- Representing Monitoring Officers & Corporate Governance Managers -

Leadership in an Age of Change & Austerity

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Susan Tovey
President of ACSeS (2010/2011)

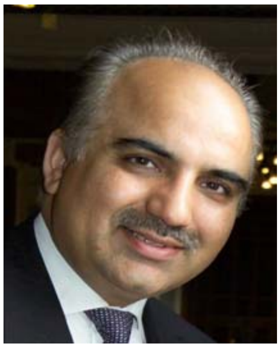
PREFACE

It gives me great pleasure to launch this latest edition of "Leadership in an Age of Change and Austerity" and pay tribute to the hard work and dedication of all those authors and sponsors who have made it possible. I also pay special tribute to our General Editor, Mirza Ahmad, who has been unrelenting in his commitment towards ACSeS and, in particular, this A5 publication initiative.

The articles in our fifth publication address topical issues that will be of importance to all of us as we wrestle with change under an unprecedented financial austerity environment for the public sector; which is facing challenges not just in modernising public services but doing so at the same time as responding to increased demands for public services within ever decreasing public resources.

Change or die is becoming increasingly real for every single one of us

Mirza Ahmad, General Editor
Past President of ACSeS (2009/2010)



INTRODUCTION

As General Editor of my and ACSeS' fifth A5 publication, I am delighted to confirm that this initiative remains a great success for ACSeS and all those who have, or continue to support ACSeS. It also continues to give me great pleasure and provides a wonderful opportunity for authors to express their professional views on topical matters of importance to local government and, in the process, help to promote best practice and their employers.

I thank all authors and sponsors for their continuing commitment to ACSeS and hope you enjoy reading this edition. The next edition will be my last, as General Editor, when it is launched at ACSeS' Annual Conference in November 2011. I encourage all ACSeS members, authors and sponsors to contribute in the success of the November publication.

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Linda Lee
President of The Law Society (2010/2011)

Sponsored by The Law Society

"Leadership in an age of change and austerity"

Good leadership will achieve good outcomes but the consequences of bad leadership and bad decision making will lead to outcomes which will fail to deliver the desired outcomes and have undesirable outcomes.

The government through its plans to cut legal aid and to introduce changes to civil litigation funding is in danger of falling into this trap.

These changes are not only a threat to justice, but will not make the savings that the Government needs to make.

The right to legal representation is accepted as a fundamental principle of a civilised society. Over the last 60 years, through good times and bad, legal aid has helped the public to right any wrongs. Legal aid was, said the Attorney General at the time, "the charter of the little man to the British courts of Justice".

The British public has quite rightly accepted the idea that nobody should be denied legal help because they cannot afford it. Although the popular image is that of those seeking to defend their liberty in criminal cases it should be remembered that it is also a means of challenging decisions made by central and local government, regardless of the economic situation.

Legal challenges are also a means of holding government and government agencies to account. It is also used to protect vulnerable adults and children and enable them to obtain redress.

But, if the Government have their way this will all change. The proposed cuts, which aim to save the government £350 million, will prevent anyone getting assistance in a number of key areas such as medical negligence and family matters.

Government figures estimate that half a million people each year will lose their right to legal advice or representation as a result of these cuts alone. Taken together with the proposed changes to the civil cost regime, this will mean that vast numbers of people with meritorious cases will lose their ability to seek legal redress.

We all know that because of the current economic climate, the Government wants to make public spending cuts across a whole range of areas. Many of those services are equally deserving but what is currently on the table in regards to legal aid and civil funding arrangements is ill conceived and unfair. Crucially it is also ineffective. The Government admit that their proposals will not deliver the savings that the Government want.

The Government admits that their current plans would only succeed in shifting the financial burden around Whitehall. If the Government were to make the cuts that they want to, the poorest and most vulnerable members of society including people with disabilities, ethnic minorities and women will be directly affected.

People with legal issues in areas such as education, welfare benefits, housing, clinical negligence and family law, including divorce, will no longer be eligible for legal aid.

Costs to the state will increase as people will be unable to seek the advice they need to prevent problems from escalating, or – in desperation – have to resort to representing themselves.

Poor choices such as the ones that the Government are threatening to make can be exposed when they have been made hastily; driven by the need to save money or make a decision quickly.

Making the tough or ‘big’ decisions that the Government talks about is not always a sign of good leadership, especially when little or no thought has been given to the consequences that such decisions would have outside the meeting rooms that in which they are made or how they would translate from the page to real life.

I think that good leadership does mean making difficult choices. But it also means thinking things through clearly, making sure that your actions deliver your objectives, are based in sound evidence and that you are considering the needs of the individuals that your decisions will effect.

For all these reasons and more the Law Society is opposing the government proposals. We are leading a campaign to make clear to the government the devastating impact that their proposals would have on all members of society.

We are clear in our objective and we have also worked hard to make alternative savings which would help deliver the cuts that the government want but without undermining people’s access to justice and their democratic rights.

Leadership isn’t about sacrificing hard won freedoms for the sake of expediency or because the targets are easy. It is about addressing more complex issues about cumbersome bureaucracy and unnecessary expenditure to ensure a fair and efficient justice system that is free of waste.

It is about protecting the rights of the citizen and not acting to deliberately undermine them. And that, fortunately for the Government, should cost nothing.

Peter Lodder QC
Chairman of The Bar Council (2011)

"How the Bar can help"

The Bar is proud of a long and rich history, it also recognises the requirements of a modern market place. We are an approachable, market sensitive profession.

Working with barristers is not new for many local authorities. Much of that work will have been undertaken through solicitors, using the referral model. But the Bar has been modernising its structures and working patterns so that it can work more directly with a range of clients, including local authorities. Traditional working relationships will still be available, but the Bar is an evolving and changing profession; and it's here to help.

In a difficult economic environment, there is a greater need for certainty in legal expenditure. Understandably, clients are looking to get more for their money, and ideally spend less. But as well as that, clients want to get a clearer idea from the outset what a piece of work is likely to cost. One way of achieving this is through tendering exercises, with volumes of work exchanged for discounted rates. Clients are looking to contract with single entities, which will prove to be reliable and low-risk business partners. This is precisely the direction of travel which the Bar has adopted.

Embracing the future

Last year, my predecessor, Nicholas Green QC, laid out a vision for the future of the Bar. It is an adaptable profession, accessible and quick to react to the market with high quality services at its core and a low-cost base, which will deliver excellent value for money to clients. The Bar is not just a profession for courtroom advocacy. It provides a wide range of written and oral advice, which, if sought at an early stage, can avoid the expense of a lengthy litigation process. The Bar can take instructions directly from clients, without the need for a solicitor, which can also save money. The range of services available has broadened, to include preparation of witness statements, conducting correspondence and taking evidence. Barristers can meet more of their clients' needs than ever before.

Over the past year, the Bar has been embracing the future. It has been developing new business models to meet the needs of clients (particularly entities) who wish to contract directly with the Bar. The Legal Services Act 2007 lays out a new landscape for the delivery of legal services, including Alternative Business Structures, which come in to force in October this year. Anticipating the changes introduced by the Act, the Bar's new business models are intended to help clients to access its services with the minimum of fuss. These one-stop-shops will be able to manage all of the contracting and billing requirements from a low cost base. Barristers have shown a huge appetite for varying their working practices in order to accommodate new business opportunities.

Ready to engage

The Bar Council, has given careful thought to meeting the needs of a broad client base. We have set up a working group, led by Michael Todd QC, the Vice Chairman of the Bar, to explore how we can work more closely with local authorities of all shapes and sizes. An important aspect of that group's work will be to facilitate a two-way flow of information to make sure that we understand what local authorities require, as much as telling them what we can do. There has to be a strong fit.

The Bar can offer local authorities a particularly strong value proposition. Its new business models have created a viable way of accessing the Bar's services directly. There are a number of elements to this offering which will reassure contractors about the levels of quality and risk.

High quality, low risk

As well as the high quality services that the Bar can provide through these single entities, it is also a strictly regulated profession which poses a low insurance risk.

We have had an independent regulator, the Bar Standards Board, since 2006. Local authorities can have every confidence that the Bar's quality and standards are strictly monitored by a strong regulator, working in the public and the consumer interest.

In terms of insurance, the Bar has a longstanding professional indemnity insurer, the Bar Mutual Indemnity Fund (or BMIF). It is mandatory under the Code of Conduct for all barristers to have insurance in place, as determined by BMIF and strictly enforced by the Bar Standards Board. Local authorities can have confidence that a broad tendering requirement stating that barristers comply with the insurance requirements imposed by the regulator will be robust.

What next?

The Bar Council is ready and willing to advise local authorities on how they might be able to work most effectively with the Bar. We have experience of conducting tendering exercises and many sets of chambers employ Chief Executives, Practice Managers and Business Development personnel with a strong commercial awareness.

We are keen to work more closely with local authorities, understand the value of an open dialogue and would welcome your feedback. Please feel free to contact my office directly, by telephone or by emailing my Executive Assistant, Ariel Ricci: aricci@barcouncil.org.uk.

Graham Russell
Chief Executive

"From austerity to prosperity"

They say leadership comes from the top, but the Big Society vision is encouraging us all to take a more active part in matters that affect our everyday lives.

The Big Society is central to the reforms set out in the Coalition Programme for Government to transfer power to local communities and individuals. To some extent, we're all being encouraged to show leadership.

This approach goes hand in hand with the challenge of budget deficit which has led to severe pressure on the finances of local authorities. As enforcers of a wide range of regulations affecting an incredible breadth of issues that impinge on our quality of life, from the air we breathe to the water we drink and the food we eat, local authorities face testing times.

Everyone involved with the local regulation sector - and that includes the businesses being regulated - has to consider their approaches and take innovative and sometimes courageous decisions that will have far reaching implications if maintenance of these safeguards is to continue given the pressure on resources.

The supermarket giant, Sainsbury, is a good example of this leadership from the business community. For some time, it has been involved in Community Alcohol Partnerships, which are based on the principle of partnership to tackle local alcohol issues, and has made a commitment to do more.

Nick Grant, Sainsbury's Head of Legal Services, who is also chair of the Retail of Alcohol Standards Group, is leading the supermarket's initiative. Sainsbury's has said that wherever under-age sales of alcohol are an issue in an area where they have a presence, the local store will take the lead in bringing together all relevant retailers to work jointly on the issue.

A central part of the arrangement will be Sainsbury's primary authority partnership with Oxfordshire County Council, a legal agreement that covers all Sainsbury's stores.

The Primary Authority scheme is administered by the experts in regulatory outcomes, LBRO, and in this case will improve access to the appropriate contacts for local engagement, saving time and resources for all concerned by getting messages efficiently to the right people within the organisation.

However, Primary Authority is of wider benefit to business, consumers and the general public - a driver for better more consistent regulation, and to create the right conditions for better regulation and economic growth.

By enabling businesses that trade across local authority boundaries to choose one authority as a single point of contact (the Primary Authority), the scheme offers huge benefits to business and local authorities alike.

