend up to £25 million on unbudgeted transactions and unbudgeted land transactions and up to £100 million on land acquisitions and procurement. In my view, these freedoms have engendered a culture where accountability beyond the Mayor and the Commissioner seems casual and unimportant and this was reflected in the way decisions were taken on the Garden Bridge. Simply complying with Government regulations and publishing all expenditure over £250 on the TfL website does not constitute effective accountability for the expenditure of public money.
91. I believe that there was a systemic failure and the control systems in place were ineffective for the reasons I will now explain. TfL’s Finance and Policy Committee lacked authority; the advice from TfL’s Commercial division and Legal division was ignored. The funding agreement with the Trust was amended a number of times without formal approval being sought or given by TfL. TfL’s Internal Audit understandably concentrates on larger contracts and focuses on what is happening now, rather than what happened in the past. When Internal Audit did report, their findings were amended to alter the emphasis and lessen the impact of the findings. The Commissioner did not support spending £30 million of TfL’s budget on the Garden Bridge, but had to comply with the Mayoral Direction.

### Potential conflicts of interest

92. Richard de Cani came to work for TfL from Arup and returned to the company in 2016. He continued to work on the Garden Bridge project during his notice period after he had decided to take a new job at Arup and was actively engaged in ensuring further monies were released by Government to enable further payments to be made to the Trust. Isabel Dedring left City Hall before the start of the pre-election period for the Mayoral Election in March 2016 and joined Arup. Both they and Arup have assured me that there was no connection between

Arup's contract with TfL for the Garden Bridge and their recruitment by Arup. I found no evidence to suggest otherwise and fully accept those assurances.

93. However at present there are no rules in place governing the future employment of those working for the Mayor or TfL. There is no obligation on former senior employees or political appointees to wait for a quarantine period before they take a job with an organisation that contracts with and earns income from the Mayor or TfL.

#### RECOMMENDATIONS ON THE CONDUCT OF TRANSPORT FOR LONDON AND THE GREATER LONDON AUTHORITY

- A. Greater transparency should be introduced for procurement processes and more effective checks and balances need to be in place to ensure that public money is properly and well spent. The TfL Board and its committees should receive proper, full and prompt reports setting out information on projects and the performance of contracts in a regular item on their agendas. The Board should have authority to intervene where appropriate and ensure information on performance against contracts is publicly available. While respecting necessary commercial confidentiality, this should not become an excuse for failure to report fully on contracts.
- B. The delegations to the Commissioner at TfL should be reviewed. At present the Commissioner is not appropriately and publicly accountable for the public money spent.
- C. Decisions about projects taken by senior staff working at TfL should be properly recorded and documented within clearly defined formal decision making processes.
- D. TfL's supervisory role and its remit to approve financial decisions should be strengthened so that it is better able to discharge an expanded stewardship role and to guide strategic direction. In this case, the first time a paper was presented to the TfL board was in July 2013, although this was a novel project involving large sums of money. Sir Peter Hendy, the then Commissioner, was clear that he believed authority lay with the Mayor, not the TfL Board. The review of the TfL's Board powers and functions should aim to ensure that the Board can fulfil its role as a check and balance to the power of the Mayor and the Commissioner.
- E. Where decisions are taken by the Mayor, or significant advice provided, in informal meetings these should be properly minuted so that there is a record of those decisions.
- F. The Commercial, Legal and Internal Audit teams within TfL all share an obligation to guarantee that procedures and protocols are consistently followed. In this case advice was not always followed and Internal Audit appeared to be under undue pressure in its final report on the procurement process. The authority and accountability of these three parts of the organisation should be reviewed to make certain that their advice is independent and that



their accountability reinforces that independence. Where advice is overruled there should be transparent reporting protocols in place so that there is a proper explanation and account of any decision to overrule or ignore advice.

- G.** The Mayor should conduct a review of employment conditions and the potential for revolving doors among senior staff and the Mayor's own political appointees. He should consider appropriate changes so that there can be no hint of a conflict of interest when contracts are let by TfL or the Greater London Authority whilst recognising the legal requirement to not impose restraints on trade.

### The role of the Garden Bridge Trust

94. The Garden Bridge Trust registered in October 2013 as a charitable organisation to build the Garden Bridge. The Trust was conceived of and developed during the summer of 2013 by officials at TfL, the Mayor and his office and Thomas Heatherwick. Thomas Heatherwick was closely involved with City Hall and TfL in discussions as to who should serve as trustees after Heatherwick Studio had been awarded the design contract.
95. The Chair is Lord Mervyn Davies who was a Trade Minister in the Labour Government and the Vice-Chair is Paul Morrell, a chartered quantity surveyor who was the Government's first Chief Construction Adviser. The trustees give of their time freely and are focused on their purpose to build the Garden Bridge. One of the people working for Heatherwick Studio, Bee Emmott, was seconded to the Trust and became its Executive Director in 2014. Heatherwick Studio earned money from TfL and subsequently - as a sub-contractor to Arup - from both TfL and then the Trust. These interests were no doubt declared, but I believe that the blurring of interests, with the chief executive of the Trust who was closely connected to the design studio being paid out of taxpayers' money, simply reinforced the perception that the whole project was owned and controlled by a small, inner group. Furthermore Joanna Lumley serves as a trustee of the Trust and whilst she didn't have a 'formal' or 'paid' role at Heatherwick Studio she was recognised as an Associate member of the team intensifying perceptions of the cosy nature of those involved in the project.
96. When I asked the Chair of the Trust (Lord Mervyn Davies) why he had chosen not to include local people from the South Bank who would be directly affected by the Garden Bridge development on his board, he said that he could not include anybody from Coin Street because "Well, Coin Street would be conflicted, wouldn't they? Coin Street would -- you know, we've had, for the last three years, huge involvement with Coin Street; I'm meeting them tomorrow. I think they would be conflicted, don't you think?" However another trustee, Alastair Subba Row chairs the Northbank Business Improvement District Freeholders Group. This group promotes the regeneration of the area north of the river. According to the business case the North Bank is expected to benefit most from the creation of the Garden Bridge. The

Garden Bridge business case talks of a 5% increase in the value of planned residential and commercial property and a 30% increase in revenues for retail units planned for the North Bank area. If Coin Street were discounted as a result of a conflicted financial interest, it is unclear to me why Alastair Subba Row's conflict did not concern the Board.

