

COMMISSION FOR LOCAL ADMINISTRATION IN ENGLAND

**Minutes of the meeting of the Commission held at Millbank Tower,
Millbank, London SW1P 4QP in Room 1 on the 20th floor on
Tuesday 27 January 2009 at 11.15pm**

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

In attendance: Mr N J Karney
Mr M King
Mr N H Jones
Mr P J MacMahon
Mr C Bottomley
Ms J Feeney
Ms A Harding (item 1)
Miss A Whitehorn (item 10)
Mr A L Creech

1. Matters arising from the minutes of 2 December 2008 Commission meeting

The minutes of the 2 December meeting were confirmed as an accurate record, and signed by Tony Redmond.

There was one matter arising from the minutes.

Minute 6: Data Protection Act: personal data

Ann Abraham and the PHSO Legal Adviser Anne Harding tabled a note of their recent meeting with Graham Smith, the Deputy Information Commissioner, to discuss their concerns about the ICO's interpretation of 'personal data'. They reported that the meeting had been positive and constructive. It had been agreed that the ICO will accept that the following data would be covered by the exclusion in S31(4) of the Data Protection Act;

- a. Information obtained by PHSO for the purpose/during the course of an investigation.
- b. Information held by a public authority which comes from PHSO, that has been obtained by PHSO for the purpose/during the course of an investigation.
- c. Information created by a public authority for the purposes of an investigation by PHSO.

Ann Abraham said that Graham Smith had considered PHSO's proposed approach to be strategic, positive and holistic. It recognised the wide powers of PHSO to obtain information and that it was Parliament's intention in granting these powers that the information obtained would only be used for the purposes of the investigation. Graham Smith had undertaken to issue a guidance note to ICO staff along these lines; PHSO appeal cases currently held by ICO would be reviewed.

Ann Abraham emphasised that, under the new agreed approach, complainants would continue to receive sufficient information to enable them to understand the basis of how their complaint was investigated.

In the discussion:

- The Commission agreed this to be a welcome and encouraging development.
- Nigel Karney reported that he had recently discussed LGO and PHSO's approach to the disclosure of information with Rebecca Milner (PHSO Head of FOIA/DPA), and they had established that the two organisations had been taking a similar approach to DPA subject access requests. He added that no new requests for information had been received by LGO since his last report to the Commission in December.
- The Commission concluded that it could see no reason why LGO could not now follow the approach PHSO had agreed with ICO, and that this should be confirmed with ICO.
- It would be important to establish consistency in practice between the LGO offices, and to ensure that revised guidance based on the new approach would be issued and applied.

NJK

The Commission **AGREED** that:

- i. Nigel Karney would contact Graham Smith to confirm that the LGO can take the same approach to the disclosure of information as that recently agreed with PHSO, and that appeal cases currently with ICO would receive the same treatment.
- ii. Subject to that confirmation, Nigel Karney would revise the Commission's guidance to staff (this would be circulated to members of the Commission as a draft).

NJK

2. Commission Pls: December 2008

CLA 1687 had been circulated.

The Commission noted that Table 2 (complaints received by investigative teams) had been reformatted to enable *broad* year-on-year comparisons to be made between:

- A. Numbers of substantive complaints received by the investigative teams - down from 12,788 to 11,433 (12 months figures to end December); and
- B. Numbers of 'contacts', where the current year's 'contacts' are taken as complaints received by the teams together with LGOAT premature decisions - up from 17,623 to 19,905 (12 months figures to end December).

The Commission did, however, recognise that that these comparative figures needed to be treated with caution, because they mixed complaints received with decisions, and because of differences between COIN and Comtrac in how complaints are recorded.

The following points arose in the discussion about the data:

- The substantial increase in S26(5) decisions taken (2,633 during the three months ended December, compared with 1,126 during the same period in 2007).
- The downwards trend in the numbers of complaints received by the teams. Mick King drew attention to the comparatively low levels of productivity achieved in York in recent months (Table 5 – 120 decisions per investigator excluding S26(5)s, 12 months ended December) and commented that this could be partly attributed the low throughput of incoming complaints.
- Neville Jones reported that he had recently listened to extracts from a sample of calls taken by LGOAT advisers, and he had been impressed by the quality of advice given to callers.
- The Deputies' Group had previously noted when they had discussed the PIs that the statistics on the number of unallocated complaints (Table 4) and times taken to decide complaints (Table 6) were unreliable, because the wrong dates had been input for a period to record first contact with the LGOAT, and when the complaint was forwarded to the investigative teams. This had now been corrected, but it would take a while for this to work through the statistics.

