

THE JEWISH LEADERSHIP COUNCIL

INDEPENDENT REVIEW PANEL

REPORT

JANUARY 2019

PRIVATE & CONFIDENTIAL

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1 INTRODUCTION

- 1.1 The background to our appointment as the Independent Review Panel (the "Panel"), is contained in the Terms of Reference document dated 28th March 2018. Those Terms incorporate the letters from the Charity Commission ("the Commission") dated 5th and 24th March 2018, and all three documents are attached at Appendix 1.
- 1.2 This report is therefore made to the present trustees of The Jewish Leadership Council ("JLC") and simultaneously to the Commission and is solely for their respective uses. Progress reports to both have been made monthly since March, with one permitted exception (June). **This report including all Appendices is subject to Qualified Privilege. We accept no duty, responsibility or liability to any other person who is shown or gains access to this report. This report is confidential and may not be disclosed to any third party.**
- 1.3 For your convenience, this document and its Appendices have been made available in electronic format. Copies or versions may therefore exist in different media. In the case of any discrepancy the final signed hard copy should be regarded as definitive. Earlier versions are drafts for discussion and review purposes only.
- 1.4 We appointed Crowe Clark Whitehill LLP (now Crowe UK LLP) ("Crowe") as our independent forensic accountants we have Crowe's consent to include their Final Report January 2019 as part of this report and it is attached at Appendix 2.
- 1.5 The trustees of JLC in office in 2013 ("the 2013 Trustees") were the following:
- Sir Mick Davis, Chair
- Gerald Ronson CBE
- Leo Noe
- Nigel Layton
- Poju Zabłudowicz
- Bill Benjamin (also a current Trustee)
- Steven Lewis (also a current Trustee)
- Vivian Wineman
- James Libson
- Stephen Pack
- Sir Trevor Chinn
- 1.6 The other current Trustees are:
- Mark Adlestone OBE, DL

Adrian Cohen

Debra Fox

Jonathan Goldstein, Chair

Edward Misrahi

Mark Morris

Marie Van Der Zyl

Suzi Woolfson

Hilda Worth

1.7 We interviewed the following:

The Whistleblower ("WB")

Sir Mick Davis, Chair of the 2013 Trustees retired May 2017 ("MD")

Stephen Pack, 2013 Trustee retired May 2018 ("SP")

Nigel Layton, Treasurer and 2013 Trustee retired April 2014 ("NL")

Leo Noe, 2013 Trustee retired August 2018 ("LN")

James Libson, 2013 Trustee retired May 2017 ("JL")

Jonathan Goldstein, the current chair ("JG")

Jeremy Newmark, the CEO until October 2013 ("JN")

Zoe Sages, PA to JN January – August 2013

HW Fisher, the then (and current) auditors ("HWF").

1.8 By individual emails we gave all the 2013 Trustees not interviewed the opportunity to meet us if they wished. Two declined by email. The remainder did not respond.

1.9 Anyone we have interviewed and criticised in this Report has seen what we proposed to say about them in advance and been given a chance to comment, and their comments have been taken into consideration.

2 SUMMARY

The following is a summary of some of the key findings set out in this report: it is not a substitute for reading the report in its entirety.

2.1 Introduction

- The background to our appointment is contained in the terms of reference documents set out in Appendix 1. In summary, these terms were to consider (1) the decisions taken by the 2013 Trustees in relation to the 2013 Internal Report and JN's resignation, and whether all decisions were reasonable and taken in the best interests of JLC and (2) the financial irregularities revealed by the 2013 Internal Report and if JLC suffered a material loss in 2013. We were also to review the current financial processes of JLC and answer a large number of questions raised by the Commission (see Appendix 7).
- We appointed Crowe Clark Whitehill plc (now Crowe UK LLP) as our independent forensic accountants. Their Report is at Appendix 2.

2.2 The 2013 internal report

- The WB approached a trustee (SP) on or about 7 September 2013 with a list of concerns about certain alleged financial irregularities. He advised that they put their concerns in a written report. This was done and became known as the Internal Report ("the 2013 Internal Report"). It was produced to SP and NL on 16 September with a file of supporting documents. It was immediately emailed to MD.
- MD convened a trustees meeting for 17 September.
- On 25 September MD and LN met with JN and questioned him about the report (redacted).
- On 30 September JN produced a written "off the cuff" response commenting on the report. He accepted the offer for him to resign on the grounds of ill health.
- He was given a consultancy for three months, and then a further three months, the second period at MD's expense.
- WB told us JN was allowed continued access to the office with full access to the charity's books, records, accounts and IT equipment. MD says he had access to the office but not bank accounts or accounting systems and records.
- Our investigations have been hampered and seriously delayed by a lack of documentary information (see Crowe's Report at Appendix 2) and recollection on the part of some of those involved at the time.

