

## COMMISSION FOR LOCAL ADMINISTRATION IN ENGLAND

**Minutes of the meeting of the Commission held at Millbank Tower,  
Millbank, London SW1P 4QP in the Board Room on the 15<sup>th</sup> floor on  
Tuesday 15 July 2008 at 12.00pm**

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

**In attendance:** Mr N H Jones (items 1-6, 8-14)  
Mr N J Karney  
Mr M King  
Mr P MacMahon  
Ms J Feeney  
Ms S Ruckwood  
Mr S D Jones (items 1-12)  
Mr A L Creech

### **1. Matters arising from the minutes of 20 May Commission meeting**

The minutes of the 20 May meeting were confirmed as an accurate record, and signed by Tony Redmond.

There was one matter arising from the minutes.

#### ***Minute 1: Freedom of Information: Information Tribunal***

Ann Abraham referred to her recent correspondence with the Information Commissioner (IC), Richard Thomas - circulated to all the public sector ombudsmen at their meeting earlier that month - in which she had expressed concerns about his Office's treatment of a number of PHSO cases, brought about by categorising all information on the case file relating to the complaint as "personal data". She had pointed out to the IC that no attempt had been made by his Office to look at the interface with her own legislation, in particular the statutory bar on disclosing information relating to cases, and that this needed to be thought through. Graham Smith, the Deputy Information Commissioner, had responded that he was prepared to defer decisions on the PHSO cases until he had had the opportunity to reflect on the issues Ann Abraham had raised in her letter. The Commission agreed this to be a helpful development. Ann Abraham undertook to keep the Commission and the other public sector ombudsmen informed of progress.

**AA**

Ann Abraham then circulated a note prepared by her Legal Adviser Anne Harding on the outcome of a judicial review hearing (*Kay v. Health Service Commissioner*), which had been heard in the High Court on 10 July. The case concerned a severely disabled woman, and related to a complaint made on her behalf by her parents (Mr and Mrs Kay) relating to their daughter's medical treatment. The Trust and then PHSO had refused Mr and Mrs Kay's request for copies of all of their daughter's medical records (a decision upheld by the IC). Mr and Mrs Kay had also requested copies of all the information provided to PHSO by the Trust, and this had been refused in the light of the statutory bar. However, following *Turpin v LGO*, PHSO had agreed to release all the

information upon which they relied in coming to their findings/recommendation or information which had influenced their decision. But PHSO had also required Mr and Mrs Kay to provide a formal undertaking that they would not use the information for any other purpose other than for commenting on the report, which they had refused. Ann Abraham explained that all of the points raised in the judicial review had been found in PHSO's favour, including a reaffirmation of the ombudsmen's line on the release of information in the light of the *Turpin* judgement. Mr and Mrs Kay's application for permission to appeal had been refused.

Ann Abraham's report was noted by the Commission.

## 2. Commission PIs: June 2008

CLA 1651 had been circulated.

The Commission noted that the PIs included a 'mock up' of the Initial contact/LGOAT performance information that would be shown in future reports: Neville Jones confirmed that real data would be included in the next set of PIs to be considered by the Commission.

NHJ

The Commission discussed the 'mock up' and **AGREED** the following changes:

- Omit *Average time to call back (minutes)* - information on this indicator was not collected by LGOAT.
- Clarify the difference between the entries *Advice given - complain to the council* and *26(5) premature complaint*.
- Give the range of call lengths as well as average times; this would indicate whether the average had been distorted by a relatively small number of long duration calls.
- Neville Jones reported that the number of enquiries received by LGOAT was currently running at around 1,000 per week, with around 50,000 calls projected to be received for the first year of operation. A report on this would be put to the LGOAT programme board on 22 July. He pointed out that this is a "high risk" area in the Commission's strategic risk register.

NJK; DP

## 3. Budgetary control report: May 2008

CLA 1652 had been circulated.

Stephen Jones pointed out that actual expenditure was running behind expected budget profiles in a number of areas, and drew the Commission's attention to:

- The surplus of £183k between total income so far (£2.2m) and total expenditure (£2m), in part because a number of items were still being processed which would be reflected in the June report.
- The *Salaries* budget, which was on target although an important factor would be the final NJC pay award, expected to be above the 2% level assumed in the budget.

- The overall cost per complaint (£939), inflated because output did not include premature complaints decided by LGOAT; this would be adjusted in subsequent monthly returns.

Tony Redmond commented that the overall financial position was sound.