97. Joanna Lumley described the concept as "the people's bridge". However, I found a lack of connection to the local community south of the river. By contrast the presence of others as trustees on the board, including a Special Adviser at Number 10 Downing Street and the brother of a leading Conservative Minister, did nothing to support Joanna Lumley's assertion.
98. This in my view led to a lack of confidence and support in the Trust and the project. I have seen and accept the conclusions of the Charity Commission report on the Trust that interests have been properly declared. However I have long taken the view that when public money is involved, simply declaring interests is not enough to demonstrate high standards of integrity and propriety in any organisation that spends the taxpayers' money.
99. The Garden Bridge Trust was established as a way to manage external funding for the bridge. The Trust clearly needed to command the then Mayor's continuing support and that of the Government, who were putting central government funding into the project. However Coin Street representatives and other local activists felt that the Trust did not engage properly with the local community that was most affected by the Garden Bridge. Kate Hoey MP told the House of Commons during a debate that the Trust "treated local views with disdain, acting always as if anyone who objected was kind of stupid." And when Middle Temple expressed concerns about the impact of the Garden Bridge, instead of engaging with the individuals and their objections Paul Morrell wrote in an email on 5<sup>th</sup> November 2014: "I think Middle Temple would find it hard to handle the PR fallout if they were to become 'the people who stopped the bridge' which is of course how we would position them in the press."
100. The Trust used an early consultation exercise to justify their claim of 87% of the public supporting for the project. Many of those I met during the review were concerned that the full implications of the Garden Bridge had not been explained to them. They pointed to more recent surveys that claimed most people were opposed to the idea. Local campaigners told me that the first they heard about the project was when the Trust submitted a planning application to Lambeth Council.
101. Throughout my review, the only people to express support for the Garden Bridge were the Trust itself, the Evening Standard and Boris Johnson who wrote that "I remain a fervent believer in the Garden Bridge". Despite this, in a further letter he said that he could not assist me in my review because "I am afraid any interview would not be the best use of my time."

102. On the other hand I encountered substantial hostility to the project, particularly to the spending of public money during a period of public expenditure constraints and local government cuts. If the Garden Bridge is not treasured by the public in the same way that it is by its creators, then the business model which underpins the project is far less likely to succeed. It is clear to me that the Trust will find it exceedingly difficult to raise private funding for both the construction and maintenance of the bridge if there is not strong public support for the bridge.

### Capital funding for the Garden Bridge

103. The Mayor originally believed that the Garden Bridge could be built and maintained by private sector funding. The initial estimates to which TfL were working, as presented to TfL's Finance and Policy Committee in July 2013 were that the capital cost would be around £60 - £100 million. An email from Michèle Dix to the Mayor on 18<sup>th</sup> June 2013 states: "Only initial estimates of the cost of the scheme are currently available. These are that its capital cost would be around £60million."
104. This was already expensive as compared to, for example, the Millennium Footbridge that had cost £18.2 million in 2000 and other proposals for Thames' footbridges elsewhere that were estimated to cost around £25 million. Clearly building a bridge that can hold a garden is a more costly investment, but the Garden Bridge proposals were not peer reviewed to assess the value for money of the Heatherwick Studio design.
105. By the time of the second Mayoral Decision in June 2014, costs had exceeded the original estimates and were thought to be around £159million. According to the NAO report cost estimates for the Garden Bridge increased to £175 million in the funding agreement of July 2015. In August 2016, the Trust's Chairman estimated costs to have reached £185 million. In their recent report and accounts the Trust reports that "the final cost could substantially exceed the formal estimate" and in the Trust's conversation with me, Paul Morrell said: "I think we're now north of £200 million."
106. Sir Edward Lister told me, "When it started life, it was to be 100% privately funded." But this position shifted "when we realised we weren't going to raise the money from the private sector and it would need some Government money to oil the wheels and make it move."
107. So what started as a private endeavour then moved to a project that had to be kick started with public money. However the early internal papers consistently and firmly insist that the project could only proceed if private sector investment was secured. For instance, the 18<sup>th</sup> July 2013 report to TfL's Finance and Policy Committee clearly states: "The project would only continue beyond the feasibility and planning phase should the charitable entity be in a position to fund the project." Despite these early undertakings, the Trust has yet to fully fund

the capital cost. The Government on the other hand, have agreed to underwrite some of the potential liabilities (up to £9 million) associated with cancelling the project; these liabilities will be met with taxpayers' money.

108. The initial funding commitments to the Garden Bridge project were made by the then Chancellor of the Exchequer to the then Mayor of London without the involvement of the Department for Transport. Boris Johnson used a Mayoral Direction to instruct TfL to contribute £30 million of their resources to the project. The Government's contribution has been subject to a Value for Money report by the National Audit Office that was published in October 2016 and I did not try to look at the same issues again.
109. But given the decision to invest public money, transparency and accountability for using taxpayers' money should have been of paramount importance. Some observations of the Government's role are pertinent if lessons are to be learned for the future. The Government took a decision to commit public money without consulting the responsible department with its relevant experience. This is not a sensible approach to value for money. It was unfortunate that senior officials and ministers did not take more notice of how weak the May 2014 business case was and did not challenge the project before deciding to proceed. It is regrettable that the conditions of grant were not properly and fully adhered to as public money was released to the Trust.
110. It is of great concern to learn from the National Audit Office that when the Permanent Secretary sought a letter of direction from his Minister in May 2016 in response to a request from the Trust for a further uplift in pre-construction expenditure to cover potential cancellation liabilities, he was subject to unacceptable pressure. The NAO report refers to an email they had seen from the Cabinet Secretary Jeremy Heywood saying that the Prime Minister and the Chancellor "felt frustration at the need for a direction".
111. Accounting officers have personal responsibility to ensure value for money in the use of public money. If they feel a particular proposal does not deliver value for money they have a duty to only proceed if the minister gives them a letter of direction to do so. These letters are then placed in the public domain and the minister becomes more directly and openly accountable for his or her decision. Sending such an email to a permanent secretary for pursuing his personal duties to the public for spending public money properly is unacceptable. Had the Government - both civil servants and ministers - taken firmer action earlier and paused the project to undertake a thorough reassessment, less public money might have been spent.
112. When the Department for Transport issued the formal letter of grant to TfL in November 2014 the Department attached conditions to the grant. These required the Mayor to provide an equal amount of funding and that TfL would provide each party's contribution *pari passu* with the other. The conditions specified that a maximum of £8.2025 million of the DfT's £30 million

could be used for pre-construction activities and that the contract for the construction of the bridge should be let under an open, competitive tendering process. Given the pari passu concept, pre-construction expenditure across both TfL and Government should not exceed £16.4 million, as set out in the funding agreement between the Trust and TfL. The Department for Transport also required the Mayor to inform the Department if they became aware of any material risk or issue that could threaten the project's deliverability on time and in budget and that TfL should satisfy themselves that the project continues to represent good value for money throughout. These conditions were never apparently agreed on and they have clearly not all been adhered to.

113. Further conditions have been imposed since those decisions were made. In particular, at the behest of Lambeth Council, the Mayor changed the terms of TfL's agreement with the Trust and £20 million of the £30 million support from TfL is now in the form of a loan, not a grant, which the Trust has agreed to repay during the next 50 years. Costs have escalated and no new assessment of value for money has been undertaken. Instead of using £16.4 million on pre-construction activities set out in the original funding agreement between the Trust and TfL, the Trust has been paid £37,394,123 for pre-construction works.
114. Further commitments have been made by the Government to underwrite some of the losses that could arise if the project is cancelled. According to TfL officials, the total commitment (including the underwriting commitments) now amounts to £46,393,123 of which the Government's contribution would be £22,454,500 and TfL's contribution would be £23,941,623 (This sum includes about £10.7 million which was spent by TfL early in the project on services in kind.) This is all public money that has been spent or committed without construction having commenced.
115. When the Government contribution was first agreed, the Government stipulated to the Mayor in a letter from the Parliamentary Under-Secretary of State that a maximum of £8.2 million from each public body could be spent on pre-construction activities. That figure was first breached in June 2015 when government authorised pre-construction expenditure up to a limit of £9.952 million. In February 2016 the figure for the Government was increased to £13.452 million and in May there was a further increase to £28.452 million. These changes provided an underwriting of the Trust's liabilities if contracts into which they have entered have to be terminated because the project is cancelled. After a review by the present Secretary of State that figure was reduced to £22.452 million. The rules of engagement between the Trust and TfL and the Government have constantly changed and this has exposed public money to ever greater risks. It is worth pointing out that TfL's expenditure has not increased since the Mayoral election and that changes have been to lessen the Government's exposure in underwriting potential liabilities.