2.3 Decisions taken by the 2013 Trustees in relation to the Report and JN's resignation

- In the belief that they were acting in the best interests of the charity, they did not investigate the extent of any loss to the charity save for one bank account. They believed that the income stream and expenditure on projects was such that there was no room for large scale fraud. Nonetheless, the trustees' proper course of action following the receipt of the 2013 Internal Report would have been to open an internal enquiry into other bank accounts and all the years in which JN had been CEO.
- No minutes were taken of important meetings.
- No independent professional advice was taken, either in relation to charity law, forensic accounting or employment law.

2.4 Financial Irregularities and Loss to the Charity

- The charity's financial and accounting records were incomplete.
- There was a lack of documentation to support expenditure.
- MD having considered only one bank account with JN accepted JN's explanation for 2/3 of expenditure on it and agreed that JN repay £9,672 as being unsubstantiated plus £521 as accepted as owing to JLC.
- There was no analysis of the extent of loss as alleged in the Internal Report or consideration of the other 14 Bank accounts. MD believed that any shortage would not result in a material loss to the charity.
- Due to the lack of documentation and records, Crowe sought to perform an analysis of copy bank statements, credit card statements and any other available documentation for the period under review.
- Their investigation identifies potentially questionable expenditure and consultancy fees, each of which would have warranted further examination, an exercise which could have been performed at the time with the then availability of all records (the 2012 audit was being conducted at the time).
- Included in the total expenditure warranting further follow up were round cash sums totalling £4,810 withdrawn from the JLC's account by JN, amounts totalling £1,900 paid into his personal bank account, and amounts claimed on his personal credit card totalling £17, 000.
- Due to the incomplete accounting records, neither Crowe nor the Panel are in a position to assess the quantum of loss.

2.5 Governance and financial control up to September 2013

- NL introduced spending authority for the CEO up to £12,500 and for staff of £2,500, with the CEO approving expenditure by staff beyond the limit; the system for approval for the CEO of sums in excess of his authority was casual and ad hoc.
- NL did not see credit card statements, but authorised payment without proper checks on the JLC's Barclaycard and on JN's personal Amex card.
- As a result, JN had the facility to withdraw round cash sums from the bank and make payments into his personal bank account without supporting documentation.
- Although NL saw annual management letters drawing attention to lack of controls, he did not act upon the concerns expressed.
- In an email exchange with MD on being given notice of the allegations by the WB, NL dismissed them as from a "naïve employee" (see email NL to MD 8 September 2013). His view changed as soon as he had sight of the written report.
- From minutes of trustee meetings it appears that there was no financial report as to the status of the charity's finances produced, nor was finance in relation to the charity as a whole discussed.
- No detailed budgets, records of expenditure or management accounts could be produced for review by the Panel or Crowe.
- A related party transaction between JLC and a company owned by JN's wife was not disclosed in the JLC's financial statements and payments to that company appear to have continued beyond the original contractual term of 12 months and fee of £25,920. JG told us that she continued to work for an additional three months at the same rate, after which she was no longer required. However, she invoiced JLC £36,720 in total.
- HWF were immediately made aware of the Internal Report and asked to edit it to protect the identity of the WB. An email dated 17 September from Neal Gilmore of HWF refers to "a shocking example of management override and bullying and a combination of what we suspected but much worse" the meaning of which was not explained to the satisfaction of the Panel.
- Nevertheless HWF did not ensure such concerns as they had were brought to the attention of Trustees, nor did they follow up on the outcome of the report.
- Although the scope of auditors bookkeeping work does not require them to keep accounting records or any back up, HWF were unable to provide any

information on JLC's accounting controls, disaster recovery or back up procedures.

- The financial statements were approved by the Trustees and auditors without reference to the allegations or the resignation of JN, the CEO.
- Neither NL as Treasurer nor the trustees, two of whom were chartered accountants, exercised proper control of JN's use of JLC's funds.