The Deputies highlighted the following points in their commentary on the reports:

*Corporate services:* the projected underspend in *Other revenue* was partly linked to training course revenue, but based on the latest data a surplus was now expected with 2008/09 bookings holding up well. *Staffing* was showing a projected overspend (£67k); Nigel Karney was still examining the reasons for this. Some expenditure on the new leaflet and website was rolled over from 2007/08 (see minute 5).

*York:* there was an apparent overspend in *Training*, caused by the mismatch between the training year (July-June) and the financial year (April-March): substantial training activity planned/agreed for 2007/08 had occurred in the first quarter of the 2008/09 financial year.

*LGOAT:* *Staffing* costs were close to profile, but this did not include the full impact of the recent appointment of two additional advisers and two temporary team administrators (see minute 5).

The budgetary control reports and comments were noted by the Commission.

#### 4. Annual Accounts 2007/08

CLA 1653 had been circulated.

Stephen Jones outlined the minor changes to the 2007/08 Annual Accounts suggested by the Audit Committee (which had met immediately before the Commission). A number of other points made by the Audit Committee, such as simplifying the commentary on pensions in line with forthcoming changes in disclosure requirements, would be actioned when the 2008/09 Accounts are prepared.

The Commission **AGREED** to authorise the Chair, as Accounting Officer, to sign the Annual Accounts on its behalf, subject to the changes suggested by the Audit Committee, for submission to the DCLG.

TR; SDJ

#### 5. Mid-year adjustments

CLA 1654 had been circulated.

Stephen Jones presented the Commission with details of:

- items that had emerged since the start of the 2008/09 financial year, together with the projected budget shortfall of £66k (£215k in total);
- underspends in the 2007/08 budget programme in respect of website design, leaflet printing and training (£125k);
- inter-team salary transfers, which were cost neutral but did reflect some changes to the cost allocations for the posts.

In the discussion, the Commission noted that:

- it had already approved at its meeting in January the allocation of a proportion of reserves up to £200k to the 2008/09 budgets;
- the list of items which had emerged since the start of the 2008/9 financial year included a number of relatively minor items, and it was likely that these would be accommodated within existing budgets;
- the key items listed were in respect of the budget shortfall; the pay award; and LGOAT additional expenditure.

The Commission concluded that it was not necessary to increase its original allocation to accommodate all of the items listed.

The Commission therefore **AGREED** to approve:

- i. The allocation of £200k of reserves to the 2008/09 budgets; the Deputies were authorised to agree the detailed changes to the base budget from the agreed allocation. **DEPS**
- ii. The release of £125k as a commitment brought forward from 2007/08.
- iii. The inter-team salary transfers and updated depreciation schedule. **SDJ**

## **6. Grant in aid**

CLA 1655 had been circulated.

Stephen Jones introduced his progress report, which included his findings from researches with the Standards Board for England (SBE). He said that:

- His overall conclusion from the researches was that a substantial amount of preparatory work would be required in the period leading up to the commencement of the grant in aid regime (1 April 2009) to put the Commission's financial systems and processes in place to produce monthly bids for cash. (He reminded the Commission about the current funding arrangement, which is to receive a fixed proportion of the approved grant each month.)
- He therefore proposed a separate project to run a "shadow" exercise in the second half of 2008/09 to test how returns under the grant in aid arrangement will operate (an outline brief/estimated cost was given in Appendix 3). The project would include looking back at the past two financial years and tracking accruals and cash movements.

Tony Redmond commented that there were differences between the SBE and the Commission's circumstances because the SBE had operated under the grant in aid regime since its inception.

The Commission's discussion of the report focussed on the position of its reserves as at 31 March 2009, and how they would be treated under the new regime. Stephen Jones pointed out that he had raised this in exploratory talks with DCLG officials.

The Commission **AGREED** to:

- i. note the progress report;
- ii approve the suggested next steps set out in the report and Appendices.

**SDJ**

## **7. Senior Investigator pilot**

CLA 1656 had been circulated. Neville Jones declared a personal interest and left the Commission meeting for the duration of this item.

The Commission considered the outcome of the Senior Investigator (SI) pilot. Mick King highlighted the following points:

- The report consolidated lessons learnt from the first and second years of the pilot; a report on the first year had been presented to the Commission in March 2007, and since then more evidence had emerged. In particular, the SIs had provided a valuable management resource to provide support for development activities, such as implementation of the LGOAT.
- Although the evidence should be treated with caution, it was clear that the SI pilot had allowed for significant amounts of AO time to be freed up for a range of activities and projects (examples of these were listed in Appendix A).
- The SI pilot was popular with staff, and provided a valuable career development opportunity. Some AOs did however express reservations because they felt that the existence of the SIs took the AOs further away from the investigative process.
- The SI pilot had significant cost implications: the total financial and non-financial cost of each (non-London) SI was estimated to be equivalent to £31,990 a year (not £36,990 as stated in Appendix A of the report).