3. Budgetary control report: December 2008

CLA 1688 had been circulated.

Tony Redmond stated that the control report was consistent with previous reports, in that it indicated that the planned level of underspending would be significant at the year-end, and was likely to be in the order of £600k. This would mean that any draw down of the current year's reserves was very unlikely. This was to be welcomed in the interests of the Commission's medium term financial position. The 2009/10 budgets would take this into account.

DEPs; SDJ:

Nigel Karney corrected his comment in the corporate services report that the income from LA training would be lower in the last four months of 200/09 due to lower demand and staff availability; the projection was too high, but this was due to an extrapolation of the income from an unrelated one-off event.

Peter MacMahon referred to the delay in filling the vacant London Facilities Officer post following an unsuccessful recruitment exercise. This was being addressed. But it did represent a risk for the office, especially given Facilities' key role in the new grant-in-aid regime from April 2009, and particularly the requirement to provide CLG with detailed cash flow projections.

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

4. Commission Business Goals performance reports

CLA 1689 had been circulated. The Commission considered the four monthly performance reports from Corporate Services for the period 1 August – 30 November 2008, together with the latest listing of key projects.

Human resources

Chris Bottomley drew attention to the following key points in his report:

- Compulsory redundancies would not now be necessary.
- The Commission's Learning and Development Policy was being updated eg to take account of a move away from college-based to e-learning.
- The investigator appraisal scheme and competency framework were under review following last year's consultation paper from the Deputies.
- The competency framework for corporate services and support staff would also be revisited. Meantime, the framework would be applied informally for the current appraisal year, and implemented fully (subject to any amendments) in the next appraisal year.
- A contract had been offered to the new permanent Head of HR.
- The 2008 NJC Pay Award had been implemented in December 2008, but this had gone to arbitration with a decision expected mid-March.
- There had been a major review of HR policies. Only a small number was outstanding; these were currently with the Deputies' Group.
- BOIA was in the early stage of a competency analysis which would form the basis for a recognised accreditation/qualification for investigators.

In the discussion, the Commission **AGREED** that:

- i. The Headcount (Table 1) figures should show consultants undertaking Commission functions separately from Commission staff.
- ii. In future, some sections of the report (eg sickness absences by condition) should be circulated confidentially to Commissioners, in case it was possible for individual members of staff to be identified.

CB

Communications

Jackie Feeney reported that:

- 127 bookings for training courses had been taken in 2008/09, with no more being taken for this year; some bookings had been taken for 2009/10.
- New training charges had been agreed for 2009/10.
- Five new support trainers had been recruited in Coventry. Three had been trained in December, the other two would be trained in 2009.
- A new adult care Effective Complaint Handling course to reflect the new complaints arrangements from April 2009 was nearing completion.
- The Scottish PSO was very interested in introducing a similar training initiative for their own bodies within jurisdiction.

- The fourth issue of LGO link had been issued in November, which had generated some course bookings. Some feedback had been received that LGO link was not being circulated widely throughout the council; this was being addressed.
- Fewer reports had been issued in the period, and so media coverage was lower than usual. Annual Letters however continued to receive good coverage.
- The new LGO website had recently been launched. Feedback had been positive and some helpful comments had been received.
- A useful staff workshop had taken place recently to develop the new LGO intranet.

Other corporate activities

Nigel Karney highlighted the following points:

- The brief for the COIN2 Impact review has been passed to IPL/CAS, with the aim of rolling out COIN2 by April 2010. The Commission would be kept fully informed of progress, given the size/importance of the project.
- The report included an update on the Accommodation Strategy. This would be a regular feature in response to a recent KPMG audit recommendation. **NJK; RKD**
- The number of FOIA requests received by Corporate Services during the period had increased substantially, including a large number from a single member of the public. Responding to these requests was having a considerable impact on staff time/resources.
- There was a new report on lessons learned from 'complaints about us'. This was a work in progress. The Commission **AGREED** that feedback from 'complaints about us' should be identified separately from quality file monitoring.

Key projects summary

The summary was noted by the Commission.

5. LGO Advice Team

CLA 1690 had been circulated. Introducing the review, Neville Jones explained that:

- A lot of detailed additional information had been collected as part of the review and had been made available to staff as part of the consultation exercise. It had not been felt necessary to present this to the Commission: it was available to view on the Intranet. The LGOAT Customer Services Manager had summarised the key points in his report.
- The review methodology had been assessed by KPMG and the draft report would be put to the next meeting of the Audit Committee in March. KPMG's view was that there was 'substantial assurance' that the methodology was sound. The report's recommendations would inform the next review of the LGOAT.
- The feedback from the Staff side had raised a number of important, but not new, issues, which could be grouped under the headings of quality, resources and procedures; these were already being addressed.