3 THE 2013 INTERNAL REPORT

- 3.1 WB raised concerns about certain financial irregularities in an internal report attached at Appendix 3 (the "2013 Internal Report"), which was produced by WB after approaching SP on or about 7 September 2013 with a list of concerns which he advised WB to put in a report with such documentary evidence as WB had. WB sent the 2013 Internal Report to SP on 15 September 2013 and discussed it at a meeting with SP and NL, on 16 September 2013, by when WB had produced a file of documents supporting the report. SP sent the report to MD and told him that he (SP) thought it was a serious matter. SP also contacted Andrew Rich, the audit partner ("AR") and Neal Gilmore, the audit manager ("NG"), both of HWF, after the meeting. See section 6.18 below for NG's comments on the seriousness of the Report.
- 3.2 MD called a trustees meeting on 17 September 2013 to consider the report. It is not clear whether the trustees saw the report itself or another document prepared by NL at the request of MD summarising concerns expressed by the auditors as well as those of WB (see Appendix 4). We have seen no record, nor is there apparently an uncontentious and verifiable recollection, of who attended that meeting, whether in person or on the telephone, and we have seen no minutes of the proceedings or any decision(s) taken. There is therefore uncertainty about exactly what was decided. For example, JL emailed MD on 24 September: "I think the plan is that if he agrees not to go back into the office and contact anyone while he considers the content of the report till Monday, there is no need to hand him the suspension letter. If however he does not accept the position voluntarily you will have to hand it to him."
- 3.3 We are told that MD was authorised by the meeting to meet and question JN about the report (redacted to conceal WB's identity). He did so with LN on 25 September 2013 and on 30 September JN produced an 'off the cuff responses' document, commenting on the 2013 Internal Report item by item.
- 3.4 On 30 September, MD emailed trustees saying that JN had informed him he wished to resign on the grounds of ill-health, and that MD intended to accept that and appoint JN as a consultant on a full salary for three months to effect a proper handover to his successor. The email stated that in the circumstances, MD also thought it appropriate to pay JN a further three months' salary at the end of his consultancy apparently at MD's personal expense. There was no formal trustee meeting to discuss MD's proposed course of action, but we have seen emails from nine of the eleven 2013 Trustees communicating their agreement to it, and the resignation took effect and the consultancy agreement was implemented from 2 October 2013. According to Simon Johnson, JN's successor as CEO and current CEO ("SJ"), the handover was in the event mostly carried out by the COO and the part-time acting CEO (Kate Bearman). SJ said that he had one lunch meeting and a few email exchanges and telephone calls with JN. MD confirmed (in an email to the Panel Chair on 30 October 2018) that JN did however continue to have meetings with MD.
- 3.5 By email dated 29 October, JN was asked by MD to comment on his expenses on the Fair Play Campaign Group (FPCG) account, and on 30 October 2013 MD reported

that JN had produced to him documentation to support £14,443.50, and agreed to reimburse the charity for the unsubstantiated sum of £9,672.19. This latter sum was apparently paid on or about 1 November 2013 but recorded in the accounts as an anonymous donation rather than a reimbursement by JN. HWF say they were unaware until recently that this "donation" was actually an expenses repayment agreed with JN.

- 3.6 WB told us that JN was allowed back into the charity's offices after the 25 September 2013 meeting with full access to the charity's books, records, accounts and IT equipment. WB told us that one week after his resignation JN came into the office and "removed files, information, etc". JN denies removing any material. SJ said that after his (SJ's) arrival in mid-October 2013, JN came to the office on one occasion and removed some boxes, and to deal with paperwork relating to the car. SJ thinks it very unlikely that any other material was removed after SJ's appointment as interim CEO.
- 3.7 Our investigations have been seriously hampered and delayed by a lack of contemporaneous documentary information (see the Crowe Report at Appendix 2), and the attention of the current trustees and the Charity Commission has been drawn to this issue in our interim reports. For example, the file supporting the 2013 Internal Report appeared in one of the twelve boxes provided at the outset of the Panel's work by the charity, but there is reason to believe it is incomplete and no other copies of that file have been found. No bank statements could be found, and Crowe had to obtain copies from the bank.

