

## COMMISSION FOR LOCAL ADMINISTRATION IN ENGLAND

### Minutes of the meeting of the Commission held at the Royal York Hotel, Station Road, York YO24 1AA on Tuesday 7 June 2005 at 11.30am

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

**In attendance:** Mr N H Jones  
Mr N J Karney  
Mr M King  
Mr P MacMahon  
Mr A L Creech

#### 1. Matters arising from the minutes of 10 May Commission meeting

The minutes of the 10 May meeting were confirmed as an accurate record and signed by Tony Redmond.

There was one matter arising from the confidential minute, recorded separately.

#### 2. Commission PIs: May 2005

CLA 1435 was tabled. The following points were noted:

- The number of complaints received by the York office continued to rise (up 8.4% compared with May 2004). Michael King said that this was causing difficulties for staff, with an increase in the number of complaints in hand (including those over 52 weeks). Anecdotal evidence within the office suggested that a further factor might be that complaints are becoming increasingly complex. Peter MacMahon referred to London investigators' comments that complainants' behaviour was becoming increasingly difficult to manage, distracting investigators from their caseloads.
  - Michael King reported that the York office had recently recruited two investigators from its pool, but because of existing commitments they would be unable to start with the Commission until the Autumn. He added that, for the first time, both of these investigators would work part time straightaway, and this would be likely to present the office with new challenges in terms of induction training and management: he undertook to report back to a future meeting of the Commission on the office's experiences.
- MK**
- Tony Redmond commented that the number of cases unallocated more than four weeks in the London office (211) remained a cause for concern, as did the number of complaints decided (165 below target since 1 April). Peter MacMahon reported that the London Management Team had agreed a strategy for dealing with unallocated cases, but this would take time to have an

impact. Also, that he planned to appoint an extra growth post as soon as possible, but the London investigator pool was empty; arrangements were currently underway to begin recruiting for the pool.

- Neville Jones commended Coventry staff for the level of output they had achieved in May (34 above target), despite the extra work involved in writing the Annual Letters. Subject to confirming this with the Coventry Management Team, he thought that Coventry would be able to take some complaints from London and/or York if these offices would find this helpful, Peter MacMahon and Michael King expressed their appreciation of this offer, and undertook to consider this further.

PM;MK

### 3. Review of Planning Assumptions

CLA 1438 had been circulated. The Commission considered the first of the reports from the Deputies Group on the workload/resources position in the offices, and also reviewed the planning assumptions built into the 2005/06 business plan. The Commission noted that, at its February meeting, it had amended its Corporate Plan assumption to an overall growth in new complaints of 3.5% in 2005/06. Based on the latest trends in complaints, the Commission considered that an assumption that there would be nil growth in complaints overall in 2005/06 would be reasonable, although the position varied between the offices. The Commission noted that it would soon need to take a view on the forward projection of complaint levels in 2006/07 and beyond for the purpose of the new Corporate Plan. Nigel Karney pointed out that the staffing levels in the offices should be viewed in the context that the investigator complement was currently devoted almost entirely to investigation activity, and the full effects of drawing down staff to work on training and External Communications activities would not be felt until later in the year.

In the discussion, the Commission **AGREED** that the outline Corporate Plan should include:

- Details of individual office workloads, as well as the Commission-wide position.
- An analysis into the nature as well as the number of complaints, in the light of the Commission's earlier discussion about the increasing complexity of cases (this would also help to inform the Commission's 2006/07 grant bid).

NJK

### 4. Out-turn team budgets 2004/05

CLA 1439 had been circulated. Tony Redmond said that, overall, the 2004/05 outturn was satisfactory and demonstrated that the budgets had been well managed during the year. He pointed out that he had raised separately with Stephen Jones a number of minor amendments to the statements, although these had not affected the overall financial position. The Commission noted that there had been an underspend against the 2004/05 budgets of £214,644, and that budget holders will be asked to provide explanations for the main variances at the next round of budget holders' meetings.

