

COMMISSION FOR LOCAL ADMINISTRATION IN ENGLAND

Minutes of the meeting of the Commission held at Millbank Tower, Millbank, London SW1P 4QP on Tuesday 12 April 2005 at 10.00am

Present: Mr T Redmond (Chairman)
Mrs P A Thomas (Vice Chairman)
Mr J R White

In attendance: Mr N H Jones
Mr N J Karney
Mr M King
Mr P MacMahon
Ms H J Pook (items 5 & 8)
Mr J Osmont (item 6)
Mr A L Creech

1. Apologies

Apologies for absence had been received from Ann Abraham, who had given Tony Redmond her comments on papers for the meeting.

2. Matters arising from the minutes of 8 March Commission meeting

The minutes of the 8 February meeting were confirmed as an accurate record and signed by Tony Redmond, subject to the deletion from minute 7 of the sentence “(It was noted that Anne Whitehorn was updating the guidance in the light of recent case law.)”

There were no matters arising.

3. Commission PIs: March 2005

CLA 1426 had been circulated. The following points were noted:

- The number of complaints received in the month of March had fallen substantially compared with March 2004 (-13%), which had resulted in lower than anticipated complaints received during 2004/05 (18,711). The number of calls received by the advice calls service during 2004/05 had increased over 2003/04 (17,882 compared with 16,787); past research had suggested that there might be a relationship between trends in advice calls and new complaints, but this data did not appear to support this relationship and needed further investigation. The Commission considered that the fall in complaints in March could be attributed in part to the impact of Easter (which fell earlier in 2005 than in previous years).
- It was noted that the Deputies would provide the Commission with regular reports on workloads and resources during 2005/06.

DEPs

- Peter MacMahon said that in London 135 complaints had been unallocated for more than four weeks as at 31 March, and he was currently exploring with the London AOs the impact this might have on productivity, and whether this struck the right balance with the need to keep caseloads to reasonable levels.
- The proportion of local settlements (2,873) had reduced compared with the previous year (3,189). It was felt that this was probably due in part to the decline in the number of Housing Benefit complaints, which tended to result in more local settlements than other categories of complaint.
- Neville Jones would investigate the reasons for the disparity between Coventry and the other offices in the number of comebacks recorded as *Decision confirmed: further explanation*.
- The number of customer complaints (105 for the April to December 2004 period) had risen substantially compared with the previous year, as had the proportion of customer complaints upheld wholly or in part.

4. **Budgetary Control Report: 28 February 2005**

CLA 1427 had been circulated (a slightly revised covering paper was tabled). Tony Redmond said that the overall financial position remained sound, with a small projected year-end surplus of £16,619.

The Commission noted the report.

5. **Annual Report 2004/05**

CLA 1428 had been circulated. The Commission considered the draft text of the 2004/05 Annual Report. Hilary Pook said that she had also received some comments from David Nice, which she raised as the Commission went through the text.

The Commission **AGREED** to approve the draft Annual Report, with changes to take account of the following comments and decisions (a number of detailed drafting changes were also made, which were recorded by Hilary Pook).

The Commission and its role

- Add *Internal Drainage Boards* to the list of authorities within LGO jurisdiction.
- The Commission would formally launch its Public Value mission statement at the 26/27 April staff event, and this should therefore feature in the 2005/06 Annual Report.

Chapter 1: Chairman's introduction

- Tony Redmond would expand the references in the Chapter to regulatory reform and working with OPHSO.

TR

- Review the wording of the final sentence on page 2 *in such cases where maladministration causing injustice is involved we hope that at some time in future the Ombudsman may be able to consider such a complaint.*
- Peter MacMahon suggested that reference should be made to the Commission's responses during the year to various Government consultation papers and proposals. Tony Redmond would consider this point further.

TR

- Jerry White reported on the results of a new survey of local authorities' responses to the *Section 117 Special Report*, which indicated that £87.2m had been paid as a consequence of the Report. The paragraph on Special Reports would be amended to include this point: Jerry White would supply the wording.

JRW

Chapter 2: Accessibility

- Change the title to *Access to our services.*
- Clarify the phrase *intermediary sector* (page 2).
- Amend the sentence on page 3 to read *In last years monitoring figures, 29% of the complainants said that they had a disability.*
- Jerry White would review the sentence on page 5 *In addition to complaints about administrative fault in general, we have investigated cases where racism has played a contributory part.*

JRW

Chapter 3: Business Goals and performance

- Include details on the numbers of comebacks with the outcome *Decision confirmed: further explanation* (page 4).
- Give further information about the increase in the number of customer complaints received in 2004/05 compared with previous years (and also the higher proportion of complaints upheld wholly or in part), with if possible reasons why (page 5).
- Include in the section *Sound and justified decisions* information on the number of judicial reviews received during 2004/05, with their outcome (page 5).
- The Commission **AGREED** that a review of the Guidance Notes on Good Practice was required to ensure they are up-to-date. Also, that the Guidance Note on *Disposal of Land* should be withdrawn.

HJP

- Nigel Karney will include additional wording for the section on *Freedom Of Information* (page 7).