Local authorities can charge for their regulatory expertise advice, which is proving a compelling argument at a time when they are facing a reduction in resources for regulatory enforcement. Alternatively, they can waive their fees as a way of providing support to businesses and helping to safeguard local jobs.

Businesses benefit from consistency, the reassurance they are operating legally and a related reduction in the cost and time involved in complying with the law. The public and consumers benefit because there is greater compliance and council resources are freed to pursue those organisations that seek to operate outside the law to potentially harmful effect.

The benefits of driving good local regulation are recognised across the political spectrum. Business Minister Mark Prisk MP recently announced plans for streamlining and improving how regulators deal with businesses, and gave high profile to the intended expansion of LBRO's Primary Authority scheme.

These latest proposals mean that LBRO will be replaced by a new organisation that builds on the expertise of LBRO's staff, but which as an independent part of the Department for Business, Innovation and Skills.

Good regulatory services play an important role in securing growth, giving businesses the confidence and expert advice they need. As a new organisation within BIS we will support Local Enterprise Partnerships across the country to find the best way to tackle red-tape at a local level and share this knowledge. Local Enterprise Partnerships will set their own agendas for generating business growth and the new streamlined organisation will help them in any way it can.

LBRO's successor will be 'better placed to play a key role in taking forward the Government's plans to support the development of regulatory delivery in a way that creates the best possible framework for growth'.
The Minister has stated his intent that the new organisation "will be the driving force" to make sure businesses, Local Enterprise Partnerships and regulators work together to tackle local bureaucracy and find a solution that works for everyone.

This streamlined approach will give a renewed focus on improving how regulations impact the front line, and in support of the Government's plans LBRO has launched a number of new projects which will focus on better outcomes for communities and businesses.

These include exploring earned recognition (recognising those organisations that show commitment to compliance) with major companies including Tesco, Asda, Sainsbury's, Iceland, Moto, JD Wetherspoon, Argos and Homebase and the Primary Authorities they work with.

And it's not just about mega business. It is also piloting the application of Primary Authority principles to support for small businesses with a number of local authorities.

LBRO's new form will work with the Better Regulation Executive, the Regulatory Policy Committee and national regulators, on the design and delivery of these new approaches and alternatives to regulation.

Working with the Chartered Institute of Environmental Health and the Trading Standards Institute, through the World Class Coalition, it will seek to introduce a common and transparent framework of professional standards of competency. It will also test a common approach to risk assessment with national and local regulators.

LBRO uses its unique relationships with government, national and local regulators and with big business to energise all those involved in making local regulation work for Britain.

Its leadership role is not about imposing solutions or dictating how things should work. Its task is to create the conditions so that those at the forefront of regulatory enforcement can cut the bureaucracy that frustrates UK business while providing the right level of targeted protection for consumers, workers and the environment.

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For further information, please visit our website: www.acses.org.uk

Stephen Hockman QC
Former Chairman of the Bar, 6 Pump Court, London

"Towards a Codified Constitution?"

One of the little known achievements of the government under Gordon Brown was to re-examine the possibility of a codified constitution. It is sometimes assumed that a codified constitution would necessarily have entrenched supra-legislative status as it does for instance in the US. It will be seen, however, that this is by no means the case.

I start by saying a little more as to the meaning of the expression "a codified constitution". Famously, the UK is almost the only democratic country in the world not to enjoy a formal constitution (I think Israel may be the only other country in this position). That is not to say that our constitutional rules are entirely unwritten, since clearly many of these rules are now contained in legislation and (almost by definition) every part of the constitution is written down somewhere even if nobody knows exactly where! But the minimum aims of those who are in favour of a codified constitution are to bring together in one place the main principles and rules under which we are governed so that (a) they are accessible to ordinary people up and down the country and (b) if there are proposals for such rules to be changed then the implications of any such change can be understood, and indeed the mechanism for change can be transparent.

I have often thought that when those in authority argue for the flexibility of a so-called unwritten constitution, what they really mean is that they would like to preserve the ability which they currently enjoy to make amendments to our constitutional arrangements even though hardly anybody may notice this occurring!

I now consider **three main approaches to the question of status**. The ***first*** is to maintain the status quo, i.e. to leave our constitution effectively in its present un-codified state. To many of us, this seems a most unsatisfactory outcome. One of the reasons was expressed in a recent paper published in the Justice Journal *"Towards a Codified Constitution"* by Vernon Bogdanor and others (including myself) in which we made the following observation:

> *Suppose one joined a tennis club and, having paid one's subscription, asked to see the rules of the club. How would we feel if we were told, 'Actually, the rules have not been collected and brought together all in one place. They are scattered around amongst the decisions of past presidents of the club, and decisions made by the various committees of the club. You can search through the minutes to try to find them, but it will be a long job. In addition, there are some rules which are not written down at all – unspoken conventions. These you will pick up as you go along. But, please do remember that, if you have to ask what the rules are, you do not belong'. We would hardly be mollified. Indeed, we might ask for our subscription back. But that is the position in which the citizen finds herself in relation to the British constitution.*

Another reason why the present state of affairs cannot endure indefinitely is very clearly described by Lord Neuburger Master of the Rolls in his recent lecture *"Law Reform – where will it all end?"* given at a Law Commission lunchtime seminar on 2nd December

2010. Lord Neuburger draws attention to the well known dicta by Lord Steyn and other members of the House of Lords in the case of *Jackson v. Her Majesty's Attorney General* *[2006] 1 AC 262* (the Hunting Act case) in which it was suggested that there are now potentially limits on parliamentary sovereignty, and that parliamentary sovereignty itself is a construct of the common law and therefore ultimately in the hands of Judges. On the other hand, the late Lord Bingham in the same case expressed an entirely opposite view, in reinforcing the fundamental status of parliamentary sovereignty within our constitution. As Lord Neuburger states, if we are moving away from what he calls *"the Diceyan picture of our constitution"* then *"the manner in which we are needs to be examined and articulated, not least because of the existence of disagreement on this issue at the highest possible level amongst the most respected jurists"*. The lack of clarity in this area has recently been highlighted in the report of the European Scrutiny Committee of the House of Commons when considering the European Union Bill introduced by the Coalition Government.

If retaining the status quo is not a respectable option, then, in the view of some highly reputable constitutional theorists, ***the alternative*** is to move towards the adoption (no doubt following some form of referendum) of a written supra-legislative constitution. This approach was recently most clearly articulated by Rabinder Singh QC in his Tom Sargent Memorial lecture *"The UK Constitution – Time for Fundamental Reform".*

However the objection to this view is precisely that it confers upon an unelected, and perhaps relatively conservative, judiciary powers which, in a democracy, ought to be retained by the people themselves or at least by their elected representatives. This point is recognised by Lord Neuburger himself when he notes that it is the function of the Courts in our society to interpret the laws and to see that they are obeyed. *"This is not the same as acting as, to borrow a phrase from the US Constitution, 'we the people'."*

It seems to me however that there is ***a middle way*** (I hesitate to call it a third way) between these two extremes. This is to move towards a consolidating and codifying Act which brings together the main constitutional rules and principles (insofar as it is thought convenient and necessary to do so). The status of such an enactment need be no greater than that already enjoyed by the Human Rights Act 1998. As in US, it is the duty of the Courts to consider (when the issue is raised) whether other legislation (as well as the acts of public bodies generally) is compatible or incompatible with the provisions of the Act and of the European Convention on Human Rights which the Act brought into force as part of our law. However the powers of the Court in carrying out this task are limited to granting the declaratory relief, that is (in those rare cases where it has seen fit to do so) a declaration that the particular piece of legislation in question is incompatible with the Convention. A constitutional measure enacted alongside (or even incorporating) the Human Rights Act 1998, and enjoying the same status as that Act, would have all the advantages of a codified constitutional enactment, but it would leave the ultimate sovereignty in the hands of Parliament (as is the case in relation to human rights). The role of the judiciary, appropriately, would be limited to questions of legal interpretation.

I mentioned in the preceding paragraph that the kind of codifying enactment which I have in mind could either sit alongside or subsume the Human Rights Act. I make it clear that on the question of whether there should be a *"Bill of Rights"* for the UK, I personally retain at least a partially open mind. I would be adamantly opposed to any cutting back of the rights which we currently enjoy under the European Convention. On the other hand, there are increasingly powerful arguments in favour of incorporating into a British Bill of Rights certain *"socio-economic rights"*. It seems to me that to recognise that the constitutional status of a Bill of Rights would be legislative rather than supra-legislative ought to remove some of the objections to the incorporation of socio-economic rights.

Janette Rawlinson
Principal Consultant

"Leadership in an age of change and austerity"

When were we not leading in such an age? Change has been a common theme since I started work in the 1970's although we believe it's new!

I looked up 'austerity' in the thesaurus and found the following definition:-

severity, strictness, seriousness, solemnity, gravity; frugality, thrift, economy, asceticism; self-discipline, abstinence, sobriety, restraint, chastity; starkness.

It strikes me that those words could be applied to many times in our work history. So why are we so fearful? Many of us have experienced not one, two but three recessions during our working lives as well as countless political, social, legal, environmental and technological changes. Why do we believe this is novel?

Admittedly the *chastity* and *sobriety* adjectives may not have always accompanied those in leadership positions whether political, business or community roles but selfdiscipline,seriousness, gravity and even asceticism are often practised whether for business, faith or health reasons!

What's changed? The backdrop, that's what! If you watch the first "Superman" film, one of the first to utilise blue-screen technology, it now appears very dated compared to the latest CGI techniques we've come to know and love. The idea that actors can pull together in a film often not even meeting one another, against a backdrop projected or pasted in post-production is commonplace. Why are we so reluctant to recognise we need new talent and ways of working particularly in the public and voluntary community sectors in this much heralded era of Big Society? Working remotely, in different locations, from home, with different organisations seems more than analogy to me.

I believe, as with crime statistics, we live in no more dangerous circumstances than twenty or thirty years ago but our fear and awareness of crime has risen exponentially due to publicity and programmes such as *"Crimewatch".* Is the same true of leadership? Are we fearful. as a result of 24 hour news channels berating bank and world leaders looking to find any apparent flaw in those serving the public from councillors to members of parliament? Are we so worried about what others think that we shirk our full leadership responsibilities and duties?

Has our celebrity led culture diluted our appreciation of true talent, skill and knowledge in favour of those who look the part?

'Doing more for less',*' make do and mend'*, '*tighten our belts'* are all slogans rattled off at annual corporate plan meetings/end of year reviews in the late 1970's, 1980's and 1990's during my time in the multinational corporate world in the UK and overseas. These were replaced by *'partnership', 'service level agreements' memoranda of understanding'* and *'compacts'* in the late 1990's when I joined a regional quasi government body prior to the

last government's spending spree welling public bodies and bringing in a different way of working with partners.

Now the same slogans and some regurgitated from the war – *'grow your own', 'keep calm and carry on', 'cook up your leftovers', 'knit your own house'* or whatever belie he real leadership behaviour we need at home and at work.