The Commission **AGREED** to:

- i Note with approval the outturn team budgets for 2004/05 for submission to the ODPM and LGA.
- ii Approve the timetable for the presentation of the audited accounts.

**SDJ**

## **5. Budgetary Control Report: 30 April 2005**

CLA 1440 had been circulated. The Commission noted that the forecast outturn for 2005/06 (a deficit of £456,378) was based on only one month's figures. But also that there were substantial variances in a number of the budget headings and these merited further explanation. The Commission therefore **AGREED** that the next budgetary control report should include an explanation of the following variances:

- Training and conference fees
- Consultancy
- Postage

**SDJ**

## **6. Equality And Diversity**

The Commission considered the following papers, which had been circulated:

### **A. Equal Opportunities Monitoring Data 2004/05 (CLA 1441)**

The Commission agreed this to be interesting and valuable data, while noting that there appeared to be no especially significant changes in the individual data sets compared with previous year's figures requiring specific action. The Commission felt that it was important to share this data with stakeholders, in particular the voluntary sector/advice agencies at the next joint LGO/PHSO workshop scheduled for November 2005 since this would fit well with the workshop's theme of "accessibility".

The following key points were made in discussion about the figures:

- The number of complainants who had found out about the Ombudsmen through its web site had increased from a 7% to 10%: this validated the work currently underway to improve the website.
- The importance of monitoring the special assistance actually provided to complainants, in contrast to the more general information we obtain from the monitoring form, to enable improvements to be planned to the range/availability of the special services. The Equality and Diversity Group (EDG) would be asked to consider this point further.

**MK; NJK**

- Michael King said that the EDG had discussed the "White" category in the data, and had suggested that there might be benefits from analysing this category in more detail (eg to establish how many are of Eastern European

origin). It was considered that this would be useful for internal planning purposes, even though there are no nationally comparable figures.

The Commission then considered the EDG's proposal, based on the EO Adviser's advice, that monitoring of type of disability should be discontinued, on the basis that there is no national comparator, and also that asking for the information might serve to discourage complainants from completing the monitoring form. In the discussion, the Commission felt that, even though there are no nationally comparable figures, the question still provided useful information which could be used for internal planning purposes. The Commission was therefore minded to continue monitoring type of disability, but that this would be subject to further consideration of the EO Adviser's point that asking complainants to answer this question might put them off completing the form. Nigel Karney would take this point up with BMG Research, the company which had undertaken the recent customer satisfaction study, and who would be expected to have considerable direct experience of this issue.

**NJK**

**B. Employment monitoring data 2003-2005 (CLA 1442)**

The Commission noted the employment monitoring data for the period 1 May 2003 to 31 March 2005.

**C. Race Equality Scheme Action Plan (CLA 1443)**

Nigel Karney explained that the draft Plan was a result of a workshop session involving the EDG and the Deputies, and that the items in the "Action Planned" column with asterisks had been included in the Deputies' 2005/06 Equality and Diversity Action Plan (CLA 1445). Also, that the "Impact" column headings "Race discrimination", "Equality of opportunity", and "Promotion of good relations" were based on the evaluation criteria set out in the Race Relations Amendment Act (RRAA). He confirmed that the assessment of impact had been arrived at by discussion in the workshop. He added that the Act required there to be consultation on the Action Plan. This did not apply to the CLAE Plan as the Commission is not currently within the scope of the RRAA but the Commission might still wish to consult. One option was to present the Plan to the November 2005 voluntary sector workshop.

Michael King commented that other organisations tended to publish their Action Plan in a glossy brochure, but the EDG had felt that this would not be appropriate because they preferred to view the Plan as a document which is under constant development.

The Commission's discussion focused on the first item on the Plan "Recruitment", and ways in which the current under representation of ethnic minority people amongst investigative staff might be redressed. The following points were raised:

- Whether we should conduct further research into the reasons why people apply for investigator posts.

- Whether we should consider the possibility of offering one or two year secondments to local authority staff.
- Whether we should target minority ethnic people currently employed in the legal profession and those who may be legally qualified (or have law degrees) but are not currently practising.

