

## COMMISSION FOR LOCAL ADMINISTRATION IN ENGLAND

Minutes of the meeting of the Commission held at Millbank Tower,  
Millbank, London SW1P 4QP in Room 1 20<sup>th</sup> floor on  
Tuesday 9 September 2008 at 11.15pm

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

**In attendance:** Mr N J Karney  
Mr M King  
Mr P MacMahon  
Ms J Feeney  
Ms S Ruckwood  
Mr S D Jones  
Mr A L Creech

### 1. Apologies

Apologies for absence were received from Ann Abraham and Neville Jones.

### 2. Matters arising from the minutes of 15 July Commission meeting

The minutes of the 15 July meeting were confirmed as an accurate record, and signed by Tony Redmond.

There were two matters arising from the minutes.

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

The Commission noted that a number of DPA cases had arisen in York and Coventry where the Information Commissioner's Office (ICO) was applying its recent interpretation on what constitutes 'personal data' for the purposes of DPA 1988, set out in its 2007 guidance note.

Nigel Karney explained that:

- Under the new guidance, the ICO argued that all the information contained in a complaint file relating to an individual's complaint was "personal data", and so should be disclosed if a subject access request was received, subject to any relevant exclusions in the DPA.
- The Commission, on the other hand, was currently following a narrower definition of 'personal data' based on its interpretation of the Court of Appeal judgment in *Durant v FSA*.
- The Commission would need to decide whether it would continue to dispute the ICO's interpretation of whether complaint file material was, indeed, 'personal data'.

- The ICO had also indicated that the treatment of these cases within the Commission was not consistent. They cited a response from London which they contended had supported their interpretation.

Nigel Karney said that he was awaiting legal advice on what response to make to the DPA challenges. The Commission noted that Ann Abraham's correspondence with the IC, Richard Thomas, also raised this issue, along with other matters. Tony Redmond would ask Ann Abraham whether there had been any developments.

TR

The Commission **AGREED** to request a position paper for consideration at its next meeting on 2 December.

NJK

### ***Minute 10: Corporate Governance***

Tony Redmond tabled a note which set out his suggestions for the issues to be discussed at the Corporate Governance Awayday (date to be arranged). He would be grateful for comments on his note outside the meeting.

CLA; DEPS

### **3. Commission Pls: August 2008**

CLA 1663 had been circulated.

The Commission noted that the Pls now included actual performance data in respect of first contact/LGOAT (Table 1).

The Commission discussed the data and made the following points:

- If possible, to include comparisons with previous year's figures in the next set of Pls.
- To show the outcome of telephone complaints and written complaints separately.
- It would be useful to project forward the impact of LGOAT for the remainder of the year.
- To put the statistics to the next meeting of the LGOAT programme board, so that the board can consider how these can be revised to present as clear as picture as possible of the Advice Team's workload, performance and impact on the organisation.

NJK; DP

TR

### **4. Commission Business Goals performance reports: March 2008**

CLA 1664 had been circulated. The Commission considered the four monthly performance reports from Corporate Services for the period 1 April – 31 July 2008, together with the latest listing of key projects.

## **Human resources**

Sharon Ruckwood explained that:

- Her report now included comparative sickness absence figures for local government - 4.4% in 2007/08 compared with a Commission average of 2.3%.
- The Commission requested that future reports include comparisons with the staffing establishment (table 1).
- Some initial information on the results of exit interviews with staff was included (table 3).
- Training expenditure was shown based on the training budget year (1 July – 30 June) rather than the financial year because this was considered to be a more meaningful indicator. The difference between the number of staff attending training and days of training would be clarified with Rita Crawshaw outside the meeting (table 5).

**SR; SDJ**

**SR; RC**

## **Communications**

Jackie Feeney drew attention to the following points in her report:

- 80 bookings for training courses had been taken so far in 2008/09, down slightly on the same time last year. This compared with the target of 120 bookings for the year.
- A new course developed for local authorities operating the new Early Adopters statutory social services complaints procedure would be piloted during the period leading up to the April 2009 implementation date.
- The 3<sup>rd</sup> issue of LGO link was published in July. The fourth issue of LGO link would invite feedback.
- Two York reports had generated a lot of media interest. Follow up emails to local media about individual annual letters had prompted good coverage.

## **Other corporate activities**

Nigel Karney highlighted the high number of Freedom of Information requests received by corporate services during the period (28). The Commission commented that all references to people making requests should be anonymised.

Tony Redmond referred to the newly formed CLG Redress Review Team, and briefly described its membership and remit. He was due to attend the first meeting of the group on Thursday 11 September, and would keep Commission members informed about the working group's progress.

**TR**

## **Key projects summary**

Nigel Karney said that:

- A review of action taken responding to the 2007 Mori survey (project 5) was planned for early 2009.

- The summary included a new Finance project (15) to establish the grant-in-aid framework.

Consideration of project 7 'Support changes to modernise our legislation' prompted discussion of the new LGIH publicity provisions. It was noted that these would be the subject of consultation with local government. Peter MacMahon said that he had prepared a background note. The Commission **AGREED** that this would inform the discussion they would have on how they intended to apply these provisions. Relevant material from the provisional view working group would also be considered as part of this discussion.

LGOs; PJM; JF

## 5. Budgetary control report: July 2008

CLA 1665 had been circulated.