4 REVIEW OF DECISIONS TAKEN BY THE 2013 TRUSTEES IN RELATION TO THE 2013 INTERNAL REPORT AND JN'S RESIGNATION

- 4.1 SP acted correctly in helping WB to bring the matter to the attention of MD, NL and HWF as soon as possible. MD acted correctly in promptly calling a meeting (on 17 September 2013) of the 2013 Trustees to discuss the implications of the 2013 Internal Report. However, there should have been a comprehensive minute of that meeting, including a note of who was present and the rationale for the decisions taken but this was not apparently done. (It should be acknowledged that in the period under review, the minutes we have seen of trustees meetings were generally quite detailed, but mostly with regard to ongoing projects which the charity was supporting). The extent to which the options for dealing with JN were discussed and agreed, and exactly what document(s) was/were tabled, are therefore unclear. MD disagrees and says the important point is that the 2013 Internal Report was tabled and a full and frank discussion was had. It is not clear to us whether those present took or had taken independent legal advice. JL, a partner in the law firm Mishcon de Reya, was present and is held out by his firm as a lawyer who has employment law experience, but he says he was acting as a trustee and was not giving any employment legal advice in this matter.
- 4.2 There is no written record of the meeting MD and LN held with JN on 25 September 2013 and what was agreed, but MD says that JN was immediately "informally" suspended and barred from the office. Had JN not been "compliant" he would have been handed the prepared suspension letter. Once JN had agreed to resign he was allowed back into the office but no access to bank accounts or accounting systems. The Panel find it difficult to understand why JN was allowed to return to the JLC offices at all, pending further enquiries. In our view this was not an appropriate measure to take in the circumstances.
- 4.3 On receipt of the 'off the cuff responses' document from JN on 30 September 2013, and his indication of a wish to resign on health grounds, MD did not call another meeting but on the same day emailed the other 2013 Trustees to tell them what he intended to do and sought their views. MD told us this was a judgement call he made in the best interests of the charity. In the absence of any record of the 17 September meeting, the extent of his authority to make this call is not clear, but the 2013 Trustees emailed that they were happy with his proposed course of action. JL told us that the trustees had already agreed the options and so there was no need for another trustees meeting to be called.
- 4.4 On the information we have, it seems to the Panel that employment legal advice was taken from JL. JL has stated that he had no retainer to provide the JLC with employment law advice on the 2013 Internal Report or upon any consequent disciplinary action against JN, and he did not do so. He disputes that the documentation below points to the giving of employment law advice by him. See:
- the Consultancy agreement attached at Appendix 5, on Mishcon de Reya notepaper;

- the email attaching it dated 1 October 2013 (see Appendix 7, section 38);
- the email dated 2 October 2013 advising on it (see Appendix 7, section 36); and
- the email dated 24 September 2013 attaching the draft suspension letter and advising on its use (see Appendix 7, section 35).

The Chair and other trustees told us they habitually looked to him for legal advice and he gave it. It is the case that a professionally qualified trustee has a higher duty of skill and care in matters relevant to that qualification than the other trustees not so qualified, irrespective of whether such trustee or their firm has been formally engaged to advise on such matters. (S.174 Companies Act 2006 and related Practical Law UK Practice Note. Regard should also be had to S.1(1) Trustee Act 2000 and related Practical Law UK Practice Note, Charity Commission guidance CC3 The Essential Trustee, and principles set out in *Hedley Byrne & Co Ltd v Heller & Partners Ltd* HL 1963).

- 4.5 The charity allowed JN to continue to have access to the office and to work as a consultant, despite the possible risks to the charity in doing so, but MD says that a consultancy was necessary in order to have an orderly transition. That is understandable but was it necessary for JN to return to the office to fulfil this role? MD says it was, and access was "limited" and "for a period of a few days only". As we have said all along, records do indeed appear to have gone missing, but we have no reliable evidence of how that occurred. JN referred (in an email to us) to being told by an employee whom he did not wish to name of a large scale destruction of documents after he (JN) had left. WB told us at interview that a week after his resignation JN came back to the office and removed files, information etc. NL states that he has no knowledge of the destruction of any documents. JL states that he was not a party to the decision to allow JN to return to the office.
- 4.6 In a document ("Scenario Mapping and Recommendations" dated 23 September 2013 see Appendix 7, section 34) addressed to MD and LN, Shimon Cohen ("SC") of The PR Office raised the question of what the 2013 Trustees' legal responsibilities were, but we do not know how many of the other 2013 Trustees saw the document at the time. JL says he did not see it. We have seen no other suggestion or advice given to the 2013 Trustees that they were under a legal duty (which they were at the time) to file a Serious Incident Report ("SIR") to the Charity Commission. Those we asked the question at interview said they were not advised they had to consider filing such a report, and unaware of the obligation to do so, and if they had been aware, they might have decided the numbers discussed with JN were not sufficiently material to merit an SIR, but see Section 5 of this Report (Financial Irregularities and Loss). It is also hard to see how the loss of the CEO in such circumstances could not be thought to merit an SIR, as their current lawyers (Womble Bond Dickinson) later acknowledged to the Commission. No independent legal advice seems to have been taken by the charity before the Commission intervention this year. MD said if they had

received advice as to the need to report to the Commission, they would have done so.