The Commission **AGREED**:

- i. to note the outcome of the SI pilot;
- ii. with the recommendation that the report should be considered during the current budget review process, so that the future number, roles and position of SIs can be agreed in the wider context of organisational change and development.

## **8. Complaints about us**

CLA 1657 had been circulated. A supplementary paper was tabled by Peter MacMahon, which suggested the following additional wording to the scope of the draft procedure set out in Appendix B:

“A complainant who is dissatisfied with our decision on a case should give reasons for his or her dissatisfaction. If no reasons are given, we will normally not review the decision and tell the complaint accordingly.”

The Commission began by thanking the Deputies, and Peter MacMahon in particular, for turning the key principles agreed at the December Commission meeting into the revised procedure. It was agreed that this represented a considerable improvement over current arrangements.

The Commission then considered the draft procedure and the tabled amendment. In discussion, the Commission felt that the additional wording requiring that the complainant gave reasons for his/her dissatisfaction was too restrictive, and that this should be revised to reflect more closely the key principle:

“Not to review cases where a post decision letter had been received just expressing general dissatisfaction with a decision.”

After further discussion, the Commission **AGREED**:

- i. to approve the draft procedure for implementation from 1 September 2008, subject to an amendment to reflect the Commission’s discussion; **PM**
- ii. to produce a leaflet/fact sheet for anyone requesting information about the procedure, and text for our website; **JF**
- iii. that each office management team should establish local implementation procedures, to be placed in the relevant office handbooks; **DOs**
- iv. that the Deputies Group should approve the monitoring arrangements and any other detailed matters; **DEPs**
- v. to introduce the new procedure for all complaints received on or after 1 September 2008.

## 9. Audit Committee

CLA 1659 had been circulated.

The Commission **AGREED** to note the minutes of the 21 May Audit Committee meeting.

## 10. Corporate governance

CLA 1659 had been circulated.

The Commission considered the draft internal audit report on corporate governance, which was felt to be a well written and good quality piece of work. The diagram of the Commission’s governance structure was particularly helpful. It was noted that the overall report rating of the Commission’s governance arrangements was *substantial assurance*, although the report did raise a number of issues and recommendations for consideration. Tony Redmond suggested that these fell under the following headings:

- a. Constitutional matters. such as the composition of the Audit Committee and the executive/non-executive balance of the Commission.
- b. Other governance issues, such as the reporting/accountability arrangements between the Commission and the Deputies Group.
- c. Issues which could/should not be implemented because they are linked to the LGO’s statutory independence.

The following key points were made in the discussion:

- Jerry White considered that the report's findings touched on fundamental issues concerning how the Commission manages itself, and that these merited detailed consideration at a special Awayday. The audit report and the Commission's Management Arrangements (which had not been reviewed for a number of years) could provide the basis for the discussion. This point was endorsed by Anne Seex.
- Ann Abraham suggested that one clear action to take as a result of the report would be to turn the Management Arrangements into a Corporate Governance Statement, using as a reference point modern standards of governance. She agreed that it was important that the Commission gave itself time to draw up guidelines on how this should be done.

The Commission **AGREED** to defer consideration of the audit report to enable an Awayday, involving the Commissioners, Deputies and the independent Audit Committee Chair, to be arranged later in 2008. This would give the opportunity for a detailed discussion of the issues raised in the report.

**TR; NJK**

#### **11. Local Commissioner areas**

CLA 1660 had been circulated.

The Commission **AGREED** to:

- i. divide, with immediate effect, complaints about the adoption of the new concessionary travel scheme for people with disabilities and those aged 60 or over (made mostly through the RNIB) into a single complaints category;
- ii. allocate responsibility for this complaints category to Jerry White.
- iii. approve the transfer of the London Borough of Lewisham from Jerry White to Anne Seex, with effect from 1 July 2008.

**JRW**

#### **12. Waiving of Financial Regulations**

CLA 1661 had been circulated.

The Commission **AGREED** to note with approval the action taken by the Chairman.

#### **13. Date of next meeting**

Tuesday 9 September, 11.15 am in MBT.

#### **Confidential business**

#### **14. Additional Commissioners (exempt from FOIA under S36)**

CLA 1662 had been circulated to Commissioners and Deputies.

The Commission **AGREED** to include discussion of the issues raised in the paper at the corporate governance Awayday (see minute 10).

**TR**