- He suggested that the key point to arise from the review was the need, subject to budgets, to increase LGOAT staffing resources.

The Commission **AGREED** to place on record its thanks to staff for their comments, and also congratulated the Advice Team for their achievements so far, and for the high standard of service provided for callers.

In discussion, the Commission **AGREED** the following recommendations arising from the review:

- i. Subject to budget, when advertising for the new post previously agreed for 2009/10, to recruit to a 'pool' all those who are appointable, so as to make it easier to appoint more advisers, if required, in the light of new workload projections.
- ii. To revisit the question of delegation in the light of the review planned for later in 2009, and informed by early experience of 'Council First'.
- iii. That there should be close liaison with the core business: it was noted that action was already being taken to address this eg a two hour programme entitled 'Introduction to the Advice Team' has been prepared for all visitors.
- iv. Not to reintroduce a hard copy complaint form.
- v. To give delegated S26(5) authority to AOs (currently only with advisers), with its use monitored by Deputies as part of normal supervision.

The Commission also **AGREED** that there would be a further review of the Advice Team after at least a year's operation, involving KPMG at an early stage.

NHJ

6. Council First

CLA 1691 had been circulated.

Neville Jones asked the Commission to note, when considering the proposed categories for exception from the new Council First procedure (due to be introduced in April 2009) that:

- The proposed exception categories had been sent for consultation to local authorities and Commission staff.
- The results of the consultation exercise had been considered by the Council First Project Board and its User Group, involving representatives from all the offices.
- The main change proposed as a result of the consultation was the addition of a general discretion to cover vulnerable complainants and urgent complaints. But otherwise to propose the original exception categories.
- The exception categories needed to be as clear and detailed as possible, since this would be helpful for the advisers who will be making decisions under the Council First procedure. The categories would be subject to review in the light of experience.

The Commission in its discussion explored the following points:

- Whether it would be better/more logical to group the exception categories into broad headings, since they were currently shown as a mix of subject matter, complainants' circumstances and the LGO's experience of the complainant/council.
- It was considered that, in essence, the exceptions did not represent a significant departure from existing practice, eg the LGOs already fast-tracked urgent cases such as education admissions, homelessness, and complaints from children and young people.
- It was recognised that the 'complaint against more than one body' category raised issues of how to arrange joint working between LGO/PHSO which would require further detailed consideration.

After further discussion, the Commission **AGREED** the proposed exception categories, subject to these being reorganised into broad headings, with examples and additional information to make them as clear and understandable as possible for advisers.

NHJ

7. Environmental Strategy

CLA 1692 had been circulated. Mick King pointed out that:

- The draft Strategy sought to address criticism that the current policy did not set out clear actions/targets.
- Staff were very willing to engage with the green agenda locally.
- It was important to have mechanisms in place to be able to respond quickly to developments in the field of environmental law, which was changing rapidly.

The Commission **AGREED** to:

- i. Adopt the draft Environmental Statement of Intent to replace its previous environmental policy, and
- ii. Delegate to the Deputies' Group the following policies, strategies and actions to deliver/support the Statement of Intent:
 - Adoption of an Environmental Legal Compliance Policy.
 - Updating the Commission's procurement policy for environmental issues.
 - Agreeing annual environmental targets – to reduce consumption of gas, electricity and water in 2009/10.
 - Adopting/promoting a Statement of Individual Environmental Responsibilities to all staff.
 - Promoting the formation of a Commission-wide Green Group.
 - Reporting to the Commission annually on progress in reducing its environmental impact.

DEPs

8. Audit Committee

CLA 1693 had been circulated. The Commission noted the minutes of the November meeting of the Audit Committee., together with the confidential minute that had been circulated separately to Commissioners and Deputies. Tony Redmond reported that it had not yet proved possible to finalise the date of the special Awayday to discuss corporate governance issues.

TR

9. Date of next scheduled meeting

11.15am, Tuesday 24 March 2009 in MBT.

Confidential

10. Legal Work for the Commission (exempt from FOIA under S40,41,42)

CLA 1964 had been circulated to Commissioners and Deputies. The Commission considered the Commission Legal Adviser Anne Whitehorn's confidential report on her work for the January 2007-December 2008 period. No particular action points/decisions were taken by the Commission in the light of her report.