- 4.7 It seems to us that the actions of the 2013 Trustees following the receipt of the 2013 Internal Report can be seen to be driven by an entirely reasonable desire to rectify what WB had identified in that Report (in particular make good any loss caused to the charity, change CEO and introduce proper financial controls). They could also be seen to be motivated by a desire to protect the reputation of the charity so far as possible. Hence for example (1) the deployment of a PR strategy pursuant to the "Scenario Mapping" document (see 4.6 above) which did not recommend "to tell the full story"; and (2) the obligation in the JN consultancy agreement not to make derogatory comments or comments in the media. It was thought unlikely to be in the charity's best interests to launch a full enquiry by looking for further losses. The CEO had resigned and the numbers so far referred to were not thought likely to make such an enquiry proportionate or a good use of the charity's resources. Trustees seemed to be under the impression that the charity's budget was insufficient to allow for any large scale defalcation in any case. MD says that JN could not have committed a material theft for the simple reason that (1) he did not have access to significant funds to do so, and (2) the JLC could not have continued to operate as it did at the time if a material theft had occurred. The JLC Council (the charity's membership body) was informed (by email from MD on 2 October 2013; see Appendix 7, section 52) that JN had resigned due to ill-health and no reference was made to the financial issues which had arisen. These factors could be seen to indicate that there was an intent to conceal the nature of the allegations against JN.
- 4.8 From the Panel's perspective, which may of course benefit from hindsight, it is clear that the trustees' proper course of action following the receipt of the 2013 Internal Report would have been to open an internal enquiry into other bank accounts and all the years in which JN had been CEO. They believed that the income stream and expenditure on projects was such that there was no room for large scale fraud. Nonetheless, the trustees had a duty to protect the assets of the charity. They were effectively on notice that there was a potentially serious issue in relation to JN's conduct and it does not seem to the Panel that the trustees were in a position to assume no other loss had been incurred, or to say that it would not be a proportionate response to look further into the matter before agreeing any settlement with JN (see Crowe Report 2.7, 2.8, 2.9 for example). Had they launched a full internal enquiry, they would have had the benefit of all the records being available (the annual audit was in the process of being prepared by HWF) and access to all the relevant people while the details were still fresh in their memory. They would then most likely have been in a position to establish if, through a lack of proper financial control (and trustees had a duty to control the operation of the charity's bank accounts), there was hard evidence of inflation of project budgets, unauthorised transfers of restricted funds, or any other opportunities for personal enrichment at the expense of the charity, and therefore consider (with appropriate advice) whether any activity should be reported to the police. They would also have been in a position to decide whether earlier periods should be similarly investigated (see Crowe Report 2.16).

5 FINANCIAL IRREGULARITIES AND LOSS TO THE CHARITY

5.1 As stated in the Crowe Report, the lack of documentation and, in particular, the absence of a complete set of financial and accounting records for the period subject to review (covering both the 2012 and 2013 financial years) inevitably leads to the conclusion that an accurate assessment of a loss to JLC cannot be determined.

5.2 Examples of the lack of documentation and other supporting evidence include:

- No proper trail of systems and procedures.
- The inability to obtain electronic financial records from back-up. Sage, the software provider at the time, have stated that they cannot trace any records against the JLC user and account codes.
- Neither Crowe nor the Panel were able to obtain management accounts, bank reconciliations, an asset register or detailed records of expenditure for the periods under review.

MD said he was not in a position to know about such matters, and was never informed about any alleged breakdown in controls. NL states that there were accounting records on which the auditors relied. The auditors never asserted the records were incomplete.

5.3 WB informed Crowe and the Panel that JN had been allowed access to all records after he had left the full-time employment of JLC. In his interview with the Panel on 12 October 2018, JN confirmed that he went back into the office to help out with the transition. WB said at interview that JN removed files and information from the offices of JLC, but we have seen no other evidence of this.