116. In January 2016 the Trust entered into a construction contract with Bouygues despite the fact that the Trust had not secured the full funding for the project and had not secured all the necessary permissions. In short, when they entered this contract they had neither the land nor all the money. It is their obligations from this contract that create financial risks to the trustees that the taxpayer is currently underwriting.
117. I am shocked that the Trust entered into this financial commitment with so many issues unresolved and it is astonishing that the Mayor, TfL or the Department for Transport did not stop the Trust from signing this contract. Although the formal authority lay with the Trust, both TfL and the DfT were aware that the Trust intended to enter into a contract. That was not prevented, and then more funding was released. The Trust explained to me that they had been involved in a lengthy procurement process and they did not want to lose the contract. The construction industry is always beset with inflationary pressures, and concern about these pressures was given to me as another reason for committing early. The Trust was also worried that the construction of the Thames Tideway Tunnel would impede the construction of the Garden Bridge and that speeding up the Garden Bridge construction was therefore necessary, although this issue is now resolved and is no longer of concern to either party.
118. Richard de Cani was the TfL official in charge. He told me: "I think it was always a balance of risk, where they'd got to. There was also a strong political push....to make progress with this but we looked at the risks very carefully...There was pressure from the political side at City Hall and from the Government for this to carry on." It is clear from my conversation with Richard de Cani that the letting of the contract was important because it demonstrated progress.
119. In my view based on the evidence I have seen, the decision was both risky and premature. It seems that there was an incentive to get the project to the point of no return. As mentioned earlier, it is implicit in the materials I reviewed that time was a critical factor driving the process and I once again note that this coincided with the Mayor approaching the end of his second term in office. It is difficult to imagine any public authority or elected politician deciding not to complete a half-built bridge, even if the Trust had no more money to complete the construction and the only way to finish the job was to use more public money. So letting the contract was the most likely way of securing the building of the bridge, whatever the implications for either value for money or the taxpayer.
120. There is substantial evidence in the papers that I saw that the original intention had been for the Trust to secure the funding before it signed a construction contract. The first briefing paper to the TfL Finance and Policy Committee in July 2013 said: "It will be important that mutually compatible and legally binding funding agreements are in place for all costs associated with the design, construction and ongoing operation and maintenance of the bridge, with the various parties before procurement of a contractor commences." In a letter

to George Osborne on 27<sup>th</sup> March 2014, Boris Johnson wrote: “We have agreed the requirements that the Garden Bridge Trust will need to meet before TfL and Government funding for construction can be released, which include demonstrating that they have secured the balance of funds necessary for construction from other sources.” And in a briefing to the then Mayor when he was deciding to provide a guarantee to the Trust on 25<sup>th</sup> March 2015, officials wrote: “The construction contract will not be let until the Trust is satisfied it has adequate funds to cover its obligations under the contract.”

121. It is concerning to see again various parties telling me that they had no involvement in the decision to let the contract before the money had been secured. When asked about the Bouygues contract – specifically that the Trust had let the contract to construct before they have secured the money or the permissions – Isabel Dedring said: “quite early on, it must have been 2013 Boris was very clear.’ The Garden Bridge is running this, it’s not a City Hall project. TfL has been asked to help out by putting some money in but it needs to be the Garden Bridge Trust front and centre, it’s their decision making.’ **And so we would back right off, no involvement really**”.... “I think that link didn’t happen back to City Hall and I don’t know the extent to which that assurance was happening with TfL. I’m sure it was but I just don’t know enough about it.” Similarly Mike Brown, now Commissioner of TfL, said: “Our view very strongly was we were notified by the Trust, but we didn’t have to approve it.”
122. Others at TfL to whom I talked accepted that they knew what was happening, that regular meetings between the Trust and TfL were taking place and noted that the Government was consulted and City Hall regularly briefed on the letting of the construction contract. They were all responsible, informally or formally, for taking substantial risks by allowing the contract to be signed, for taking an over-optimistic view on the ability to raise further private finance and secure the necessary permissions and therefore for putting the public funding at greater risk. The decision seemed to be driven by electoral cycles rather than good project management. Even though this happened, construction cannot begin unless the current Mayor signs maintenance guarantees as a condition of the planning agreements with Lambeth and Westminster. Any liabilities arising out of cancelling the contract will have to be met.

### Securing the necessary permissions

123. Coin Street Community Builders has yet to sign an agreement with the Trust to release land to enable the Garden Bridge to alight on the South Bank River Walkway by the ITV building. The land is controlled by Coin Street Community Builders on a long lease from Lambeth Council. Coin Street board members gave in principle support to the project in March 2013 following a presentation to the board by Joanna Lumley and Thomas Heatherwick. But the two parties have not yet signed a legal agreement with both sides blaming the other for the delay.

124. It is clear that the Trust should have factored in the risks of reaching an agreement with Coin Street into their project plan. Coin Street has a long history of being a tough and determined negotiator and the negotiations were always going to be complicated. Equally, the Coin Street Board assumed that the community would support the building of a Garden Bridge without properly consulting them and they have had to deal with considerable hostility to the project.
125. There are a range of issues that clearly need to be resolved. Coin Street expects to be compensated for its loss of income from relinquishing control of this open space and there are management issues around security, crowd control, the provision of cleaning services and toilet facilities that need to be resolved to the satisfaction of all sides. Whatever the rights and wrongs, if the two parties do not reach agreement the Garden Bridge will not be built and that risk has always and continues to be there. In those circumstances, I completely agree with the National Audit Office that it was inadvisable to enter into a construction contract before the land had been legally secured.
126. The Trust has also not secured the necessary River Works Licence agreement with the Port of London Authority and cannot proceed without it. Furthermore, despite Boris Johnson's Mayoral Decisions, the Mayoral guarantees have not been signed and this is a pre-requisite for satisfying planning conditions and construction starting. This has been made more complicated by the delays incurred to the project. In a letter to me dated 14<sup>th</sup> December 2016 the Port of London Authority said: "continuing delays to the Garden Bridge project move its construction closer to the likely peaks in freight traffic needed to deliver the Tideway Tunnel Scheme. **A further cumulative navigational risk assessment** [my bold] will therefore need to be provided in due course to discharge the relevant condition" (in the River Works Licence Agreement). So even if the project was given the green light immediately, further work will need to be undertaken before agreement is finally reached.