Today we want

- much in terms of quality service provided for not much investment or revenue
- not much personal responsibility or accountability from individuals
- integration, cooperation and true partnership between massive organisations
- all previously able to employ the equivalent population of small countries
- without people feeling uncomfortable or out of their depth.

What planet are we on?

Cultural shift is required by the shedload! Integrated services and pathways, shared back offices, united thinking, common purpose and shared outcomes don't just happen because financial cuts dictate different working methods.

Everybody genuinely has to see the rabbit i.e. "What's in it for them?". Once initial trust has been built, following significant time investment to build relationships, create and develop understanding, we should not be afraid to share our uncertainties and doubts and reinforce areas that need strengthening by working together. Japanese automotive OEMs have done this with their supply chain partners for years. Not for hem the punitive performance management 'naming and shaming' approach of suppliers' quality 'incidents' displayed in their receptions I saw in an American OEM n the UK. I still wonder whether this achieved the desired effect or bred resistance and resentment at the 'dominant power demonstrating its position for all to see like a school playground bully.

However, relationship building takes time, patience and openness – none of which are in abundance in a time of cuts, redundancies, performance management, even if we had the skills or inclination to do this.

Therefore a new leadership era is needed. One where we rebuild purpose and organisations through instinct, wisdom, experience, initiative, character – leading this brave new world with integrity, legitimacy, resilience, credibility, authenticity, assurance and character. Giving permission to our people to get on with the job!

Competency, title and talent are insufficient to create or sustain good leaders in this age of change and austerity or 'challenging times'. Leaders are like investments. i.e. Past achievements are no indicator of future performance.

Measuring and applying competencies do not create or develop great leaders. Process mapping everything does not, on its own, streamline or improve beneficiaries' or service users' experience. Performance management, rewarding and promoting mediocrity and best practice examples diluted to our neighbouring peers should not be the tools of future leaders. The Scout motto – ***"Do your best, do our best"*** (DYB, DOB,) or the guide motto ***"Be Prepared"*** seem more fitting.

We need to identify those in our teams, departments, and organisations with the skills and knowledge we need and seek out qualities we need more than ever – innovation, instinct, emotional intelligence, people skills, resilience, diverse understanding and experience and ensure that specific DNA dominates our organisations.

We need to be clear what needs achieving and allow individuals to use their talents to maximise their contribution through their potential. We should deploy quality time to develop, nurture and coach these talents. We need to focus on the positive, strengths and attributes they have – it's what they were hired for after all! Instead of always looking for what people don't have, let's recognise what they do, how they can make their contribution count more which in turn increases motivation. Celebrate success and communicate achievements to spread the word and gain buy-in. We need leadership to make sense of uncertainty and respond to challenge with the ultimate measure i.e. Trust.

Respect + care + support + honesty = trust.

At a time when independent governance will be reduced through abolition of Audit commission, appointments commission or other such bodies, it is crucial the Nolan principles run through our activities like lettering in seaside rock with independent input/contribution where possible. Independent appropriate challenge can be the prod we need when complacency sets in or the way ahead is less obvious. A devil's advocate or critical friend can be useful to any organisation!

We need to partner the Voluntary and Community sector and private sectors not just to save money but in a genuine desire to achieve better results for those we serve and lay down egos, departments and empires during this quest.

The third sector does not only lack capacity but also confidence. They will never be the size of public sector bodies so procurement processes needs to consider this. They seek genuine cooperation and are in touch with the grassroots communities in a way that we and other partners can never hope to emulate. They thrive on diversity – of experience, age, input, mix of volunteers and paid staff, each bringing different qualities through shared purpose.

It is diversity that will improve the resilience of some organisations – not just token measures – but true collaboration between the 'Facebook generation' and more traditional experiences of the 'silver haired brigade'. With changing demography in the workplace and society, we must embrace true diversity whole- heartedly at every level if we are not to leave greater chunks of society behind in future.

It's time for a new leadership model: one that takes scarce resources and deploys them wisely and differently ensuring clear communication, courage, pioneering spirit, calculated risk taking, innovation and people centred leadership.

The national cross party collaboration and cooperation requires cross sector collaboration at regional and local level –utilising mutual strength, knowledge, skills and experience or each partner bringing their own discrete specialisms for the greater good. That would truly be a Big Society in action! Let's make it happen.

We must reduce over-dependence in some communities on benefit and welfare and treat and overcome paralysis, over-reliance and expectation in public sector bodies that rules, frameworks and strategy will be issued from the centre. This is outdated, inefficient and impractical! To misquote a popular programme from my era, will we be saying?

> *"City councils. Public sector. A sector barely alive. We can rebuild them. We have the technology. We can make them better than before. Better, stronger, cheaper?!!!"*

Or will they, like the Six Million Dollar Man make way for newer models? Food for thought…..or a case for not recycling the past?

Julie Openshaw
Legal Team Manager & Deputy Monitoring Officer

"Avoiding conflict and criticism in local government?"

Can we ever avoid conflict and criticism in local government? This is an important question because these things can cancel out efficiencies and hold back progress.

In the current climate of belt tightening and the drive to become ever more efficient with fewer resources, now is as good a time as any to step back and take a look at the whole structure of local government, what it is for, and the way in which the individuals involved in it and affected by it interact and seek to make it work or expect to see as a result.

As with any enterprise of any description, the ultimate success or failure of a group or organisation depends on the human beings which comprise it and their ability or otherwise to work together for the common good. A fundamental question to begin with is what is the common good and who determines what it is? Another is: how does constant change shape the common good and the link to conflict and criticism in local government?

Whether or not you believe there is such a thing as "society", it is beyond argument that in such a diverse world as ours, there are always bound to be different views, held for different reasons, and with varying degrees of conviction – and varying degrees of reasonableness. Finding an agreement on what is the common good is always going to be difficult, if not impossible.

Modern local government is founded on the premise that the local electorate has the opportunity to elect some of its number to represent their interests. These people then form part of a separate legal body with the power to employ other people with specific skills to help achieve the corporate aims which the elected individuals set for the body. As a structure, while it is not perfect, it is difficult to devise an alternative which might be more effective and please more individuals. If a "quick fix" existed, then it would be a reasonable assumption that it would have been thought of and implemented by now.

So, we have the system which has been developed. The first barrier to cultural inclusivity is that while some people have faith in the electoral system, others do not, and consequently choose not to engage in it at all, rather than choosing who should be part of it. This is a fundamental issue because a consequence of non-participation is a lack of "corporate buy-in" to the success of government institutions and a lack of a feeling of "collective responsibility" as part of the community and its governance arrangements. Perceptions of bad or unethical behaviour by elected members, however much they are in a minority, coupled with an alacrity by the media to focus on the bad while too often downplaying the good, adds to the negativity.

A second barrier to inclusivity is the variety of views held, so that electors can find it hard to choose candidates which represent any of their views, let alone completely reflect all of them. A response to someone taking this view is of course to suggest that they should stand for election themselves, but the amount of time and commitment which elected members routinely give to their roles, and the degree of unpopularity they could be faced with, still makes this an unattractive or daunting prospect for many individuals.

This brings us to respect for others. Respect for the views of others is fundamental to a society which values itself and the people who belong to it. Lack of such respect can stem from a lack of engagement and an apathetic approach because of a feeling of exclusion. The whole thing can be a vicious circle.

How can these issues be addressed? Recent years have shown that there is no shortage of ideas from central government, and whilst some measures have apparently been more successful than others, we still seem to be left with a collective sense of an ever increasing pace of change, with little or no time to reflect, individually or collectively, on what works and what does not. Local government is a microcosm of society as a whole, and although people thrive on a degree of change, and can stagnate if there is never change, there is a limit to the amount of change which either individuals or organisations can absorb where the pace of change is relentless.

We were all once children. While children grow and change, they tend to value stability and the same goes for the adults we grow into, to an extent. Change and improvement is good, but only where it has a positive outcome and respects certain unshakeable convictions.

We have to be realistic – there are external factors over which was have no control and change is sometimes dictated by these external factors whether we like it or not. We cannot turn back time; nor should we want to. What we can do however, is to sometimes seek to see the world through the eyes of others and imagine how they see things. This can help put the world back into perspective. Real leadership is more than merely giving directions – it includes influencing, empathising and helping others achieve a common task. That common task is to achieve a world, and systems of local government, which are fit for everyone to live with.

In conclusion – the past twenty years has seen massive and unprecedented change for local government, and that shows no sign of slowing down, rather, change seems to be speeding up. There is clearly a will to see ongoing change, no matter what the political makeup of central government is. What has not changed though is the involvement of people or human nature. The task of us all is to see things from the perspective of others, and understand the reasons for conflict and criticism. Gaining that understanding will help to build solutions for.

David Brierley
Chief Executive

West Mercia Police Authority

"Police Reform and the New Commissioner Model"

The coalition government, formed in 2010, was quick to announce its plans to replace Police Authorities with Police and Crime Commissioners. As I write, the detailed proposals are subject to parliamentary scrutiny, as part of the Police Reform and Social Responsibility Bill.

The existing Police Authorities throughout England and Wales are to be swept away and replaced by elected Police and Crime Commissioners with powers to appoint their own staff and exercise unprecedented individual influence over British policing.

It is proposed that Commissioners will have sweeping powers to set policing priorities and importantly, to appoint and remove Chief Constables with very few checks or balances over their decisions. This has given rise to concerns that Chief Constables may be subject to considerable personal influence and policing priorities could be open to distortion.

Recently, a government advisor on crime, Jessica de Grazia, has gone so far as to express her fears that the introduction of this American model of 'police chiefs' could give rise to corruption. Jessica conducted a review of the Serious Fraud office in 2008 with many of her recommendations being implemented. In her recent memorandum to government available on www.parliament.uk, Jessica criticises the lack of controls or checks over the new Commissioners drawing on her considerable US experience.

The Police Minister, Nick Herbert, has rejected these suggestions pointing out that the actions of Commissioners will themselves be scrutinised by new Police and Crime Panels which will be made up of councillors appointed from constituent local authorities in each force area.

Yet the powers afforded to the Panels (PCP's) seem somewhat limited, relying heavily on press and public disapprobation, rather than any actual powers of veto or any ability to refer issues to the Secretary of State. Vernon Coaker, Shadow Policing Minister has described the PCPs as they stand as 'completely toothless watchdogs'.

One important exception attaches to the setting of a police precept. This at least can be vetoed by the Panel provided it can muster a 75% majority to reject the precept proposal of the Commissioner.

A major claim for the new Commissioner model is its visibility. Voting for Commissioners is set to begin in May 2012. Yet accessibility may be rather different with only one Commissioner per force area replacing the current community links and spread of representation afforded by the existing 17 or 19 member Police Authorities.

Few professionals in the arena of policing have welcomed the proposals and many have questioned tinkering with constitutional safeguards over a key security service. To ensure safeguards for the public, the role of PCP's (and therefore the role of democratically elected councillors) needs to be strengthened and valued. Lord Toby Harris, Chair of the All Party Parliamentary Group on Policing, has expressed concerns and claims there is a spread of MPs across the political spectrum worried about the proposals.