5.4 As stated in Sections 3 and 4 above, on 25 September, MD and LN met with JN to discuss the 2013 Internal Report. JN acknowledged the serious nature of the issues raised in the report, although he accepted no wrong-doing, other than very bad administration. JN agreed to resign from his position as CEO of JLC on the grounds of ill-health, which he did on 2 October 2013. Subsequently it was agreed that he should repay £9,672, representing unsubstantiated expenditure. At least nine out of eleven trustees confirmed their agreement to the proposal negotiated with JN.

5.5 MD believed at the time that any missing funds would not be a material loss to JLC, given the relatively low level of expenditure being incurred by JLC and therefore the cost of a full investigation would not be justified.

5.6 The trustees did not, however, investigate to establish whether any additional expenditure not in line with policy had been incurred during the 2012–13 period or earlier.

5.7 Due to the lack of documentation, Crowe sought to perform an analysis of the bank statements, credit cards and any other available information. Their investigation showed that there appeared to be potentially questionable expenditure of £111,734

(£3,582 incurred before July 2012 and £108,201 in the period July 2012-September 2013), which had they been undertaking the investigation at the time, they felt would have warranted further follow up. Examples of such expenditure included regular cash withdrawals of £200 totalling £4,810 and payments to JN's private bank account totalling £1,900. In addition, Crowe identified consultancy fees totalling £266,189, which they were told the trustees were satisfied were eligible expenditure. Crowe state that these payments could merit further enquiry.

- 5.8 JN told the Panel in interview that the sums were reimbursement since at times he had to fund JLC out of his private resources due to a shortage of funds in JLC's bank account. MD told us in an email that he vigorously denied the suggestion that JN was privately funding JLC from time to time.
- 5.9 JN has provided the Panel with some explanations which are examined in 3.12 of the Crowe Report.
- 5.10 As stated above, it is difficult to assess the quantum of any loss to JLC, due to the lack of documentation, but Crowe's investigations have highlighted various payments which would certainly have warranted further follow up at the time they were incurred.

6 GOVERNANCE AND FINANCIAL CONTROL UP TO SEPTEMBER 2013

- 6.1 Trustees are ultimately responsible for everything their charity does, which includes but is not limited to its vision, mission and management, and they cannot delegate that ultimate responsibility.
- 6.2 Good governance of a charity is fundamental to its success and enables and supports a charity's compliance with the law and relevant regulations. The board of trustees must ensure that its decision-making processes are informed, rigorous and timely and that effective delegation of powers and control and risk assessment systems are set up and monitored. The trustees should work together as an effective team, using the appropriate balance of skills, experience, backgrounds and knowledge to make informed decisions. Good governance is also about attitudes, culture and trust. These qualities help to demonstrate that a charity is trustworthy.
- 6.3 The trustees of JLC during this period included successful business people and partners in respected professional firms. They were accustomed to good governance and strong financial procedures. JLC was at the time not a large charity and was run with a small management team. The trustees believed there to be transparency, accountability and above all, trust throughout the organisation. Therefore it is not surprising that the WB's report came as a shock to them.
- 6.4 NL, on behalf of the trustees, implemented procedures delegating specified nominated staff to authorise and make payments of up to £2,500 and, based upon the delegated authority approved by the JLC Executive Committee on 27 March 2006, JN was also individually authorised to make payments or annual contractual agreements up to £12,500.
- 6.5 Notwithstanding laid-down procedures, JN was able to incur expenditure of which NL and the trustees were unaware. Examples of these include:
- The withdrawal of round sum cash amounts from the bank without production of receipts to show how the money was spent;
 - Payments to the CEO's personal bank accounts without supporting documentation; and
 - Entry into a leasing agreement for a new car for JN's use without specific trustees' approval (see 6.28 below).
- MD said responsibility for expenditure was with NL and MD was entitled to rely on him and HWF.
- 6.6 There are bank accounts, which were "administered" by JLC and/or JN such as the Fair Play Campaign Group but did not form part of JLC's financial statements. In response to a question, HWF stated that they had no knowledge of this account until it was first mentioned in a meeting with JLC's lawyers in or about February 2018 following correspondence with the Charity Commission.