#### Fundraising for the capital investment

127. Building the Garden Bridge has always been predicated on raising private funding for the construction, with further private finance to manage and maintain the facility. The previous Mayor and the Trust have consistently and publicly expressed confidence in their ability to raise the money.
128. In a letter from Paul Morrell to Richard de Cani dated 27<sup>th</sup> January 2016 that informed the funders of the Trust's intention to sign the construction contract and sought release of further tranches of the promised public money, optimism about raising funds was expressed:
- "The Garden Bridge has raised a total of £145 million, of which £85 million is from the private sector. This is enough to cover the cost of the bridge's construction contract, which is in the region of £100 million....Over the last six months, the Trust has secured more than £20 million



in private sector contributions to the project. This is an unprecedented achievement for a capital project that has yet to begin construction. The Garden Bridge Trust expects fundraising to accelerate further once construction commences later this year. The Trustees have a robust strategy to raise the remaining funds, including a series of major opportunities available totalling £42 million and a Patron Scheme that will raise £1.5million. In addition, a strong pool of over 200 prospects has been developed, each with the capacity to give donations at the £500k level....GBT is in advanced discussions with three major corporations for contracts to the value of £15 million which we anticipate will be signed by June 2016.”

129. In a further letter to Lord Ahmad, the minister responsible at the Department for Transport, of 5<sup>th</sup> April 2016, Lord Davies wrote: "We are on course with our fundraising target with approximately £145 million raised to date and a strong pipeline including advanced discussions with potential major funders."
130. It is true that by spring 2015, the Trust had secured commitments from donors totalling around £85 million. However over half of the pledges were anonymous which significantly contributes to the fragility of the commitments. And while funding pledges were being made, costs also were also increasing in that period, from £159 million in June 2014 to £175 million by summer 2015.
131. Since the Mayoral Election in May 2016 the Trust has lost the support of two major donors and now has pledges amounting to £69 million. The Trust has not secured any new pledges since August 2016. At the same time the capital costs have escalated and Paul Morrell talked of a figure "north of £200 million." So the gap between what is required and what has been promised for the capital investment has grown and is now likely to stand well in excess of £70 million.

### Managing and maintaining the proposed Garden Bridge

132. When the Garden Bridge was first conceived the then Mayor expected the management and maintenance of the bridge to be financed by the private sector. In a letter to the Chancellor, George Osborne, dated 28<sup>th</sup> January 2014, which welcomes the announcement of £30 million funding from central government made in the Autumn statement, Boris Johnson writes: "The maintenance of the Garden Bridge will be a core function of the Trust and I should clarify that I am not intending to underwrite maintenance costs." George Osborne responded on 2<sup>nd</sup> February: "It is vital that the bridge is properly maintained and so if the necessary private support cannot be found I would encourage you to stand behind this small funding requirement."
133. When planning permission was secured from Westminster Council in December 2014, the Council made it a condition of the planning permission that the Mayor, through the GLA,

should underwrite the maintenance costs. Similar conditions followed from Lambeth Council and the Port of London Authority.

134. The Mayor publicly continued to declare that the GLA would not be responsible for the costs associated with managing and maintaining the Garden Bridge. At the Mayor's Questions on 17<sup>th</sup> December 2014 he said: "I cannot go further than to say I have made no such undertaking and nor do I intend to make such an undertaking."
135. Similarly a letter was sent from the GLA to Bee Emmott, the Trust's Executive Director, on the 18<sup>th</sup> February 2015 stating "However in order to discharge the guarantee requirement imposed by Westminster, the Mayor has agreed in principle to provide such a guarantee." Contradicting this on 3<sup>rd</sup> March – less than two weeks later – the Mayor said on LBC "Maintenance costs will not be borne by the public sector and I have also made that clear."
136. The Mayor gave substance to the guarantee requirement through two Mayoral Decisions in June 2015 and April 2016 – just before the election for his successor. In the first Decision the Mayor agreed to underwrite the management and maintenance costs "contingent on the trust demonstrating to the mayor's satisfaction **that it has secured a satisfactory level of funding** [my bold italics] to operate and maintain the Garden Bridge for at least the first five years from its completion." In the second Mayoral Decision this was amended to: "demonstrating to the mayor's satisfaction that it has a **satisfactory funding strategy** [my bold italics] in place to operate and maintain the Garden Bridge for at least the first five years." As a result of the latter Mayoral Decision, the responsibilities on the Trust were greatly weakened and the risks to the taxpayer were greatly increased, further undermining the value for money of this project.
137. The Trust has developed a plan setting out how it hopes to raise the necessary private funding. The challenges they face have grown as their freedoms have been curtailed. The Trust hopes to secure income from private lettings of the space. However, as part of the planning condition, the Trust can now only close the bridge for up to twelve times a year for private events and has indicated it intends to use a maximum of ten of these. A number of these events have already been allocated as a condition of sponsorship to those who have committed money into the capital cost of the project.
138. The Trust's business plan sets out an ambition to secure about two thirds of the money required from philanthropic sources. Other bodies, like the Tate Gallery or the Victoria and Albert Museum, receive less than one third of their income from philanthropic sources and secure most of their income from trading sources. The Trust wishes to establish an endowment trust and is targeting an initial £15 million. The Trust is not currently fundraising for the endowment fund because they are focused on raising the capital monies they need. In my view it is unrealistic to expect to secure £15 million for an endowment fund, in part

because philanthropic giving depends on there being a positive view of the facility and the project is now very controversial.

139. The other assumptions in their business plan are ambitious to say the least when compared to the rest of the market and therefore I can only conclude that they are unlikely to be realised. For example, the Trust expects to be able to hire out the Bridge for evening receptions for £60,000. Similar unique venues are available at much lower prices; for example the View from the Shard can be hired for between £15,000 and £20,000; the National Portrait Gallery for £22,000; and the Natural History Museum for between £20,000 and £25,000. Similarly the plan says that the Trust expects to attract twenty five corporate members, charging them £25,000 each, with limited benefits to attend the Chairman's annual reception, enjoy private tours of Heatherwick Studio, have first refusal on the small number of private lettings and volunteer to maintain the garden. Corporate sponsorship at the National Portrait Gallery costs between £9,000 and £17,000, the Natural History Museum charges between £5,000 and £35,000 and the National Theatre between £10,000 and £50,000. These venues are able to provide a better range of benefits, with private views of exhibitions and guaranteed access to tickets forming attractive advantages.
140. The Trust is in my view overly defensive with respect to their difficulties in raising money. They wrote to me saying: "The mere existence of the review at this stage is providing a degree of uncertainty about the future of the project and has the potential to damage the Trust's ability to raise the balance of the funds required from the private sector." Whilst it is of course it is true that these uncertainties are undoubtedly factors that contribute to the difficulty the Trust is experiencing, there are other factors at play which lead me to judge that the Trust will not be able to raise the money required to construct the Garden Bridge from private funders, let alone the private funding necessary to manage and maintain the bridge. The Trust has failed to secure strong public support for the project. In these circumstances it is less likely to attract new philanthropic donors who will be cautious about associating themselves with a less than popular project. The economic environment has changed since the Trust was first established and the Brexit decision will undoubtedly deter some global donors from putting their charitable resources into a Garden Bridge in London.
141. The exchange rate effects of the decision to exit Europe together with inflationary pressures on construction costs are likely to lead to a continuing increase in the actual costs of construction for the Trust already north of £200 million. It is always more difficult to raise philanthropic money for revenue purposes rather than for capital purposes. In this instance, the incentives to raise money to pay for the management and maintenance of the bridge have been further curtailed by the planning requirement that the GLA will underwrite all expenditure on management and maintenance. If the GLA is bound to foot the bill, it begs the question, why would any private giver agree to pay the costs?