The Deputies should consider these points as part of their response to the Action Plan.

**DEPs**

The Commission **AGREED** to approve the Race Equality Scheme Action Plan.

D. Disability Discrimination Act 2005 (CLA 1444)

The Commission noted Nigel Karney's report on the Disability Discrimination Act 2005, which came into force on 7 April, and the subsequent meeting between representatives of Ombudsman schemes, including the LGOs and PHSO, and government officials about whether the terms of the legislation exclude Ombudsman decisions on complaints from the requirements of the Act, on the basis that this might be seen to introduce an element of bias into consideration of complaints. Ann Abraham reported that the PHSO board had recently discussed the Act, and had agreed upon the importance of preserving the integrity of the investigative function while stressing that it would wish to comply in a positive and proactive way with the spirit of the legislation. The Commission endorsed this position.

The Commission and PHSO would keep each other informed of developments.  
**AA;NJK**

E. Equality and Diversity Programme 2004/05 and 2005/06 (CLA 1445)

The Commission considered the achievements made against the 2004/5 Programme and the draft 2005/06 Programme. The Commission considered this to be a comprehensive and well thought out document, which set out an ambitious programme of activity to deliver/implement in 2005/06.

Nigel Karney drew the Commission's attention to Employment action (4) "Proposal for a graduate training scheme". He reminded the Commission that a similar scheme had been discussed two years ago with the organisation PATH, but that this had to be abandoned because of concerns about the organisation's ability to deliver the scheme. Since then, however, PATH had undergone a radical overhaul and Margaret Handley advised that she now had confidence in the organisation as a partner for the scheme. Niger Karney explained that the training scheme would be flexible, but was likely to last about 18 months, with a salary of between £12 and £16,000. PATH advised that this would be competitive rate which would attract good quality candidates, including those living in London. The total cost of the scheme, including training costs, would

be in the region of £24-25,000, with part of the cost falling in the current financial year. Nigel Karney stressed that the scheme would require a significant investment in time on the part of the AOs and other investigators to train/support the trainee. It would not be possible to guarantee a job at the end of the training period, but the trainee would be placed in the investigator pool.

In the discussion about the proposal, the Commission explored the possibility of expanding the scheme to include the other offices. However, it was noted that it would not be possible to extend this to York within its current form as a “Positive Action Scheme”, because the workforce in the York office was not unrepresentative of the surrounding population.

Ann Abraham reported on developments in PHSO in this area, with the setting up of a new Equality and Diversity unit. She suggested that, if PHSO were to set up a similar graduate trainee scheme, there would be benefits from the Commission/PHSO trainees sharing information and experience and supporting each other.

The Commission **AGREED** the Deputies Group’s proposal for a graduate trainee scheme, but expanded to recruit two graduate trainees to be based in the London and Coventry offices. The Deputies Group would also consider the possible recruitment of a trainee in the York office, although it was recognised that this would have to be outside the PATH graduate trainee scheme.

Ann Abraham commented that the Programme would benefit from a short covering statement which sets out the main aims/objectives of the Commission’s Equality and Diversity programme.

The Commission **AGREED** to:

i Note the 2004/05 Equality and Diversity Programme, and approve the draft 2005/06 Programme (subject to the point in minute 6 C and inclusion of an aims/objective statement).

**DEPs**

ii Request that the Deputies give a mid-year report on progress with the 2005/06 programme.

**DEPs**

## 7. **Steering the Public Value Agenda**

CLA 1446 had been circulated. The Commission considered the Deputies Group’s proposals on taking forward the Public Value Agenda and the outcome of the Staff Event. Nigel Karney explained that the proposals, amended to reflect the Commission’s initial views at its May meeting, had been well received by Assistant Ombudsmen and Heads of Service who had been the Event Facilitators.