- 6.7 It was also noted that a related party transaction between the JLC and companies owned by the CEO's wife, one of which listed the CEO as a company secretary, was not disclosed, as required, in the financial statements. It would also appear that payment to the company continued after the contract had expired.
- 6.8 JN was granted a three month consultancy agreement after he had left as an employee which allowed him to return and have access to JLC's records and computers.
- 6.9 NL confirmed that he approved some of JN's expenses, but if he was unsure about a particular expense, he would request MD to approve. NL said that he would call MD on every third or fourth expense claim and that MD approved the claims. MD said that "it was quite unusual and exceptional for NL to refer expenses to [him]".
- 6.10 NL was working abroad during parts of this period, although he says he was back in the UK on a regular basis and responded to emails and phone messages.
- 6.11 NL said that he was not presented with the American Express or Barclaycard credit card statements for approval. The American Express credit card was in JN's personal name, but the Barclaycard was in the name of JLC. NL cannot recall whether he or the trustees authorised the bank to issue this card.
- 6.12 SP, MD and LN told the Panel that they relied on NL, as Treasurer, to exercise control over the financial affairs of JLC. Although NL is not a qualified accountant, he is a partner in a major firm of accountants for whom he works as an expert in forensic accounting.
- 6.13 The minutes of trustees' meetings seen by the Panel showed very little information on JLC's financial affairs. Neither detailed budgets nor management accounts seem to have been prepared and could not be produced to the Panel or Crowe.
- 6.14 Both the Panel and Crowe met with the relevant individuals from HWF, the then and current auditors of JLC, who also provided bookkeeping and accounting services. Meetings were followed up with questions and the request for additional information.
- 6.15 In January 2012, HWF started to provide bookkeeping services to the charity. The bookkeeper informed the Panel that all bank accounts were reconciled on a monthly basis and that Sage (the accounting system) was being operated in a proper manner. According to the bookkeeper, JLC was running a proper set of books when he left in 2014.
- 6.16 The Panel informed HWF that prior to 2014, no back-up records could be produced. Sage has also confirmed that they have no records or details of the JLC ever being a client. HWF were unable to provide any assistance in locating the Sage records.
- 6.17 HWF was asked to explain their involvement in the review of allegations set out in the WB's report. They stated that although they were aware of the allegations, they had not been party to the investigation or enquiries by the trustees. They concluded that the allegations were more about poor administration "rather than naughty behaviour".

They recognise that there was a lack of documentary evidence to back up payments, but thought that this in itself did not mean that expenses had not been properly incurred.

- 6.18 An email dated 16 September 2013 from NG to colleagues in his firm, refers to a conversation with SP in which SP said that "the matters are very serious". A further email from NG dated 17 September 2013 refers to the WB's report as "a shocking example of management override and bullying and a combination of what we suspected, but much worse".
- 6.19 Crowe reported to us that the bookkeeper maintains that his concerns related to the lack of information and back-up documentation, both of which were preventing him from fully performing his role as bookkeeper.
- 6.20 An email dated 20 September 2013 between HWF and NL states that they have prepared a "sanitised" version of the WB's report and a copy of "the changes we made" was sent to MD on 24 September 2013.
- 6.21 Auditors have a duty to:
- give reasonable assurance that the financial statements are free from misstatement, whether caused by fraud or error; and
 - report their findings to shareholders or in this case, to the trustees.
- 6.22 Auditors express the results of their findings, which have arisen during the course of their audit by way of a management letter. Serious matters, particularly suspicion of a financial irregularity should always be reported without delay.
- 6.23 The concept of "materiality" is applied by auditors both in planning and performing their audit and evaluating the effect of identified misstatements on the audit and of uncorrected misstatements. This enables the auditor to form an opinion on the financial statements and on the audit report.
- 6.24 HWF used 1% of income as material, which for the years ended 31 December 2012 and 2013 would have been approximately £17,000 and £29,000 respectively. Therefore, errors below these amounts would not have been regarded as material by them. However, HWF would have been expected to inform the trustees without delay of any potential impropriety or matters of concern identified during the course of the audit.
- 6.25 Crowe reports that HWF's scope of bookkeeping services does not require them to keep accounting records or any back-ups. In HWF's view, disaster recovery is not part of normal audit procedures. Crowe states that where a firm is providing accounting and bookkeeping services, they would expect them to have a record of the controls over the processing and security of accounting records, including back-up and disaster recovery procedures. HWF confirmed that they were unable to provide the Panel or Crowe with any information on JLC's back-up recovery.