142. Therefore, if the current Mayor does decide to support the continuation of this project, he must do so in the full knowledge that there will most likely be a further demand, potentially running into many tens of millions of pounds, for more public money to complete the construction and maintain the bridge in the future
143. This is a very expensive project to build and there will be a continuing need to fund £3 million per annum in operational and maintenance costs. This comes during a period of austerity, when Lambeth residents are seeing huge cuts in the budgets for maintaining existing open spaces and parks in their area. In my view it is difficult to justify the risks and costs associated with maintaining the Garden Bridge as representing good value for money.

#### CONCLUSIONS ON THE VALUE FOR MONEY OF THE PUBLIC SECTOR CONTRIBUTION TO THE GARDEN BRIDGE PROJECT

- H.** Any elected Mayor for London will want to pursue innovative and iconic projects that reinforce the success and attraction of this great capital city. Creating a Garden Bridge could be one such idea and attributing value for money to such ideas will always be highly subjective.
- I.** However the original ambition to fund the Garden Bridge through private finance has been abandoned. Furthermore the goalposts have moved several times and the risks to the taxpayer have intensified. I have commented on the value for money aspects of the project in this report and this is supported by other independent reviews.
- J.** However looking to the future, the costs of construction have escalated and are likely to increase further. What started life as a project costing an estimated £60 million is likely to end up costing over £200 million and there are continuing risks associated with the capital costs
- K.** It is unclear to me that the costs of strengthening Temple Station to make both the bridge and the station structurally sound have been accounted for. Binding agreement has yet to be reached with Coin Street. Officials need to review the Trust's Business Plan as part of the provision of guarantees and the Port of London Authority has also said it wishes to undertake a new risk assessment. These outstanding issues will create new difficulties for the Trust as the planning permissions expire at the end of 2017. Campaigners have warned that they will launch a new judicial review if more public money is committed to the Garden Bridge project. All of this on top of construction cost pressures, creates uncertainties that can only lead to further increases in the capital costs.
- L.** In my judgment the Trust will not succeed in raising all the private capital monies required and will need more public money to complete the construction. Between May 2016 and August 2016 the Trust lost commitments for £14 million and has not gained any new promises for private donations since that time. The Trust's finances are in a precarious state as is clear from

their recent Report and Accounts in which the Trust stated it was extremely difficult to conclude a going concern assessment. Furthermore I do not believe the Trust will secure the philanthropic support it claims it needs to fund the management and maintenance of the Garden Bridge. The cost for that will inevitably fall on the taxpayer and council taxpayer. The Trust has yet to even start to develop realistic plans for paying back the £20 million loan to TfL and I think it is unrealistic to expect that this will be repaid.

- M.** The project has already used £37.4 million of public money and the agreed underwriting by the Government of costs could bring the bill to the taxpayer up to £46.4 million if the project is cancelled. In my judgement it is better for the taxpayer to accept the loss than to risk the additional demands if the project proceeds. In the present climate, with continuing pressures on public spending, it is difficult to justify further public investment in the Garden Bridge.
- N.** In the future, where hybrid structures are put into place to deliver projects funded by both the public and private sector it is vital that the project is well planned, properly assessed and costed and that decisions are taken in a transparent and open way. There should be clarity of purpose, appropriate governance arrangements, open and robust project management protocols and an honest assessment of risk and affordability.

## Appendix One: Oral Evidence

The following people contributed orally to this review.

### Garden Bridge Trust

Mervyn Davies, Baron Davies of Abersoch CBE, Chairman

Bee Emmott, Executive Director

John Heaps, Board Member

Joanna Lumley OBE, Board Member

Paul Morrell OBE, Deputy Chairman

### Greater London Authority

Martin Clarke, Director of Resources

Tom Copley AM, London-wide Assembly Member

Isabel Dedring, Ex-Deputy Mayor for Transport

Len Duvall AM, Chair of Greater London Authority Oversight Committee

Florence Eshalomi AM, Assembly Member for Lambeth and Southwark

Sir Edward Lister, Ex-Deputy Mayor for Planning and Chief of Staff

Caroline Pidgeon OBE AM, London-wide Assembly Member

Katie Smith, Head of Scrutiny

### Transport for London

Andy Brown, Head of Corporate Affairs

Mike Brown MVO, Commissioner

Howard Carter, General Counsel

Richard DeCani, Ex-Managing Director Planning

Michèle Dix CBE, Ex-Managing Director Planning

Sir Peter Hendy CBE, Ex-Commissioner

Charles Ritchie, Legal Manager

Clive Walker, Director of Internal Audit

Alex Williams, Acting Managing Director Planning, Transport for London

Dan Anderson, Fourth Street

Michael Ball, Wai-King Cheung, Marilyn Evers, Thames Central Open Spaces

Julia Barfield FRSA MBE RIBA and David Marks MBE FRSA RIBA, Managing Directors, Marks Barfield Architects

Jane Duncan, President, Royal Institute of British Architects

Jim Eyre, Founding Director, Wilkinson Eyre

Thomas Heatherwick, Founder, Heatherwick Studio

Kate Hoey MP, MP for Vauxhall

Will Hurst, Managing Editor, Architect's Journal

Alistair Lenczner, Designer

Walter Menteth, Project Compass

Cllr Tim Mitchell, Ward councillor – St James Ward, Westminster

Cllr Adele Morris, Cllr David Noakes, Ward Councillors – Cathedrals Ward, Southwark

Cllr Jennie Mosley, Ward Councillor – Bishop's Ward, Lambeth

Cllr Lib Peck, Leader of the Council, Lambeth

Scott Rice, Chair and Iain Tuckett, Group Director, Coin Street Community Builders

Ian Ritchie, CBE RA RIBA, Director of Ian Ritchie Architects Ltd.

Sarah Sands, Editor, Evening Standard

Rebecca Sheeran, Director – Transport, National Audit Office

Theo Usherwood, Political Editor, LBC

## Appendix Two: Written Evidence

The following people contributed written evidence to this review.