Stephen Jones pointed out that the report showed projected underspends in a number of areas, in particular salaries (£160k) and recruitment (£120k). He anticipated that the underspends (amounting to £380k in total) would be likely to impact on the forecast level of reserves, although it was too early to say whether all of these underspends would be realised. He suggested that the budget lines should be considered in detail by the next round of budget holders meetings. This was noted/agreed by the Commission.

SDJ

Tony Redmond commented that the projected underspends would need to be considered in the context of the 2009/10 and 2010/11 budgets.

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

*Corporate services:* Nigel Karney referred to the underspending on recruitment; there would be less provision in the 2009/10 budgets.

*London:* Peter MacMahon commented that he was in the process of seeking funds from the DoH arising from the possible new social care responsibilities, but these had not been finalised.

*York:* Mick King referred to a number of underspends in York which were not profiled equally through the year, and so it was not yet possible to say whether they would materialise.

*LGOAT:* The Commission **AGREED** that the average cost figure should be revised to show the cost per *contact*.

SDJ

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

## 6. Redundancy Policy

CLA 1666 had been circulated.

The Commission considered the draft Policy which had been revised in the light of the Staff side's comments, which had been tabled together with a proposed detailed response to each of them.

The Commission **AGREED** to approve the revised draft Redundancy Policy, and the proposed response to the Staff side's comments.

SR; RC

## 7. Standards Board for England (SBE)

CLA 1667 had been circulated.

Tony Redmond drew attention to the following points:

- He and Neville Jones had met the SBE on a number of occasions to work up the revised draft Protocol.
- The revised Protocol reflected the revised statutory arrangements which came into effect from April 2008, whereby the SBE has a much reduced role in the consideration of complaints about councillor misconduct. Most of the activity would instead take place at the local level, because councils' own Standards Committees (SCs) firstly receive and assess new allegations.
- It was therefore for consideration whether the Commission needed to take any further action in respect of the local SCs, such as agreeing a similar standard protocol with each of them and/or issuing guidance and information about the Ombudsmen. His own view was that the new arrangements were still bedding down, and it would be too soon to take any further action at this stage. Peter MacMahon commented that this point had been raised with him at a recent SBE conference he had attended.

The following points were noted/agreed in the Commission's discussion:

- The Commission endorsed Tony Redmond's view about the timing of guidance/information for SCs and the need for standard protocols with each SC.
- It would be better to formulate general guidance/information to SCs in the light of 12 months' experience of the new arrangements, around the time that the 2009 annual letters are in preparation, so that lessons can be distilled into learning points for the SCs.
- Not to produce further guidance to staff internally at this stage, because very few complaints under the new arrangements had been received and in the light of current instructions to staff that any such complaints should be referred direct to the Ombudsman.

The Commission **AGREED** to:

- i Approve the revised protocol (subject to the omission of 'himself' from the final paragraph of page 2).
- ii Authorise the Chairman to agree any minor amendments which may arise from the SBE Board's consideration of the draft protocol on 16 September.
- iii Consider in April 2009 whether to issue general advice and guidance to local SCs on liaison and co-operation with the Ombudsmen, in the light of 12 months' experience of operating the new arrangements.

**TR; NHJ**

**8. Financial Regulations**

CLA 1668 had been circulated

The Commission **AGREED** to approve the proposed revisions to the Financial Regulations to reflect the changes it had previously agreed to the Audit Committee's membership and governance arrangements. It was noted that these would be put to the Audit Committee Chair for information.

**TR; SDJ**

**9. Date of next scheduled meeting**

Tuesday 2 December, 11.15 am in MBT. There will be a special meeting on 16 October in Warwick, immediately before the management conference at 11am.

**Confidential business**

**10. Draft budgets 2009/10 and 2010/11 (exempt from FOIA under S22)**

CLA 1669 had been circulated to Commissioners and Deputies.

The Commission **AGREED** to approve the draft budgets and associated papers for consultation with staff, the Staff side/Unison and DCLG. A separate briefing exercise would also take place.

**LGOs; DEPs**

**11. Review of legal support (exempt from FOIA under S43)**

CLA 1670 had been circulated to Commissioners and Deputies. The Commission considered the results of the review and **AGREED** that the current arrangements should be extended to continue until the end of 2009/10.

**NJK**

**12. Policy on retirement - discretionary matters (exempt from FOIA under S22)**

CLA 1671 had been circulated to Commissioners and Deputies.

Nigel Karney pointed out that:

- As a result of new Pensions Regulations, the Commission was required to have a written policy in place in relation to the following discretionary pensions issues:
  - Agreement to early payment of pension.
  - Power to increase total membership or to award an additional pension.
  - Power to permit flexible retirement.
- Accordingly, he had prepared some suggested wording for a written Commission policy, in close consultation with LPFA officials.

The Commission **AGREED** to issue to staff/the Staff side for consultation the policy positions indicated in Nigel Karney's paper, subject to the following amendment:

*The Commission is willing to consider requests for unreduced pension benefits based on compassionate grounds: for example, where there is evidence of extreme hardship or where a person is prevented from working for the foreseeable future due to a need to care for a dependant.*

**NJK**

**13. Late transfers of pensionable service (exempt from FOIA under S40)**

CLA 1672 had been circulated to Commissioners and Deputies.

The Commission **AGREED** to authorise Tony Redmond to take Chair's action to determine whether these particular transfers are agreed.

**TR**