Chapter 5: Local settlements

- Replace *Table 5: Local settlement by category 2003/04* with a table setting out types of remedy, together with information on the amount of compensation paid to complainants as a result of all remedies. Hilary Pook would arrange this with Katherine Dowse, who devised the table. **HJP;KD**

Chapter 6: Mrs Thomas-The final chapter

- Change the title *Mrs Thomas - the epilogue*.
- Amend the sentence on page 1 to *We receive many complaints about education admission appeals but it is less common to find fault with one organised by a local education authority although other admissions authorities still make mistakes*.

Appendix 4: Complaint statistics by authority

- The Commission **AGREED** not to change the layout of the statistics, given that these would be available on the Commission's website for analysis by councils.

Appendix 5: Glossary of terminology

- The Commission **AGREED** to replace the definition of a *comeback* set out in the Glossary with the Investigation Handbook definition.

The Commission then considered the issues raised in Hilary Pook's covering paper and the Annexes, and **AGREED** the following:

- To ask Andrew Williams to select from Annex B case summaries for inclusion in chapter 2, for agreement with the Ombudsmen outside the meeting. **AW**
- To include in the body of the Annual Report a selection of compliments received in 2004/05 (Annex C). Neville Jones will provide Hilary Pook with additional compliments received by the Coventry office. **NHJ**
- Not to include the short report from the Welsh Public Services Ombudsman set out in Annex D, but instead to include a footnote to the complaint statistics.
- To include the new remedies table in the summary annual report.

Next steps

- Tony Redmond and Hilary Pook will amend the text in the light of the points raised, for submission to the LGA for comment. **TR;HJP**

- vi The final text of the Annual Report will be approved by the Commission at its next meeting on 10 May.

6. Paying for residential and nursing home care

CLA 1429 had been circulated. The Commission began by expressing its appreciation to John Osmont and Pat Riley for all their efforts in producing an interesting and well written Report. It was noted that:

- Anne Whitehorn had made a number of suggestions on the bullet points set out on the final page of the draft report.
- John Osmont proposed an additional bullet point *The council should not seek a top up payment where it cannot otherwise meet a resident's assessed needs within its standard rate.*

In considering the draft Report, the Commission made the following comments and decisions:

- Tony Redmond said that Ann Abraham had suggested that John Osmont should consult the OPHSO Deputy Ombudsman, Trish Longdon, about the draft Report, because she felt that OPHSO would now be in a position to comment further on the issues raised.
- The Commission noted that the current draft of the Report relied heavily on the evidence and experience of voluntary organisations. The Commission acknowledged that there were sound reasons for this, in particular the relatively small number of complaints about this subject received by the Ombudsmen. The Commission appreciated that this Special Report would differ from a previous Special Reports which were based entirely on casework experiences.
- The Commission considered that this needed to be more complaints-based and supplemented by information gathered from local government. They therefore considered that it would be advisable to give local authorities the opportunity to give their own experience of the issues covered by the current draft, and that this should be done before the Report is issued as a consultation draft.
- The recommendations set out in Chapter 3 should be expanded and should be related as directly as possible to the consideration of complaints and other evidence and experience set out in the body of the draft Report.

The Commission therefore **AGREED** that:

- i The Association of Directors of Social Services (ADSS), the specialist body within the LGA dealing with this subject, should be approached and asked to contribute information and views that might be included in the draft Report.
- ii A revised draft of the Report, amended in the light of the points made in the Commission's discussion and ADSS comments, would be put to a future meeting of the Commission for approval and external consultation.

7. Steering the Public Value Agenda

CLA 1430 had been circulated. The Commission agreed to defer consideration of this paper until the Ombudsmen/Deputies Awayday, which was due to take place immediately after the Commission meeting. [Note: the paper was withdrawn following the discussion, to be re-presented after the Staff Event.]

8. FOIA

CLA 1432 had been circulated. Hilary Pook pointed out that an additional request had been received in London which had not been included in the table. Also, that five requests refused by Coventry had not had reasons recorded for the refusal. Peter MacMahon reported on the one case that had been referred to the Information Commissioner: he had reviewed the file again; concluded that the information requested was minimal; and had therefore sent this to the complainant. Nigel Karney commented that the Commission's guidance had been updated to take account of this point.

The Commission noted the quarterly report, and **AGREED:**

- i To approve the Deputies' proposal that the current £10 charge for "subject access" Data Protection Act requests should be dropped.
- ii To ask the Deputies to remind staff that the spreadsheets recording requests should always be completed, particularly with regard to any refusal and the reason for it, and for any complaints made, so that a complete report can be made to the Commission at the end of each quarter.

DEPs

9. Waiving of Financial Regulations

CLA 1420 had been circulated. The Commission agreed to note the action taken by the Chairman to waive Financial Regulations or Instructions relating to the award of contracts for the supply of goods or services.

10. Confidential business

There were no items of confidential business

11. Date of next meeting

The next meeting will be held at **11.30am** on Tuesday 10 May 2005 at Millbank Tower, London. Patricia Thomas offered her apologies for that meeting.