The Commission made/noted the following points in the discussion:

- It was important to recognise that there are linkages between individual Programme Areas eg “Investigative Practice” and “Quality and Efficiency”. It was also noted

that the “Role and Influence” Programme Area was concerned with central/local government stakeholders, whereas the “External Communications” Programme Area focused on other categories of stakeholders ie complainants, voluntary sector etc.

- The Commission discussed the role of the individual Ombudsmen in the Programme Management approach, and in particular whether individual Ombudsmen other than the Chairman should sponsor particular Programmes. Nigel Karney emphasised that the proposals were intended to place the Ombudsmen, acting as the Commission, at the centre of the new structure, as having overall responsibility for approval and monitoring the progress of the Programmes.
- The principle of all day Commission meetings at regular intervals to accommodate regular Programme Area reporting was endorsed. However, an opportunity was also needed for the Ombudsmen to meet together to consider complaints/investigation matters.
- Ann Abraham requested that she was given as much notice as possible of the all-day Commission meetings to enable her to reconcile them with other diary commitments.

Subject to changes to reflect the points made in the discussion, the Commission **AGREED** to:

- i Endorse the Programme Management approach.
- ii Change the arrangements for its meetings to accommodate Programme Area reports. Nigel Karney would schedule, in consultation with the Chairman, extended Commission meetings to allow detailed discussions of the Programme Areas. **NJK**
- iii Approve the proposed arrangements for the consideration of the Provocative Propositions, with comments reported to the Commission on 12 July.
- iv Approve the proposed approach to “one organisation” activity. **DEPs**

## **8. Draft Special Report on paying for residential and nursing home care**

CLA 1447 had been circulated. Patricia Thomas said that the Association of Directors of Social Services (ADSS) had been consulted on the “advice points” part of the first draft of the Special Report - which had been well received - and the Association’s comments had been incorporated in the revised draft. Also that the Office of Fair Trading report on the operation of the care homes market had recently been published, and this complemented points made in the draft Special Report.

In the discussion, the Commission felt that the Special Report should make it clear that the recommendations stem from evidence of investigations by the Ombudsmen, which is supported by the information provided by the voluntary organisations.

Ann Abraham said that her Special Report on Tax Credits will be published on 22 June.

The Commission **AGREED** to approve the draft Special Report, subject to changes to take account of the following comments:

- Amend the chapter two heading to “Complaints to the Ombudsmen and voluntary organisations”.
- Group the recommendations in chapter three into subheadings; include a suitable introduction/preamble to the recommendations; and repeat the individual recommendations in the body of the Report, to show clearly their linkages to Ombudsman complaints.
- Review the wording of the 10<sup>th</sup> recommendation (“Councils should ensure through providing fair and appropriate funding...”).
- Indicate in the 12<sup>th</sup> recommendation (“Councils *should* not lawfully delay on the grounds of resource constraints....) the length of time considered by the Ombudsmen between completion of the assessment and meeting the assessed need. Patricia Thomas would arrange for draft revised wording to be circulated to the other Commissioners for consideration/approval outside the meeting. **PAT**
- Change the 13<sup>th</sup> recommendation to “Councils *should* not use waiting lists as assessments....”

The Commission also **AGREED** that the revised draft Special report should be issued for consultation to local authorities, PHSO, the Office of Fair Trading, the Association of Directors of Social Services, voluntarily organisations and other third parties. **PAT**

## **9. Audit Committee**

CLA 1448 had been circulated. The Commission noted the minutes of the 7 March meeting of the Audit Committee. It **AGREED** that the issues raised under minute 8 “Reflections from the Independent Chair on risk management” should be addressed at a future meeting. **NJK**

## **10. Australian Study Tour**

Tony Redmond tabled a paper which summarised the main points raised in discussions with other Ombudsmen in his recent study tour. He explained that the discussions had been in confidence to encourage frank exchange, and so the paper would be a confidential record (section 41 FOIA applies). If there was sufficient interest he could provide an open note. The confidential paper was noted by the Commission.

## **11. Date of next meeting**

The next meeting will be held at **11.00am** on Tuesday 12 July at MBT (extended Commission meeting).