Tariq Ahmad, The Lord Ahmad of Wimbledon, Parliamentary Under Secretary of State for Transport, Department for Transport

Dan Anderson, Fourth Street

Tony Arbour, Chairman, London Assembly

Jennette Arnold OBE AM, Assembly Member for Hackney, Islington and Waltham Forest, London Assembly

Michael Ball, Thames Central Open Spaces

Patrick Barr

John Barradell, Town Clerk and Chief Executive, City of London

Martin Blaiklock

Ajit Chambers

Wai-King Cheung, Thames Central Open Spaces

Nigel Craddock

Lord Malcolm Davidson, Metropolitan Public Gardens Association

Marilyn Evers, Thames Central Open Spaces

Mark Field MP, MP for Cities of London and Westminster

Meg Hillier MP, Chair, Public Accounts Committee

Will Jennings, Artist & Urban Researcher, A Bridge Too Far

Geoff Jensen

Maureen Jethwa

Alistair Lenczner, Expedition Engineering

Phyllis Lewis

Walter Menteth, Project Compass CIC



Amyas Morse, Comptroller and Auditor General of the National Audit Office

Robin Mortimer, Chief Executive, Port of London Authority

Jenny O'Neill, Mulberry Housing Co-op

David Pollock

Martin Redston BSc, CEng, MICE, Martin Redston Associates

Ian Ritchie, CBE RA RIBA, Director of Ian Ritchie Architects Ltd.

Justine Simons, Deputy Mayor for Culture, Greater London Authority

Katie Smith, Head of Scrutiny, Greater London Authority

In total, 48 people contacted me in writing during my review. Those not included in the list had not given their express permission for me to include their name in my report.

### Appendix Three: Timeline

<b>2012</b>	
May	11 May: Joanna Lumley writes to the Mayor (Boris Johnson) requesting a meeting about the Garden Bridge proposal
July	26 July: Joanna Lumley and Thomas Heatherwick meet Sir Edward Lister (Mayor's Chief of Staff) and Isabel Dedring (Deputy Mayor for Transport)
September	24 September: Joanna Lumley and Thomas Heatherwick meet the Mayor with Sir Edward Lister and Isabel Dedring
November	26 November: Joanna Lumley and Thomas Heatherwick meet Sir Peter Hendy (TfL Commissioner)
December	17 December: Joanna Lumley and Thomas Heatherwick meet Isabel Dedring, Sir Peter Hendy and Michèle Dix (Managing Director – Planning, TfL)
<b>2013</b>	
January	16 January: TfL finalises a briefing note for next steps on the Garden Bridge, including possible approaches for procurement
	21 January: Joanna Lumley and Thomas Heatherwick visit the Emirates Airline with Michèle Dix, TfL
	31 January: Thomas Heatherwick meets Ed Lister and Peter Hendy
February	1 February: Joanna Lumley and Thomas Heatherwick meet the Mayor, Ed Lister and Isabel Dedring
	Between 3 and 5 February: The Mayor, Ed Lister and Isabel Dedring travel to San Francisco to encourage Apple to sponsor the bridge and are joined at a meeting by Thomas Heatherwick
	13 February: TfL formally launched the procurement for “bridge design consultancy services” to three companies: Marks Barfield, Wilkinson Eyre, Heatherwick Studio
	25 February: deadline for submissions to procurement
March	8 March: All three bidders formally notified of the outcome of their tender
April	12 April: TfL launches procurement exercise for engineering and project management services
May	1 May: Deadline for return of tenders for technical design role
July	18 July: TfL Finance and Policy Committee approves ‘project authority’ to £4m for the Garden Bridge project
	TfL appoints Arup as lead consultant and contract with Heatherwick Studio ends
August	13 August: The Mayor writes to the Chancellor (George Osborne) regarding possible funding for the Garden Bridge
	27 August: Formal direction from the Mayor to TfL to ‘undertake activities to develop

	and help enable a proposed footbridge (the Garden Bridge)'
October	30 October: Garden Bridge Trust incorporated as a charity
November	21 November: Mayor and Chancellor agree a £60m funding package for the Garden Bridge
December	4 December: Government's funding commitment announced in the National Infrastructure Plan
	8 December: Chancellor writes to the Mayor confirming the terms of their funding agreement for the Garden Bridge
<b>2014</b>	
January	28 January: Mayor writes to the Chancellor outlining his objections to the Chancellor's position regarding maintenance costs and risks of construction cost overruns
May	TfL produces the strategic outline business case for the project
June	27 June: Mayor directs TfL to provide up to £30m funding to the Garden Bridge Trust 'for the purposes of securing the delivery and construction of the Garden Bridge'
July	14 July: The Department for Transport (DfT) Board Investment and Commercial Committee scrutinises the business case and concludes there is a risk the project presents poor value for money but agrees to provide funding through an increase in the block grant to TfL
September	25 September: Mayor's direction to TfL reported to the TfL Board in the Commissioner's report
November	12 November: The Secretary of State writes to the Mayor to confirm an increase the TfL grant by £30m and sets terms for how the funding should be used for the Garden Bridge
December	Planning permission secured from Westminster and Lambeth Councils
<b>2015</b>	
February	18 February: The GLA Executive Director – Development, Enterprise and Environment confirms in writing to the Garden Bridge Trust that the Mayor will in principle provide a guarantee for the ongoing maintenance of the Garden Bridge
April	Arup's contract with TfL ends and the Garden Bridge Trust takes over management of the consultant team with its own contract with Arup
May	5 May: Garden Bridge Trust announces the selection of a Joint Venture (Bouygues and Cimolai) as contractor for detailed design, engineering and construction of the bridge
June	4 June: The Mayor approves a decision to provide guarantees to the PLA, Westminster City Council and London Borough of Lambeth
	15 June: TfL Commissioner (Sir Peter Hendy) agrees in a letter to Caroline Pidgeon AM to launch an internal audit panel review of the Garden Bridge design procurement process that led to the appointment of Heatherwick Studio

	19 June: Garden Bridge Trust receives permission for access to a further £1.75m of its £30m funding from DfT for pre-construction activities
July	2 July: TfL signs a funding agreement with the Garden Bridge Trust to specify how funding will be provided and terms and conditions
August	Construction due to begin to original schedule
September	15 September: TfL publishes its internal audit panel review of the Garden Bridge design procurement
November	13 November: TfL converts two-thirds of its funding to the Garden Bridge Trust into a repayable loan – loan facility agreement signed
<b>2016</b>	
January	27 January: The Garden Bridge Trust informs TfL of its intention to sign a construction contract and requests the release of the next stage of funding
	29 January: TfL informs DfT of its intention to authorise the next funding release
February	12 February: DfT confirms to the Mayor that the Department's 'cap' on pre-construction activity can be increased by £3.5m to £13.45m
March	15 March: The Garden Bridge Trust announces that it has signed a construction contract with Bouygues
April	5 April: The Garden Bridge Trust asks DfT for assurance to draw £15m from Government's contribution to the project to cover its contractual liabilities should the project be cancelled
	22 April: The Mayor amended his previous decision (approved June 2015) regarding conditions for the provision of guarantees to the Garden Bridge Trust
	The Garden Bridge Trust asks TfL for under-writing until 31 May 2016. 25 April: TfL underwrites the project's cancellation liabilities up to £1.3million to the end of May 2016 via a variation to the funding agreement
May	24 May: The Accounting Officer sought a ministerial direction to approve a further increase in DfT's pre-construction commitments to the Garden Bridge
	25 May: The Secretary of State for Transport formally directed the Accounting Officer to increase DfT's pre-construction commitments to the Garden Bridge to up to £15m
	25 May: The Government writes to the Garden Bridge Trust, agreeing to underwrite the project's cancellation liabilities up to £15m to the end of September 2016
July	11 July: The Garden Bridge Trust writes to DfT asking for it to extend its underwriting of the project's cancellation liabilities until to September 2017
August	23 August: DfT agrees to extend its underwriting of the project's cancellation liabilities for as long as required, but with liabilities capped at £9m
<b>2017</b>	

January	11 January: The Garden Bridge Trust's financial statement and accounts published for the year ended March 2016
February	28 February: The Charities Commission publishes its report on the Garden Bridge Trust

## Appendix 2

### Summary of Mayoral Directions

#### MD1248 - 27 August 2013

Under this Mayoral Decision, the then Mayor directed TfL to exercise its powers (and the Mayor's powers which were delegated to TfL) to undertake activities to promote and develop proposals to facilitate the delivery of the Garden Bridge.