- 6.26 HWF informed the Panel they reported JLC's lack of financial controls in their management letters and also during a meeting with trustees on 18 October 2013 at which they discussed potential audit adjustments, internal controls and going concern issues arising from their 2012 audit. The notes of the meeting do not mention the WB's report or whether the resignation of the CEO should be referred to in the financial statements as a post balance sheet event. In the Panel's view, the resignation should have been referred to both in the trustees' report in the accounts and in the minutes of the first trustees meeting after the event (1 November 2013). It was not.
- 6.27 HWF's management letters to the 2010 and 2012 accounts also highlighted a number of control weaknesses and raised questions relating to JN's expenses, pointing out that NL did not routinely review the credit card statements. These weaknesses should have alerted HWF of a potential lack of control over the procedure for approving expenses. However, they maintained that the allegations against JN were of poor administration and therefore thought it inappropriate to follow up with further audit work. (There was no management letter for the 2011 accounts because HWF said nothing had changed since the 2010 letter.)
- 6.28 There was little evidence of acceptable levels of financial control in JLC:
- There was opportunity for JN to spend money from JLC's funds without approval and to pay money into his personal bank account without anyone requesting written support documentation. The 2013 Internal Report said there was often allocation by JN of surplus funds donated to the JLC to purposes other than those for which they were originally intended but we have not been able to substantiate that.
 - JLC entered into a leasing agreement for a new car for use by JN without approval from the trustees. See NL email to MD 7 September 2013 indicating no knowledge and therefore authorisation of the new car. HWF emails of July 2013 show they did not know whether it was a pool car or part of JN's remuneration package in which case he would have been liable to tax on the benefit. It was called a pool car but bore his personalised number plate.
 - There is no evidence that detailed budgets or regular management accounts were prepared (see Crowe Report 1.12, 1.18), but MD says that "very detailed budgets were prepared and approved by Trustees". NL states that budgets were prepared and those expenses that were submitted were properly checked and challenged where appropriate. It was a matter of opinion as to how many additional controls were required given the small size of the charity and the trust placed in the CEO.
 - JN's expenses were not properly checked.

Had NL carried out his duties as treasurer with more diligence than he appears to have done, and paid heed to the weaknesses identified by HWF in their management

letters, it seems to the Panel that he would have recommended a much clearer and more effective oversight of JN's activities by the trustee body.

- 6.29 By email dated 4 September NL said he intended to meet JN: "he may have the answers. It would be overkill to suspend or get an independent firm in yet". By email dated 7 September NL said he would ask JN (in the meeting) about the new BMW, and to explain the transaction and authorisation. By email dated 8 September NL said "The Rep letter contained nothing that concerned me. I suspect that we have a naïve employee". These emails demonstrate the lack of a detailed grip on the finances.
- 6.30 The trustees themselves appear to have relied upon NL and HWF but must ultimately bear responsibility. NL said that nobody queried the accounting systems and controls.

7 GOVERNANCE AND FINANCIAL CONTROL IN 2018

- 7.1 See Crowe's report on the current systems in place at JLC and their recommendations.
- 7.2 See Section 9 where we recommend that a full Governance Review is now undertaken by a specialist law firm, as a separate exercise from this Report, notwithstanding the Panel's terms of reference (see Appendix 1).

8. **REMOVED**

9 RECOMMENDATIONS

- 9.1 We had considered recommending that previous financial periods are examined, but in view of the difficulty Crowe and we have had in getting reliable information, we think such examination is unlikely to reveal the evidence required.
- 9.2 A governance review of the charity should now be conducted by specialist lawyers appointed by the charity for the purpose, and its recommendations implemented.
- 9.3 A regular trustee induction and training programme should be implemented.
- 9.4 A review of how all fundraising and grant giving activity is carried out, and appropriate procedures and controls adopted.
- 9.5 A policy to protect whistle-blowers: see Crowe's comments on the current policy.
- 9.6 The trustees should appoint an Audit and Finance Committee, chaired by a trustee (not the Treasurer), with Terms of Reference to include responsibility for oversight of the CEO, the relationship with the auditors and the provision of regular financial information to the trustees.
- 9.7 Formal staff appraisals should be conducted regularly, and the actions agreed taken promptly.
- 9.8 The recommendations at Section 6 of the Crowe Report should be carefully reviewed by trustees and action taken accordingly.
- 9.9 Trustees should implement a policy of regularly reviewing the appointment of auditors, including conducting an appropriate tender process.

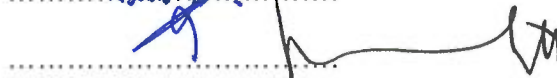
Her Honour Dawn Freedman



Derek Zissman



Michael Scott



31 January 2019