As the Bill progresses, the Lords will have a final opportunity to influence Government to ensure that protections against the worst excesses of an extreme or corrupt Commissioner are in place. That is not to say that most Commissioners will be anything other than honourable and upright individuals, but without safeguards a risk of abuse must remain. Constitutional safeguards are exactly that, they may rarely need to be exercised but their existence is a protection to all our freedoms.

As a police authority Chief Executive I am deeply aware of the enormous value of detailed scrutiny currently undertaken by police authority members. It will be impossible for one individual, however able or committed, to undertake this work and the range of public engagement fulfilled by members at present, at least without a significant amount of voluntary or paid assistance. Commissioners, themselves expected to be highly rewarded, have power to establish their own staff and advisors. This is not expected to come cheaply and this new 'US style' administrative support shows every likelihood of costing a great deal more than at present, Commissioner elections alone are expected to cost around £50 million in 2012. In many cases the election costs will equate to around half the annual cost of operating the very police authorities they replace and that before an ounce of scrutiny or direction takes place.

The proposals are certainly not cost cutting and it is hard to see what defect they are intending to remedy. Corruption in policing has been significantly reduced since the sixties when the existing police authorities came into existence. Crime levels have been falling and public satisfaction improving. Oversight has been open and transparent. Costs of governance have been relatively low and a recent Audit Commission/HMIC inspection of half all police authorities found not one failing authority and many performing demonstrably well.

The proposals have been threatened by recent rejection in the Welsh Assembly, Keith Vaz, the Chairman of the Home Affairs Select Committee, has described them as 'a new concept for British policing' and the Chairman of the APA, a conservative representative, has described the proposals as 'the wrong policy at the wrong time'.

Kit Malthouse, Chair of the Metropolitan Police Authority claims the government has seriously under estimated the work of transition to the new proposals, planned to be complete in May 2012.

Anne Barnes, the Chair of Kent Police Authority has called upon government to reconsider these reforms which she claims will cost millions of pounds which the country can ill afford. She says" The risks of introducing US style elected Police Sheriffs into the UK are clear – we could see politicisation, higher costs, the concentration of power over policing with less influence for minorities and important policing priorities neglected."

It remains to be seen if the proposals reach the statute book, but assuming they do, it will be colleagues in local government and in the future Commissioner's support teams who will be picking up the pieces to make it all work.

Note:

Colleagues may wish to read Jessica de Grazia's article entitled 'The impact of Elected Police and Crime Commissioners on Operational Independence and Confidence in the Police'. The memorandum is published on www.publications.parliament.uk/pa/cm201011/cmpublic/policereform/memo/pr94.htm or can be found by searching 'de grazia associates'

Jessica Crowe
Executive Director

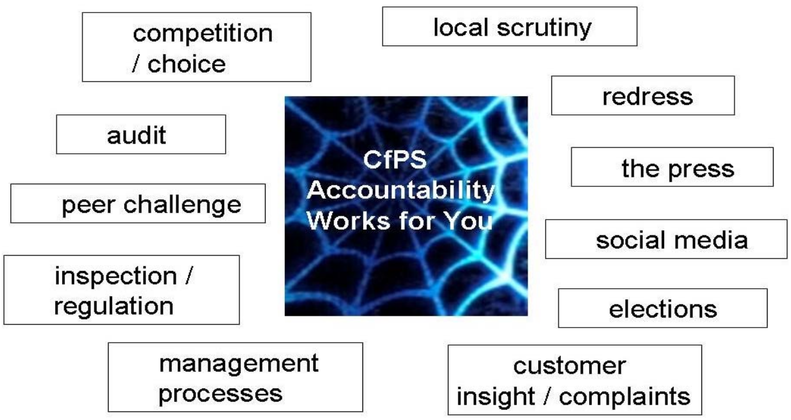
“Challenging Accountability”

In previous articles for the ACSeS ‘Firing up the Passion for Leadership’ series of publications, the Centre for Public Scrutiny has been developing a theme around the need for leaders to be accountable, transparent and inclusive in how they exercise leadership, and exploring the different challenges that this poses to leaders in different service delivery and governance contexts. In this article I would like to set out some principles and practical questions that may help leaders of any organisation in thinking through their accountability challenges in their own context. The aim is to help leaders to develop a culture appropriate to their organisation that sees accountability, transparency and involvement as positive contributions to their governance and service commissioning, delivery and improvement plans.

<u>The background</u>

In our 2010 publication, Accountability Works!, CfPS identified a “web of accountability” within which organisations work, with different forms of “hard” and “soft” accountability experienced by organisations delivering public services, from elections, regulation and market forces through to lay scrutiny and customer insight and complaints. In our last ACSeS article we argued that these different forms of accountability might work differently depending on whether local public services were being delivered through a strategic public sector partnership, through divestment and commissioning arrangements or through a more traditional “in-house” approach. We have now developed our thinking further into a practical tool that we are calling Accountability Works for You (AW4U) which offers organisations a route-map through the “web of accountability” to identify the different ways in which they will be transparent, inclusive and accountable to their communities and stakeholders.

<u>CfPS “web of accountability”</u>



AW4U sets out seven benefits that we believe organisations will gain from adopting this approach. It will:

- enhance public trust, by making a clear public commitment to good governance;
- make services more responsive to the needs of their users, by helping to build consultation and involvement into governance systems;
- help to strengthen existing improvement plans and processes, by enabling organisations to think through how accountability mechanisms can add value by constructive challenge to performance, risk and data;
- provide a framework for a locally-led discussion on the benefits of working in an explicitly transparent, inclusive and accountable way;
- help organisations working together in the same area to understand how connecting their differing accountability/governance relationships and groups of stakeholders, can improve efficiency and remove duplication;
- help organisations/areas to provide assurance to taxpayers about public expenditure and services through their own local governance regime in a landscape where central government inspection is being scaled back;
- give areas/organisations a “route map” towards achieving all these benefits.

The idea

We believe that accountability is not about bureaucracy – it is about culture. Our Accountability Works for You framework is designed to get people thinking about the value of accountability and the culture needed to make it a reality, not just structures and processes. Taking stock of accountability and governance can help people explore and develop their own practical solutions to the challenge of good governance in the changing landscape of public service delivery.

The strength of the framework lies in its flexibility – it is not a one-size-fits-all accreditation regime but a locally-owned framework. It can help organisations carry out an overarching refresh of local governance (either within one organisation or across several partners), or a quick analysis of one service in a larger organisation. By asking a series of simple questions, the framework will help organisations use the principles of transparency, involvement and accountability in practice to deliver real change.

The framework

The approach we suggest has three stages:

1. **stock take** – looking at current practice, successes and problem areas by asking yourself and your stakeholders a series of questions about what you do currently to be transparent, accountable and inclusive in how you work.
2. **planning** for improvement – learning from the stock take, setting out some key areas for development and planning the actions to be taken.
3. **signing up** – committing to achieving results by signing up to the Accountability Works for You principles of good practice. By doing this, individuals and organisations can demonstrate to local people their credentials as open and inclusive – in short, good people to do business with.

How might it work in practice?

The sorts of commitments that organisations might think about making are set out in the framework under the headings of transparency, involvement and accountability, and a selection is given below:

We will be **transparent** in how we work by:

- making our important decisions in public and publishing decisions as soon as possible after they have been made;
- making public papers and background materials available in a way that is understandable and useful to a lay audience;
- reporting publicly on our expenditure and performance in an understandable and meaningful way.

We will seek to **involve** our service users by:

- being clear about how service users and other stakeholders can influence our plans, policies and decisions in advance;
- co-designing decision-making processes and services with those who are affected by them;
- setting out how our stakeholders can get more actively involved in ways that suit them.

We will be **accountable** to our service users and the public by:

- ensuring that a culture of accountability informs our improvement and performance management processes;
- responding constructively when those holding us to account make suggestions for change;
- demonstrating that the organisation is able to learn from complaints, customer insight, constructive criticism and mistakes.

To help with the stock-take element of the framework, we have then developed a series of questions that organisations can ask themselves under each of the above commitments. People will want to develop their own questions to ensure the process is relevant, but with our approach we aim to kick start the thinking and challenge that organisations need, which in turn can lead to improvement and action planning to make real changes on the ground. We want to turn 'being held to account' from something that simply happens to organisations to something which is part of their culture, and which the leaders of organisations actively endorse, champion and support.

If this approach strikes any chords with you, please get in touch. We are piloting with a number of organisations already, with more showing interest, but we are always keen to work with any organisation that shares our passion for accountability, transparency and involvement as the pillars which support a healthy and thriving democracy.

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www.cfps.org.uk/what-we-do/accountability-works

Richard Daly
Solicitor & Deputy Monitoring Officer

YORKSHIRE DALES
National Park Authority

"Smaller but still beautiful?"

<u>The change process in a single purpose Authority</u>

The ten National Park Authorities in England exist to conserve and enhance the natural beauty, wildlife and cultural heritage of their areas, and to promote opportunities for public understanding and enjoyment of their special qualities. They are also the local planning authority for the area of the National Park. They are small organisations, both in staff and budgetary terms: the Yorkshire Dales National Park Authority employs 120 fte staff, and has a total expenditure in 2010/11 of £9.3M. Although commonly regarded as "single purpose", National Park Authorities get involved in many things apart from planning: for example tourism, rights of way, advice and support to local businesses, archaeology, ecology, land management and sustainable development.

Managing cuts isn't made easy just because you are small. The Authority's funding from Defra, its' sponsoring Government Department, is reducing by 31% over the next four years. National Park Authorities also work closely with the local authorities in their areas, for example in relation to rights of way, maintenance of the definitive map and public transport. As local authorities cut their expenditure on these items, National Parks feel the backwash. National Parks are therefore feeling the same pains as local government generally: cuts in services; having to cut grants to other organisations; and staff redundancies (soon we will be only 99 fte). Arguments about "non-jobs", back office services and efficiency savings are fallacies here as much as they are anywhere else.

Faced with this situation, the management team and Authority members at the Yorkshire Dales made the decision not to drag the process out over four years, but to design a new structure at the outset which would be fit for purpose after all the cuts had been implemented. Of course, progression towards that new organisation will be staged as resources diminish, but at least everyone knows what the future is to bring, whether they have a place in it, and if so what that will involve and what we plan still to deliver.

It hasn't been made easy. A very much delayed budget announcement from Government, followed by consultation processes required by law as well as being desirable anyway, has meant that the period between the initial realisation of radical change following the first announcements of the Coalition Government and implementation of the new structure will be a full 12 months. Uncertainty is always unwelcome, and staff and members alike have often wanted to know what is going to happen without delay, even if it was bad news. National Park staff and members are as dedicated as public servants anywhere, and many have felt what one articulated as "deep anger and resentment" about what is happening. As if more uncertainty was needed, in the last two years we have had inflicted on us five separate public consultation exercises: about National Park purposes, governance (twice), boundaries, and policies and activities.