The then Mayor was keen to support the Garden Bridge proposal on the basis that TfL would take the role of "enabler", undertaking activities, including but not limited to the following, to promote the project:

- contributing to the cost of developing the project to the point where third party funding has been identified and secured, with a view to seeking recovery of these costs in due course;
- establishing a clear policy statement of need for a crossing of the Thames in this area which defines specific objectives and outcomes for the project and receives buy in from the relevant local authorities;
- developing strategies for the following matters: procurement of the design; land and consents; funding and sponsorship and procurement for delivery and construction;
- offering technical assistance and advice; and
- advising on and assisting with the formation of a suitable entity which would secure and manage the necessary funds (for example, a new charity).

#### MD1355 - 27 June 2014

Under this Mayoral Decision, the then Mayor directed TfL to exercise its powers (and the Mayor's powers which were delegated to TfL) to provide funding from TfL's own budget of up to £30million to the Garden Bridge Trust for the purposes of securing the delivery and construction of the Garden Bridge, on such terms and conditions and in such form or manner as considered appropriate by TfL.

The then Mayor made this direction following the establishment of the Garden Bridge Trust to deliver the project, and following his agreement with the Government to make a capital contribution towards the delivery of the Garden Bridge of up to £30million each.

#### MD1472 - 4 June 2015

Under this Mayoral Decision, the then Mayor directed TfL to exercise its powers (and the Mayor's powers which were delegated to TfL) to:

- perform such activities as are necessary or expedient to fulfil the obligations to be imposed on the GLA in the Guarantees, other than those relating to the establishment, upkeep, maintenance and operation of the gardens and public spaces, and to make appropriate budgetary provision in that regard;
- perform such activities in relation to the Garden Bridge as are necessary or expedient in order to protect the interests of the GLA and of TfL, and (where appropriate) to provide limited support to the delivery of the Garden Bridge project, and to make appropriate budgetary provision in that regard;
- provide funding of up to £60million (incorporating £30million from the Government) to the Trust, for the purposes of securing the delivery and construction of the Garden Bridge, on such terms and conditions and in such form or manner as considered appropriate by TfL
  - (i) do anything that it necessary or expedient for the purposes of (i – iii) above; and
  - (ii) do anything that is conducive or ancillary to the above activities.

This direction was given to TfL following the then Mayor's agreement in principle to provide guarantees in respect of maintenance and operations obligations to be owed by the Garden Bridge Trust to the Port of London Authority, Westminster City Council and the London Borough of Lambeth. In the event that the guarantees were called upon, this direction would have enabled TfL to discharge many of the GLA's obligations under those guarantees. In addition, this direction provided for limited ongoing support by TfL to the delivery of the project, and recognised that TfL's funding obligations now incorporated the Government's £30million contribution.

### **MD2120 - 9 May 2017**

Under this Mayoral Decision, the Mayor revoked the previous Garden Bridge delegations and directions, save (i) to the extent that TfL has entered into binding commitments which it will need to honour; and save that (ii) TfL shall continue to perform activities relating to the Garden Bridge project necessary or expedient to protecting the interests of the GLA and TfL.

Rt Hon Dame Margaret Hodge MP  
House of Commons  
London  
SW1A 0AA

Appendix 3

12 April 2017

Dear Dame Margaret

### **Garden Bridge review**

I am writing to clarify a number of inaccuracies in your review of the Garden Bridge, published on 7 April 2017, and to query the validity of some of your conclusions, particularly where based substantially on your personal opinion or judgement and relying only on selective use of evidence. I am also copying this letter to the Mayor directly, so that he is aware of our concerns.

I have highlighted below our main concerns about your conclusions, focusing only on matters relating to the work of the Trust.

### **Public support and consultation**

You say you “found a lack of connection to the local community south of the river”, citing the opinion of Kate Hoey MP to support your assertion that the Trust did not engage properly with the local community and that local views were treated with disdain.

It is unfortunate that you chose to ignore my letter of 1 December 2016, which set out the many and varied community engagement activities we have undertaken. Similarly, it would have been useful if you had asked us about our extensive consultation when we met. I would happily have taken you through the detail of the more than 50 occasions where local communities had the opportunity to engage in shaping the project. It is also worth noting that Ms Hoey was involved in consultation on the Bridge, specifically, chairing a major meeting with the Trust and CSCB tenants in September 2015. It is unfortunate that her involvement wasn't viewed as providing a useful channel to local people, although of course she has refused offers to meet with the Trust on behalf of her constituents to gain a full understanding of the project and the details upon which we were consulting.

Without having conducted – and published - a valid survey exercise in coming to your conclusions on this point, we must reject your conclusions here in the face of the evidence of work done by ComRes in July 2015 which shows over three quarters of Londoners support the Bridge being built. It is worth noting that this work complies with the guidance and standards set by the British Polling Council and the Market Research Society for survey exercises.

If you had in fact intended to conduct your own informal polling exercise through this review, I question your decision to focus almost entirely on speaking to known opponents of the project. You did not meet with any of the project's supporters nor did you meet with any of the project's funders who plainly support the project. In addition, you fail to explain that planning permission has been obtained, through democratic process, from both Lambeth and Westminster Councils. We would have been very willing to put you in touch with local supporters of the project – residents, local employers, charities and others – if only you had sought to take a balanced approach to your informal survey.

### **Construction contract**

When we met, we explained to you the basis of the Trustees' decision to enter into the construction contract with the Bouygues Travaux Publics/Cimolai S.P.A Joint Venture.



Our contractor was working under a pre-construction services agreement, which is quite usual in the industry, in order to clear the conditions of planning and prepare for construction. The Trust entered into a fixed price (in GBP) contract with the Joint Venture, with the contractors committed to constructing the Bridge within budget and before the required completion date. Signing the contract allowed the contractor to engage a larger workforce to ensure all planning conditions were met in the timescale, thereby reducing the risk of cost escalation.

We have always ensured that we had the necessary resources to meet our obligations and that there were exit points throughout. Given that it is a highly specialist area, I am not clear how you came to your conclusion about this being a "risky and premature" decision without seeking expert advice or input, particularly as you said yourself during the meeting, "I'm not an expert on this".