Amidst all of this, it is natural for managers to want to plan for an organisation which may be slimmer, but will also be highly focussed, performance driven and fit for purpose. The quantity of things we do may well go down, but those we do do will be done well and will be recognised as well done. We will be respected for our expertise and professionalism; people who work here will be proud to do so, and people who don't work here will want to do so! That is the vision. To achieve it, the first and paramount consideration is trust between managers, members and staff. And the prerequisite for trust is good communication: not by megaphone, and not just by frequent bulletins and meetings, but by listening to concerns and ideas, and responding to them.

We have tried a number of different mechanisms to do this: staff and members ideas schemes as to how to achieve savings, with yes or no feedback on whether the idea has been accepted, reasons why, and what any saving might be; an intranet page for posting information, questions, rumours and answers (including allowing anonymous postings); staff meetings at whole organisation, Departmental and team levels; making all papers open to everyone to read, unless they contain personal information. If, despite this and more, all has not gone smoothly, managers need to remember that without it things would probably have been worse.

What of the role of the lawyer and Monitoring Officer in all of this? As a member of the senior management team, I have had a direct input into decisions at every step of the way. This has included advice on legal issues such as consultation requirements, decision making requirements and employment law. I have tried to make sure that members have always been advised of all relevant considerations, including all those tucked away in statute and relating to everything from crime and disorder to biodiversity. I have looked to make sure that all decisions are taken in a way which is procedurally correct. Such advice does not always make the Monitoring Officer popular, but the consequences of the absence of the advice would not be popular either.

All of that is the technical stuff, which anyone who has managed to get themselves appointed as a chief legal officer ought to be able to get broadly right. Such a person also, however, will have a wealth of experience from their career: experience of what has worked in the past and what hasn't; experience born from litigation, from negotiation, from commercial contracting, from dealing with complaints and handling allegations, and (not least) from previous reorganisations. That is where there is added value available to authorities which choose to use it. We local government lawyers are very lucky in the experience our careers bring.

I remember a previous Chief Executive saying to me, during my annual appraisal: "You are the one who isn't afraid to ask stupid questions". I believe it was intended as a compliment, and I certainly took it as one. A decade later, I'm still asking them – but of course the trick is that they have to be well-informed stupid questions. Even if the person you ask has a highly coherent and convincing answer, it will probably do them no harm to rehearse it with you before someone else asks them the same question.

One thing which one learns is that the law, and the management challenges, presented by a process of change such as that which we are all experiencing now are 90% the same, be the organisation you work for large or small. Of course, there will be more complexity and levels of detail in large multi functional local authorities than in small single purpose ones. But the content of the Encyclopaedia of Local Government Law doesn't (unfortunately!) apply in a way which is proportionate to one's budget. Small organisations can only afford a small legal resource, and so the lawyers concerned have perforce to be generalists – albeit with access to specialist expertise when needed.

We local government lawyers may be lucky people, but we also need to practice some humility: like recognising when we don't know the answer and do need a specialist; and like showing an understanding that, although we do have a perspective and experience which is unique, that does not make it more valid or valuable than the contributions of colleagues. I am only one of seven (soon to be five, after a budget-inspired reorganisation) members of the senior management team. All bring their own contributions, and best quality decisions depend on eliciting and valuing all inputs and then exercising corporate responsibility in sticking to what has been decided.

Whatever we lose in an age of change and austerity, we must not lose this. Without this quality of decision making, to which we local government lawyers are contributors, outcomes will be worse, the finance and reputations of our organisations will suffer, and local communities, environments and infrastructure will be the poorer. So, as I look past my computer screen on this Monday morning to the sunlit fields of Wensleydale, I can believe that I am achieving something worthwhile.

ACSeS
Association of Council Secretaries and Solicitors

History:
The Association was formed in 1996 arising from the merger of the Association of District Secretaries and the Society of County Secretaries. ACSeS became a Company Limited by Guarantee in November 2007.

Membership:
Membership is open to local government officers heading up governance, legal services, democratic services, administrative, scrutiny and standards functions, including monitoring officers and their deputies. Associate and international membership classes were introduced in 2008. Members are drawn from County, District and Unitary Councils, Police and Fire and Civil Defence Authorities, National Park and other joint committees and Regional Development Agencies.

For further information, contact the President or visit us at www.acses.org.uk

David Swallow
Legal Consultant

"Standards Regime"

Compliance and Values should be at the heart of the Organisation. That is the message that you would hear from business Leaders but not from local or central government. Maybe the words are just window dressing for public consumption but at least you hear them said whereas there is a bit of a silence from Local Government on the subject.

That is not to say that government, particularly, does not have its problems. The expenses scandal may still have a way to run but it is yesterday's problem (or at least it happened under the watch of yesterday's government). The public sector has much more urgent issues on its plate in respect of which massive cuts and seeking new directions are paramount.

However, compliance and values are not issues which will fade away, notwithstanding Mr Pickles and his acolytes. The fact is that all over the world where power, money, sex and discrimination oil the wheels of the institutions of life and the economic framework is king, there will be corruption and poor and corroding standards in Public Bodies displayed and it really is far less effective to address those issues when that form of cancer has taken hold. It might be that the regimes that were held together by Standards for England and the Audit Commission were only seen as a way of imposing bureaucratic and expensive rules of behaviour on Public Bodies, but the wholesale ditching of the system will be seen as a mistake. Reliance upon the voters, the police and the criminal courts to clear up messes are a wholly reactive and imprecise remedy and anyway reliant upon information which will be difficult to come by, particularly when the cancer has taken a hold, and it is no way to ensure the imbedding of good standards in public life. The old system (and here I am going back to the time when there was in public authorities a strong culture of values and public sector ethos), when problems were quickly sorted in a patriarchal way, are long gone.

Culture and values are essential and they have to be publicly stated and privately respected.

The problem has been that a statement of values converted into rules and regulation, undermined by poor execution and being process dominated, passes the system from the thinkers to the doers and then the whole edifice can become disconnected from its origins and purposes and bureaucracy and discredit follows. Easy pickings for Mr. Pickles.

However, there is big danger. The idea that it is enough to have a system of solving problems whereby the remedy is a visit from the police, perhaps in a dawn raid, with all the attendant publicity is not the best way for the Leader of a Council to wake up in the morning to smell the coffee and find out his Authority is ankle deep in muck. Of course, corruption is corrosive. It is a cancer, catch it early and it is infinitely easier to get rid of than catching it when it has spread itself. All our current and past experience testifies to this.

Accepting the new reality that the standards regime is disappearing, Authorities should take on responsibility for their behaviour themselves with energy and long-term commitment and set in place appropriate codes of conduct and mechanisms for its support. The values of an organisation are every bit as important as health and safety. Failure to secure values in a public body will substantially impair its ability to perform; will cause it huge expense; will make its partnering arrangements suspect and unsustainable; will impair its reputation; and will ultimately take away its right to exist.

But let us get away from thinking about these things in narrow terms of rows between Councillors. There is a much wider experience to the debate on standards which should be acknowledged and it is this. The public sector and particularly Local Government is under serious challenge. Leave aside the utterly distorted presentation of purposes, the fact is that Local Government is being compelled (a compulsion that will grow the stronger) to fragment and the delivery of Services will come from a patchwork of providers. Some of them will be in the volunteer field but by far the greater proportion are big corporate providers and, maybe, the voluntary sector.

First the volunteers (not the biggest problem in terms of the size of the sector) but the vision is that the community will be inspired by idealistic altruism. This is highly unlikely. Everyone is driven by something and it is usually self interest. Frankly if volunteer activists get their hands on policies and resources, there will be a myriad of standards issues and action necessary, probably disproportionate the financial sums involved.

Second, the big corporates. This is a much worse problem. The fact is that the business's only purpose is to make money. It is the sole reason for its existence. It might contractually be delivering public services maybe in a cosily named strategic partnering role. It might be involved in carrying out public works or in making supplies and undeniably those activities will have a public benefit but that is a million miles away from being responsible for public services. The pressures to make a profit; to make commercial alliances; to use information for more than a public purpose; to wheel and deal are ever present and can never be discarded however much the concern clothes itself, which is readily accepted, in values and behaviours. The truth is that we do not live in a very moral world. No-one who has been employed in the public sector in the last ten years and more can be unaware of the change in atmosphere and the pressures to make money and cut corners with standards. Those big corporates may be efficient, lean and mean providers of service and they may have access to funds and be able to bring in investment but there is a price for everything and they are national companies with many fingers in many pies and not beholden at the end of the day to one client.

The local standards regime; the commissioning model; the management of the partner within the commissioning model; and the contract or other mechanism in place to house the relationship; and the transparency of behaviours, must be able to cope with this fragmented model of delivery of public services.

And it does not stop there. What of the in-house staff. The pressures on Local Government currently and the tendency to appoint persons to high positions, often honed in the go getting world of business (the very opposite of the Trevelyan model of the long serving cardigan wearing Local Government Officer of popular mythology), maybe, aided and abetted by hungry consultants, produces on the one hand a more vibrant culture but on the other hand, one more likely to cut corners in the dash for results. The test is the quality of output and to get there it may be necessary to be 'pragmatic' for which read bend the rules. 'L'etat, c'est moi'. There is little that depresses a Local Government solicitor more in a workplace situation than being handed a Cabinet bound report, on very short notice, for comment and approval, which is seriously flawed in terms of legality and proprieties from whatever cause. That solicitor has to face the tough side of pragmatism and needs the support of an organisation that really does practise standards from its innermost core.

There are so many examples of the absolute need for standards quite apart from the paramount one relating to reputation. Examples would include buying goods and services. If this function is not demonstrably fair, transparent and compliant – breach of trust; costs and shame will follow. The central point is morality. Doing what is right because it is right is what public Authorities should be about. Yes, risk of challenge is a factor but it remains secondary.

Take the "regulatory" duties of authorities. Referees and arbiters have to be respected and be beyond reproach. If it is not so, all systems are broken and in disrespect – planning; licensing; and building control alike. Reputational damage will make all transactions hard, if not impossible, to carry through.

Partnering arrangements – whether public/private or public/public, the partners (particularly the public partners) must cling to standards and values like limpets for otherwise the Partnerships will break up in acrimony and disgrace.

If power is concentrated into the hands of elected Mayors, those offices must be practiced with transparency and with demonstrable and auditable attention to standards.

Of course, it is easy to criticise the present arrangements for being bureaucratic. Of course it is easy (albeit deceitful) to make the argument against standards on the basis of insignificant and tendentious matters, consuming resources, and of playground comments and rows, however much those have happened. The pendulum has swung away from Standards but that swing needs to be checked. Individuals learn values. Institutions need to create them and then secure them before they can practise them. There is a need to supervise the adherence to values and there is a need for organisations, at the highest levels, to respect the existence of values and the mechanisms for internal enforcement.

If you lose your values you lose yourself it is that simple. In any case if you do not behave properly, Wikileaks or Twitter will expose you.

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Eleanor Hoggart
Assistant Director (Legal)

LEGAL SERVICES LINCOLNSHIRE

"Legal Services Lincolnshire – Shared Service"

Establishing the Service

1 'Legal Services Lincolnshire' (LSL) is a groundbreaking shared service between six local authorities in Lincolnshire – Boston Borough Council, East Lindsey District Council, Lincolnshire County Council, North Kesteven District Council, South Holland District Council and West Lindsey District Council. Set up in April 2008 as part of the wider Shared Services project, we are a specialist provider of legal services to our partner Councils and to the wider public sector.

2 The drivers for the creation of the shared service varied amongst the partners but essentially were:

- provision of a robust and stable legal service responsive to the particular needs of each council
- reduction of the amount of spend on external legal advice and support across the partner authorities
- development of the capacity to generate external income to support the costs of the service
- delivery of efficiency savings across all the partner authorities.

3 Governed by a Service Level Agreement between the partners, LSL is hosted by the County Council, who formally employ all the staff but operates on a full partnership approach with equal input from each partner authority. We maintain, as requested by the partners at inception, a branch presence at the office of each partner Council.

4 At inception LSL was funded on a simple calculation of each partner contributing a fixed sum – calculated as an average of that Council's legal spend for the previous three years. In year 3 – i.e. with effect from 1st April 2010, we have moved to a real-time charging system, whereby we are only funded by the income we receive for the legal work we do.

Performance against original targets

5 The targets LSL was set by its partner Council's were simple but effective:

- reduce the external spend of the partner authorities across the County from £1.2m per annum to under £350,000 pa

- provision of £246,000 worth of efficiency savings within the Practice each year
- delivery of income from the provision of legal advice to other public sector bodies of, £75,000 in year 2 and £200,000 in year 3
- 90% of of our customers to be satisfied with our service
- 100% of planning and property work to be carried out in-house.
- 60% of the total recorded hours of the total staff of the Practice to be chargeable legal work
- move to real-time charging by April 2010

6 LSL has consistently performed well against these targets since its creation:

- external legal spend was reduced to £338,707 in year 1

  our efficiency savings in year 1 exceeded our target and met our set up costs– and in year 2 were £145,200 allowing small distributions back to partner Councils, quantified on the basis of the proportion of external spend each Council had on entering the shared service as provided for in the Service Level Agreement

- income has been generated each year from the supply of legal services to other clients
- customer satisfaction is rated at over 95% consistently
- 100% of planning and property work is now carried out in house

- our total recorded chargeable hours for the Practice as a whole continually exceed our stretch targets
- real-time charging was implemented successfully on 1st April 2010.

Year 1 Achievements

7 Our first year was one of steady achievements. In particular:

- the assimilation process for those staff who TUPE'd into the Practice was completed very quickly. The financial implications of the process remained within budget and most staff were able to assimilate to a position which allowed them further development opportunities than was previously the case. Staff retention rates remained high during our first year with no departures of permanent staff.

- We reviewed our staffing resource in line with our business plan and recruited to 4 new lawyer posts to meet our growing commercial law, planning, property and contentious work needs, enabling us to have a staff presence in each of our branches.

- performance against the challenging target of capping external legal spend to just one quarter of previous levels was achieved by introducing a simple but effective prior approval system and by developing capacity within the Practice to meet Client's needs in-house.

- we developed a business plan and risk register to help focus our business development, a Customer Care Strategy and a Marketing Strategy and action plan to assist us in our targets for winning external income

- by December 2008 the manual collation of performance data was replaced by an electronic time management system. This project was very ably managed by our Practice manager, Chris Jones.

- we produced a training prospectus offering training for members and officers or our partner (and other) organisations on areas of interest and delivered training courses on a wide variety of topics
- we won external business from the Probation service and from Rutland, Lincoln City and Swansea councils.

- We were a ‘Highly Commended’ finalist in the LGC Legal Team of the Year awards and were short listed in the Municipal Journal Legal Team of the Year awards

Year 2 achievements

8 In year 2, we continued to build on our successes and:

- developed a Marketing pack to aid us in winning of external business

- restructured our teams to give focus to our 3 main priority areas of delivery of functional legal specialisms, client care responsibility and support for the strategic aims of the Practice.

- delivered specific Customer care training to all our staff

- rolled out a practice-wide electronic case and matter management system

- rolled out an electronic library and legal research materials system

- won external business from the Lincolnshire NHS PCT and from Kings Lynn and West Norfolk , Bolsover, Peterborough City and Nottinghamshire County councils

- been ‘highly commended’ in the Innovations category of the Law Society Excellence Awards and short listed in the APSE Awards, Public partnership of the Year category

- achieved renewed LEXCEL quality accreditation for our North Kesteven branch

- implemented a shadow charging system leading to the identification of hourly charging rates that have now been implemented in the real time charging process.

9 All of this has been achieved in large part as a result of tremendous ‘buy-in’ support from our staff and our partner Councils (at both Member and officer level), for which we as a Practice are hugely appreciative.

Year 3 targets and challenges

10 Working to 6 Local Authorities means that LSL is acutely aware of the impact of current and future budget constraints on each of our partner authorities. The move to real time charging has already led a number of partners to look closely at their legal spend with reductions in demand for legal services as a result. This will only become more of an issue as budget constraints become tighter.

11 Our approach to this is as follows;

- to manage our costs through the imposition of a recruitment freeze and release of locums whilst ensuring that all staff are flexible enough to move within the practice to meet changing demands for work

- working with Clients actively to identify for them where we can add maximum value, enabling them to be sure that they are getting maximum law for their money and to identify with them opportunities for better and more efficient working

- focussing specific resource on both bringing-in new external work and ensuring we are both equipped to deliver it and able to bring in real income to the partnership from it

- working, as planned, to achieve the LEXCEL Quality Accreditation (already held by our North Kesteven Branch) by March 2011 to ensure efficiency and consistency in our practice management and to give all clients evidence of the quality of our practice

12 These priorities are reflected in our Business Plan.

13 We have also produced ‘Working in Legal Services Lincolnshire’ – a baseline document which sets out plainly for staff what it means to work for the practice in terms of both what is expected from them – for example in terms of levels of client care etc – and what they can expect from the Practice – in terms of support for personal development etc. It encapsulates the approach to flexibility of resource referred to. We would look to develop this document alongside our Customer Care Policy into a commitment to our clients setting out the minimum standards of service that they can expect.

14 We also continue to explore with our Legal Services Business Advisory Board other possible future business development opportunities. In particular at the moment work is being done to explore options for partnering with the private sector and the scope for utilising changes in the structure of the legal profession to widen the scope of the practice to trade beyond public bodies.

15 We also continue to explore through our Client Liaison Group a review of the Service Level Agreement to bring it into line with the current structure of the practice, especially real time charging and to revisit specific case based performance indicators to ensure that they remain relevant and that we are able to report to clients on the issues that are important to them.

16 As things stand the position of the practice is sound. We continue to pursue external work and respond to tendering opportunities where they arise., having

recently been invited to tender for a major framework contract for a Consortium of local authorities.

17 As with all projects, of course not everything has gone wholly well or according to plan – for example:

- while staff retention has been stable, recruitment, particularly to specialist posts, continues to be challenging.

- the issue of conflicts of interest – essentially how and when the Practice might find itself being asked to work for 1 or more Council's against another in the partnership - arose far earlier and in far greater prominence than had been envisaged by the implementation team. This was addressed by the creation, with the advice of senior Counsel, of a Conflict Protocol to which each partner council signed up agreeing that in such circumstances they would do their utmost to attempt to solve the relevant issue at officer-to-officer level rather than through lawyers. Where that was not possible, a set of agreed processes, allowing the vast majority of work to continue to be done by the Practice, were also agreed

- the adoption of a branch structure has built-in some additional challenges around ICT functionality which have taken some time to address.

- the winning of external business continues to be extremely challenging, consuming large amounts of internal time resource in the completion of pre-qualification questionnaires and invitations to tender – which are generally extremely lengthy.

Concluding remarks
To Council's considering moving down the shared service route we would say 'Go for it'. To those who are not – and it is definitely not a solution that fits all situations – if we can help in any way with backlogs or reducing spend on external legal advice 'give us a call'!

eleanor.hoggart@lincolnshire.gov.uk.

David Brammer
Associate

"Localism and related issues"

The world is still reeling from the recent and ongoing cuts in public spending and at the moment the jury is still out on whether these cuts will bring the country to its knees or whether, the government is right in thinking that "the private sector will pick it all up".

In the last financial year, Regional Development Agencies (RDA)received funding of almost £1.4 billion. By comparison, the new Regional Growth Fund will amount to £1.4 billion over three years and is already heavily oversubscribed. This means that we are essentially facing a cut of about two thirds in public sector funding. There are also sharp contrasts in the prevailing economic conditions which are evident between London and South East and the remainder of the UK.

With the new coalition government and the eradication of the RDAs, the changes we face are not purely economic. Even the most positive mindsets accept that we are moving into a new era and the way that "leadership operates" will change both politically, socially and geographically. As planning lawyers and as major providers of services to the public and private sectors, we are well placed to understand the nature of leadership in the new age of localism and shifts in the centres of power.

The Localism Bill is being heralded by the government as an instrument which will hand power back to the people and release them from central and regional government constraints. The Prime Minister went so far as to label planning officials as 'enemies of enterprise' when he claimed that the forthcoming Budget will be "the most growth-friendly for a generation" at a Conservative Party spring conference in Cardiff in March 2011. He further upset many planning professionals by stating "town hall officials who take forever with those planning decisions that can be make or break for a business - and the investment and jobs that go with it". However, these same officials are the ones charged with getting projects moving to deliver growth. Professional planning organisations such as the RTPI are desperately now trying to balance the need to convince the Government that they can help and "stay onside" with the changes, whilst they deal with a disillusioned member body, fed up with taking the blame for these perceived failings.

Simultaneously, other major and influential institutions such as the Standards Board and the Audit Commission are being removed which will also introduce changes to the regime in which local elected members conduct themselves. As a matter of political dogma, the government is committed to the philosophy that many decisions in respect of economic development and social infrastructure will be better taken at a local level by the people who are most affected by these decisions. Planning professionals and the companies and organisations that have a day to day involvement with development are, however, less convinced that devolving power to the grass roots is the best way forward for the delivery of regeneration and growth.

All of the large public sector bureaucracies are being forced to shed jobs as their funding is reduced and a new landscape is emerging with unknown quantities such as Local

Enterprise Partnerships (LEPs) which have yet to prove that they have the means - or the inclination - to fill some of the gaps that have been left. At the same time the government has turned the planning system upside down by removing regional planning and encouraging the untested concept of neighbourhood planning. This conundrum has all come about because of the government's concept of the "Big Society" but the "big question" is whether these new structures can deliver much needed regeneration to stimulate economic growth.