Related to the contract, you also cite Brexit and its impact on the exchange rate as a likely contributor to cost increase. This is incorrect and irrelevant. The contract is a fixed cost, lump-sum value, design and build contract in GBP, which means the risk of exchange fluctuation – whatever the cause – is with the contractor.

### **Fundraising**

You express scepticism over whether the Trust will be successful in finding donors willing to fund the project, though there is no evidence in your report to support this conclusion. As we explained when we met, we simply cannot approach funders when we are coping with the uncertainties created by third party delays, including your own review.

At no point in your work did you seek to investigate the Trust's fundraising activities further, or indeed meet with any of the Directors of our Fundraising Committee. You did not take the opportunity to receive a presentation of the project, its design, its rationale and its potential to provide sources of income. You report that the Trust has obtained no new pledges since August 2016, but fail to acknowledge that it was the following month that your review of the project was announced, which had a direct impact on fundraising activity.

While you repeat your claims about philanthropists being unlikely to associate themselves with the project, you also fail to consider that the uniqueness and prominence of the Garden Bridge in central London makes it very attractive to corporate donors. It is disappointing that you did not choose to meet any of our existing funders – philanthropic or corporate – to understand their reasons for supporting this project and more broadly, what drives them to become involved in projects such as this.

Your suggestion that the fact certain pledges are anonymous "significantly contributes to the fragility of the commitments" is unsubstantiated and incorrect. In fact, one of our most loyal supporters, who has underwritten our operational costs, is anonymous and wishes to remain so indefinitely. It is perfectly normal in the philanthropy and charity sectors for funders to stipulate anonymity for a variety of different reasons, including the desire to support a project away from the spotlight.

### **Operations & Maintenance Business Plan**

When we met, you had been provided with an outdated version of the Trust's Operations and Maintenance Business Plan. We explained that the Business Plan is a live document going through various iterations and receiving input from external experts. I am unclear as to why none of this is acknowledged in your report.

You make sweeping statements about the philanthropic sector. As noted above, it might have been useful if – prior to coming to such unfounded conclusions about their likely intentions and

drivers - you had taken the opportunity to speak to some of our funders, particularly the one who has already contributed a £2m pledge to the Trust's endowment fund.

You suggest the assumptions in the Business Plan are "ambitious to say the least when compared to the rest of the market" but provide little evidence of anything comparable to the Garden Bridge. The Business Plan has been put together following discussions with several institutions on the South Bank and surrounding areas. It includes a broad range of income streams and is based on conservative estimates. It is also in line with the Mayor's request to keep the Bridge open to the public as long as possible and keep the number of closures to 10 afternoons/evenings per year. It is a robust plan which we are confident will successfully cover the Bridge's maintenance costs.

### **Selection of Trustees**

You claim that the choice of Trustees led to a lack of confidence and support in the Trust and the project but fail to provide any evidence of this. We explained when we met that in putting together the Board we developed a skills matrix and selected Trustees based on the skills and experience required on a Board with responsibility for delivering such a complex, high profile project.

You say it is unclear to you why a Trustee with involvement in a Business Improvement District is not conflicted by being on the Board, but having a trustee from Coin Street Community Builders (CSCB) would create a conflict. You did not accept our explanation but do not explain why.

The south landing point of the Garden Bridge is on land currently on a long lease to CSCB, which provides it with an income source (through, for example, pop-up events) which will be affected by both construction and operation of the Bridge.

A Business Improvement District is a defined area in which a levy is charged on all business rate payers in addition to the business rates bill. This levy is used to develop projects for the benefit of the local area. Northbank works with partners to deliver a range of projects to improve area-wide safety, sustainability and vibrancy. Investment has enabled daily activity to focus on, for example, reducing antisocial behaviour, support and advice for rough sleepers, and enhanced street cleaning.

I hope this makes the distinction clear, but for the removal of any doubt: a Trustee from CSCB would be conflicted as a Board member as we have been in detailed commercial negotiations to build on their land for over three years and the organisation will see a direct benefit from the Bridge. There is a clear and obvious difference between this and having a Trustee who is also involved in the work of the Northbank Business Improvement District some of whose members are simply to be affected by the Bridge.

### **Scope and methodology**

The terms of reference for your review asked you "to assess the public sector contribution to the Garden Bridge project and whether value for money has been achieved; to investigate the conduct of Transport for London (TfL), the Greater London Authority (GLA) and other relevant authorities; and to set out any lessons that should be learnt in order to improve the conduct of potential and approved projects in the future".

The terms of reference did not, as you asserted both in the report and in the media, include offering a recommendation on "whether building a Garden Bridge over the River Thames is a good idea" or whether the project should go ahead. But your report does of course make a clear recommendation. You also state that you worked alone with the part time support of a GLA official. There is no suggestion that you drew on any other expertise on any of the topics that the report covers. It is a great shame that, upon changing your position on offering a recommendation about the future of the project, your methodology was not also strengthened

to offer a more appropriate level of technical expertise to provide a robust evidence base upon which to ground your conclusions. Because of this, we simply cannot accept your recommendation. Rather, as the Mayor has said consistently, "the taxpayer will be better off if the bridge is built" and the many benefits of the project delivered, which would of course also mean that the £20m loan is repaid.

A report of this type would typically set out the reasons for selecting the people you have consulted. This is absent from your report and it is clear from your published list that you have engaged with a very selective – largely opponent – audience. I would like to offer a single, but significant, example of where your work might have benefited from additional technical advice. Value for money is a technical concept with specific methodologies for making relevant assessments that generally involve a detailed exercise with large teams of experts from a variety of disciplines. TfL's Strategic Outline Business Case considered the upfront commitment of £30m each from DfT (via HM Treasury) and TfL and was prepared using the agreed standards and format for business cases, as set out in HM Treasury's Green Book, which provides guidance for public sector bodies on how to appraise proposals before committing funds to a policy, programme or project.

Since the May 2014 business case was considered and published there has not been another Green Book business case commissioned, so I am unclear about the evidence upon which your finding is based. To put it bluntly, it does in fact appear to be based almost entirely on your own opinion and the word of others who have expressed a view, rather than on the word of those with technical expertise in this field.

Following our meeting it was clear to me, as I wrote in my letter of 1 December 2016, that this was a huge and complicated task for one person and that you needed additional technical and other resource to master the complexity and scale of the project. It is regrettable that no such resource was sought.

### Report publication

Finally, I found your approach to publication of the report discourteous, particularly as the Trust was a willing participant in your review. I understand that some interested parties, including journalists, had early insight into publication, while those with responsibility for delivery of the project were not offered the same courtesy, having no warning of either the publication of your report or your decision to alter the scope of your recommendations. This put the Trust in a position by which we were unable to provide timely briefing of our funders and key stakeholders. You will understand the importance of our relationships with such critical supporters of the project and, for someone with your extensive experience in the public sphere, I find the lack of respect and disregard for the impact of your findings unacceptable.

Yours sincerely



**Lord Davies of Abersoch**  
Chairman, Garden Bridge Trust

Cc. The Mayor of London