Neighbourhood planning is seen by many as likely to be over bureaucratic and nebulous. Allied to this, the abolition of regional planning appears to allow for more scope for "nimbyism". Yet organisations such as the RTPI, RICS, BPF and HBF have found that any complaints they may have had have been brushed aside by the ministers of state. Equally, some of innovative provisions in the Localism Bill such as the "community right to build" are, to say the least, untested, and could potentially provide opportunities for self-interested small groups to divert strategic resources without any need for express planning permission.

Most large scale planning consultancies are gearing up for the more intensive consultation processes that they will be required to engage with when they submit large planning applications, in order to allow local people a chance to comment on applications and therefore to influence the outcomes. However, in reality, community consultations are already an important part of the planning process and are carried out by most developers.

Other provisions in the Localism Bill such as the "new" general power of competence do not appear to offer much that is actually new. Local authorities have for a number of years had the opportunity to act in ways that are independent of planning powers to provide for what is seen as the "well being" of the area. As ever, some "leaders" will be prepared to push these powers to the edge of lawfulness and inevitably face the prospect of challenge in the courts, whereas others will only want to follow the lead .

The government will say that it wishes to empower the public sector to pursue innovative solutions to local problems and to work alongside private sector partners to deliver development and regeneration, but it needs to demonstrate that it has the confidence to allow this to happen.

LEPs provide an opportunity for talented and influential private sector figures to become more involved in development and driving investment in their regions. This is not a new concept. There are already public-private sector partnerships doing some excellent work together and it is likely they will continue to do so.

However, the LEPs will face a number of challenges. Captains of industry, generally speaking, do not have to deal with the complexity and obligations which are placed upon the public sector. The jigsaw of LEPs which has been formed across the country is by no means comprehensive and previous alliances in geographical and historical working partnerships will mean that each LEP forms its own priorities, which could produce a confused , divisive and potentially unfair approach.

What most people wish to see is clarity. Whereas we may not miss some aspects of the previous system of regional strategies with their tendency towards a 'top down' approach, the government should not allow a situation to develop where developers pick and choose sites and areas where they think that obtaining planning permission for development will be more straightforward than others, which will create more winners and losers. At present the new initiatives, such as the guidelines and funding for the "New Homes Bonus", "Supporting Communities" and "Neighbourhoods in Planning" as part of the Localism Bill appear jumbled, uncertain and potentially divisive.

With all the political, social and economic changes that are afoot, it is unlikely to be a quick fix and will take several years before we understand how the planning and development industries respond to a new age of leadership .

To conclude: the Localism Bill has a way to go in the statutory process and will certainly be the subject of intense debate in the House of Lord; LEPs are still in the formulation phase and will all be radically different in their local and policy approach, if there is no co-ordinating body or rules to guide them.

Embattled local authorities and other public sector service providers will be left to steer a way through these new systems, whilst remaining accountable to the population for the difficult decisions they have to make. Some will shine in that process but all are likely to be criticised. However difficult times produce difficult decisions and new ways of working. The most optimistic spin about the positive consequences will be that organisations are forced to work together in this new world, to share services and to meet these challenges jointly. If the government wants that to happen, it needs to demonstrate that it will support communities and individuals on the ground to take on the tasks that it is creating for them.

ACSeS
Association of Council Secretaries and Solicitors

Branches

The 10 Branches Network is at the heart of the Association and normally meet quarterly or as required. They provide an invaluable opportunity to meet colleagues, to discuss practical problems and to share information and ideas (ranging from implementation and interpretation of legislation, sharing experience of governance and other issues, sharing reports to Local authorities on new legislation, to receiving training from one of the Members or from an outside speaker).

The first point of contact is the Honorary Secretary of each Branch who will be pleased to extend a welcome and to provide details of meetings.

For further information, contact the President or visit us at www.acses.org.uk

Stephen Lloyd
Senior Partner

Bates Wells & Braithwaite
SOLICITORS

"Mutualisation and the Right to Provide"

Mutuals are in the air, and there is a certain amount of déjà vu about this.

In the 19th Century working class and lower middle class Britain found ways of mutually supporting themselves through the creation of a range of organisations. These were the industrial and provident societies; friendly societies providing insurance benefits; building societies providing safe havens for depositors and loans for people to buy houses. This world of mutual organisations was a grass roots reaction to the development of laissez faire capitalism.

One of the key themes of 20th Century history was the state taking on far greater responsibility to deal with social issues, and by doing so the state made a number of these mutual organisations redundant. National insurance replaced mutual insurance. Some mutuals carried on – notably the building societies. But in the 1980s a new era of market led capitalism led to the de-mutualisation of many building societies and insurance companies. It was felt they could raise capital more quickly and become more efficient by becoming public companies quoted on the Stock Market and in the case of the building societies, a bank.

The beauty of being a bank meant they could leverage their balance sheets. This undoubtedly led to the expansion of credit which contributed to the property buddle which ended in disaster in 2008. The Coalition Government wants to roll back the state and reduce the deficit. It hopes that it can compensate for the cut back in public services by presiding over a rebirth of 19th Century levels of self-help and mutualism.

This is leading to some difficult issues of definition. Technically a mutual organisation is one that is established using a particular mutual legal form and mutuals are regulated by the Financial Services Authority (FSA). Hence community benefit societies and co-operative societies are regulated by the FSA as are building societies; friendly societies and mutual insurance companies. The essence of a mutual is that the organisation trades with its members for the members' benefit. There is even a tax concession – the mutuality principle – which relieves surpluses derived from mutual trading from tax on profits.

In its enthusiasm for mutualism the government is straining at the meaning of the word, in its technical sense. Mention is made of mutual charities or mutual community interest companies. In fact it is impossible to be a mutual charity or a mutual community interest company. Charities are established for public benefit; they are not established for the benefit of, say, employees or policy holders. Equally, community interest companies are established to achieve a community benefit, not the benefit of a particular section of society unless they are poor, eg a credit union. Consequently, the government is using the word mutual in a sociological, rather than the strictly legal sense.

The government's initiative to encourage civil servants and local authority employees to take control of services that have hitherto been the preserve of the state, has been launched under the brand "the Right to Provide". This is encouraging groups of employees to set up mutual organisations to take over their services. In fact of the 16 pathfinder mutuals, the single most popular legal form is that of the community interest company – which technically cannot be a mutual!

But let us not be too critical. What lies behind the right to provide is a desire to see employees take responsibility for the running of services in an entrepreneurial manner for the public good. In a way the expression "social enterprise" which seeks to capture that idea of an entrepreneurial spirit to achieve social purposes is better than "mutualism".

The most quoted example of an employee led mutual is Greenwich Leisure. Greenwich Leisure is an industrial and provident society but also an exempt charity. It has been exempt from registration with the Charity Commission because as an industrial and provident society with charitable objectives, it was allowed to register with Her Majesty's Revenue and Customs and did not need to register with the Charity Commission.

As a charity it cannot pay dividends to its members and is therefore not a true employee mutual. But a number of its staff serve on its board, therefore embedding the employees in the governance structure. That has only been possible because it was regulated by HMRC and not the Charity Commission. The Charity Commission does not normally accept such arrangements, expecting Trustees normally to be unpaid volunteers and not members of staff. Hence Greenwich Leisure is an unusual charity – one established with more elements of "mutuality" embedded within its structure than is normal.

Work that we have done on the establishment of independent social work practices show that there is a real benefit to be gained for professionals to be established as independent social enterprises distinct and separate from the state. The evidence of the social work practice pilots is that the individual social workers found the experience liberating and exhilarating. They worked harder and felt much more in control of their destiny. That, truly, is the vision of the social enterprise.

An entrepreneurial organisation dedicated to achieving a social outcome. But it is not enough to say "I am a social enterprise". Social enterprises need governance structures that embed their social values in the legal architecture of the organisation. The community interest company is a good structure to start from with its asset lock and controls on remuneration.

But it is not sufficient in itself to ensure good governance and accountability to stakeholders. To build organisations which do have mutual characteristics ie involvement of staff in key decisions, and involvement of stakeholders requires the founders to build into their legal arrangements appropriate systems to ensure that the board and managers are accountable in such a way as to ensure that they continue to deliver the organisation's community purpose for the mutual benefit of themselves and society in the long term.

David Lock
Head of Public Law

"Court of Appeal rules on decision-making"

In February 2011 the Court of Appeal[1] gave some guidance on the vexed issue as to which decisions of a local authority have to be taken by cabinet and which by full council or a politically balanced committee.

Section 13(2) of the Local Government Act 2000 provides that "any function of a local authority which is not specified in regulations ... under is to be the responsibility of an executive of the authority under executive arrangements". Hence the executive arrangements – in many council's the cabinet –has the responsibility of taking council decisions unless the Regulations say otherwise.

The relevant Regulations are the Local Government Act 2000 and the Local Authorities (Function and Responsibilities) (England) Regulations 2000. Regulation 2 provides that those functions described in Schedule 1 are not to be the responsibility of an executive of the authority. This means that those functions must be carried out by full council or a politically balanced committee.

Functions such as granting or refusing planning permission and granting or refusing taxi licences (which was the power in issue in the *Stratford* case) must be exercised by full council or by a council committee; they cannot be exercised by the Council's cabinet. However which part of the council is charged with considering and adopting policies which guide the Council on taking such decisions?

Section 48(4) of the Act provides "*Any reference in this Part to the discharge of any functions includes a reference to the doing of anything which is calculated to facilitate, or is conducive or incidental to, the discharge of those functions*". That would suggest on first reading that a policy to govern, for example, taxi licensing or planning matters, is something which is "conducive or incidental to the discharge of those functions" and therefore should be determined by the same body which is charged with discharging that function. That construction would mean that, for example, the council committee charged with making decisions about taxi licences ought to be the decision maker for adopting any policy about how those decisions were to be taken.

However the Court of Appeal considered otherwise. It noted that the relevant Regulations provided that some "plans and strategies" were designated in Regulations 4 or 5 not to be functions of the executive, implying that others were allowed to be functions of the executive. Some of these designated plans and strategies involved functions which were required in Schedule 1 to be determined by full council or a committee. The Court of Appeal therefore had to reflect on the problem that if section 48(4) was wide enough to include all plans or strategies relating to a particular function, Regulations 4 and 5 were

[1] See R (on the application of 007 Stratford Taxis Ltd.) v Stratford On Avon District Council [2011] EWCA Civ 160.

arguably otiose because the Council's executive arrangements had no power to consider such matters in any event because of section 48(4).

The court accepted that a general distinction should be made between taking broad decisions of council policy, which they felt was the province of a political majority and thus appropriately exercised by a cabinet, and a council taking individual decisions about the grant or refusal of specific licences, which the court considered should appropriately be taken by the politically balance in the council or a committee. Thus, in the instant case, the court agreed with Stratford Council that it was for the Council cabinet to make a decision concerning a policy to govern the exercise of the Council's powers over taxi licensing even though individual taxis were considered by a politically balanced committee, using the Council's policy

The court said:

> "In our view on consideration, there is a distinction between the political decision to adopt a policy of this kind and the particular power to license hackney carriages. On this view, adopting the policy is not conducive or incidental to the power to license hackney carriages, nor is it calculated to facilitate the exercise of that power, because it does not make the exercise of the licensing power easier in individual case precisely because it is not directed to the individual exercise of the power. Logically, a plan or strategy or a policy on whether hackney carriages should have wheelchair access comes first; and that function is one that a cabinet may undertake. The function of licensing individual hackney carriages and anything that is calculated to facilitate or is conducive or incidental to the exercise of that particular function (by the council) comes second and it is a function to be performed in the light of the plan or strategy or policy that the cabinet has determined"

It will be for local government lawyers to read this judgement as we scratch our heads to work out where the line lies between a "plan or strategy or a policy" concerning a local government function and something which is "conducive or incidental to the discharge of those functions". This may, just, not be the last word on the subject.

*David Lock is a barrister at No5 chambers. He acted for Stratford-on-Avon District Council in the 007 Taxis case***.**

BALGPS is a direct successor of the Society of Local Government Barristers, which had been in existence since about 1945, and of the Bar Association for Local Government, which had been formed in 1977.

Membership is open to all barristers employed in Local Government and the Public Sector (including those in the civil service and in the armed forces) and bar students.

Please contact the Chairman@balgps.org.uk (**Dr Mirza Ahmad**), if you wish to become a member of BALGPS or visit our website at www.balgps.org.uk

Page 1 of Survey:

ACSeS & Bar's Local Government Initiative

Exit this survey

1. Introduction

This short on-line questionnaire explores the relationship between Local Government Legal Departments and Barrister Chambers.

Please help ACSeS and the Bar Council to ensure Chambers learn from the feedback and improve services to Local Government. Thanks.

Dr Mirza Ahmad, LLD (Hon), LLM, MBA, Barrister
Past President of ACSeS (2009/2010)
& Corporate Director of Governance,
Birmingham City Council
0121 303 9991

17th March 2011

1. What type of organisation are you in?

2. How many qualified Solicitors / Barristers / Legal Executives do you employ in-house?

3. How much does your organisation spend, per annum, on the provision of external legal services (inclusive of law firms and Barristers Chambers)?

4. How much does your organisation spend, per annum, on Barristers Chambers?

5. How do you currently procure services from Barristers Chambers?

Page 2 of Survey:

ACSeS & Bar's Local Government Initiative

Exit this survey

2. Local Government perceptions of the Bar

1. What are your (general or specific) perceptions on the quality of legal services provided by Barristers Chambers?

(Please feel free to highlight examples of best practice)

2. Have your perceptions on the quality of legal services provided by Barrister Chambers increased or decreased during the past 3 years and, if yes, why and how?

3. Are you aware of any barriers holding back Barristers Chambers or the Bar Council from further modernisation and, if yes, what might they be?

4. If there was 1 thing that you would recommend Barristers Chambers (or the Bar Council) to do to further modernise, what would it be ?

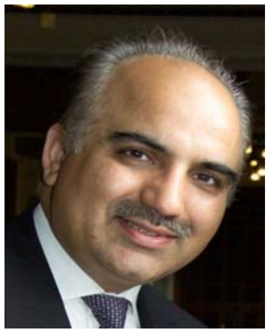
(If you have other suggestions, please feel free to list those too).

5. Please use this box to make any other suggestions or comments in relation to this initiative.

If you wish, you may insert your name / job title / local authority details in this box.

I THANK YOU for taking the time to provide this feedback.

Mirza Ahmad
Chairman of BALGPS & Past President of ACSeS



"The Bar's Local Government Initiative "

Colleagues will know that, under my Presidency of ACSeS, during 2009/2010, the then Chairman of the Bar, Nicholas Green QC, played an important role in raising the profile of the Bar amongst ACSeS Members by writing appropriate articles in the A5 publications, speaking at the Annual Conference held at the Belfry in November 2010, attending ACSeS' Annual Dinner and by attending the Leadership Summit held on board HMS President in July 2010.

The modern Bar is, therefore, keen to engage with local authorities and to learn about how local authorities procure specialist legal advice and representation services from Chambers. A number of local authorities have, of course, joined forces to contract services from Chambers. The Bar has, therefore, established a Local Government Contracting Group, under the Chairmanship of Michael Todd QC, the Vice-Chairman of the Bar.

Michael Todd QC, Chairman of the Working Group said –

> "I am delighted that we have established this working group, which I hope will go some way to building stronger and enduring bridges between local authorities and the Bar. As well as providing information on what the Bar can do, we are here to listen and to understand what local authorities consider when procuring legal services so that we can adapt to meet those requirements."

As Chairman of the Bar Association for Local Government & the Public Service, I am a member of the Bar's Working Group. I have already produced an informative Case Study on Birmingham City Council's Legal Services Department and a copy of the paper is accessible on the ACSeS website at www.acses.org.uk. In addition, I have created a short on-line questionnaire for ACSeS Members in order to obtain information on:-

a) the extent to which ACSeS members and their local authorities use the Bar;

b) the ways in which they do so, whether by contract or instructions in the traditional manner;

c) how ACSeS members currently perceive the Bar and the Chambers that they use;

d) any perceived barriers holding back the Bar and Chambers from further modernisation; and

e) any suggestions that ACSeS Members might have on how the Bar and Chambers can accelerate their drive for excellence as providers of high quality legal services to local government.

The on-line survey can be accessed from the following weblink: http://www.surveymonkey.com/s/C53JLNS

I will analyse the results of the on-line survey and produce an appropriate report for ACSeS Council and the Bar's Working Group. It is also anticipated that an article on the subject will appear in the next A5 publication – which is due to be launched at the ACSeS Annual Conference in November 2011. Accordingly, ACSeS Members are encouraged to contribute in this important initiative for the Bar by completing the short on-line questionnaire.

Local Government Contracting Group

Membership

Michael Todd QC (Chairman)	Vice Chairman of the Bar Council	mtodd@barcouncil.org.uk
Dr Mirza Ahmad	Corporate Director of Governance, Birmingham City Council	Member of Local Authority Group. mirza.ahmad@birmingham.gov.uk
Claire Andrews	Barrister, Joint Head of Gough Square Chambers	Specialises, inter alia, in local authority/regulatory matters. claire.andrews@goughsq.co.uk
Alastair Davison	Senior Clerk, 39 Essex Street	Nominated by IBC alastair.davidson@39essex.com
Michael Elger	Chief Executive , 3 Raymond Buildings	michael.elger@3raymondbuildings.com
Clive Heaton QC	Zenith Chambers Leeds	Specialist in family matters zenithheaton@aol.com
Robin Jackson	Chambers Director , Doughty Street	Nominated by LPMA r.jackson@doughtystreet.co.uk
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Sandesh Singh	Barrister , 2 Bedford Row	Criminal and regulatory specialist. ssingh@2bedfordrow.co.uk
Martin Westgate QC	Doughty Street	Public law specialist, including housing and social welfare. mwestgate@doughtystreet.co.uk
David Coventon (Secretary)	Administration Manager, Bar Council, Bar Council	dcoventon@barcouncil.org.uk

John Wynn
Assistant Director (Legal)

"Legal Services Procurement: Savings & Efficiencies"

Birmingham's third generation legal framework contract has now completed its first year. This framework can be used by any local authority in England and Wales for free and is currently accessed by 41 authorities currently signed up to use it, covering areas from London in the South to Hereford in the West, Stoke in the North and Warwickshire in the East. A procurement saving of up to £150,000 could be secured by an authority, purely by joining Birmingham's framework rather than carrying out an individual procurement.

Firms on the panel are:- Ashfords, Berryman Lace Mawer, Bevan Brittan, Cobbetts LLP, David Jones Bould, Eversheds, Freeth Cartwright LLP, Hammonds, Pinsent Mason, Shoosmiths, TLP LLP, Walker Morris and Wragge & Co. These firms are available at fixed and hourly rates and are subject to mini competitions, menu pricing and any other fee options member authorities may consider. Volume discounts are also available to members for repeat usage of firms. In the current economic circumstances, some firms are also prepared to offer further incentives in certain areas of work should authorities be interested. Further details can be obtained from our contact below.

The past year has seen panels used by several authorities covering areas of work such as:- BSF, Academies, commercial advise, employment and financial advice, Waste, ICT, property and competition law.

Feedback on use of the framework has been positive. Firms on the panel represent firms new and familiar to Birmingham City Council and all are keen to develop new and innovative ways of working with authorities.

The last year has also seen Birmingham City Council's Legal Services Department developing its LSB Law initiative. This is an initiative to support authorities and other public sector bodies with quality advice aimed at helping authorities build upon their own existing expertise by accessing the City Council's specialist teams. A specialist training programme has also been developed as a joint initiative by LSB Law with framework law firms and Counsel's Chambers. Through LSB Law authorities within England and Wales can access combined teams of Birmingham City Council lawyers and framework firms to assist with cost management bringing for example the delivery of legal work on major projects at more competitive prices (savings of 15 to 30% could be achieved through this route equating to £100,000 to £200,000 on a PFI transaction or more if LSB Law alone were used in appropriate cases).

Over the next few years, authorities will be faced with transformational change if we are to achieve more for less through the significant reductions in budget we all face. Birmingham City Council has been running its own transformation programme for four years now and Birmingham City Council lawyers have been instrumental in developing this change. Refocusing and realigning services will need to be considered. New services will also need to be considered with local authorities able to build houses again for the first time in many years; health service review looks to bring back local authorities powers previously enjoyed and a more varied education sector leads to new challenges for the local authority communities. The role of the local authority will need to be reviewed to meet the modern world and the modern budget. Externalisation, internalisation trading, costs savings, income generation, customer focus, shared services – individual solutions will need to be found by each and every Council in England and Wales.

Birmingham City Council, LSB Law and the Council's framework partners are able to assist public sector bodies in tailoring and achieving their own individual solutions throughout the coming years – free scoping meetings are available to help bodies begin this thought process.

For further details on LSB Law or joining Birmingham City Council's framework contract, or any of the above, please contact John Wynn, Assistant Director, Housing, Development, Constituencies & Environment, Birmingham City Council, Legal Services, P O Box 15992, Birmingham, B2 2UQ, 0121-303 2036, John_Wynn@birmingham.gov.uk.

Richard Tapp
Company Secretary & Director of Legal Services

"Legal Services Procurement – A Procurer's Perspective"

Background and Philosophy

Carillion is a FTSE listed support services and construction business, which by the nature of our work is a very heavy user of legal services. Much of our work is contractual, much of it novel in form, and it is essential that we are able to work in a way which manages our legal risk whilst being responsive to the demands of our customers and our businesses.

As a result, in 2002 we formed our panel – which we call the Carillion Legal Network because we want firms to interact and work together for us, rather than simply have a hub and spoke relationship with us. Having reviewed it three-yearly we are currently embarking on our latest review. Our philosophy is to use our in-house team to provide specialist and focused advise on our three core areas of outsourcing, projects and construction, and to buy-in legal services to cover non-core areas, and provide extra resource where needed in the core.

We set out to have the smallest number of firms feasible, to use firms who are expert in their field, and who are then very actively managed to reduce cost and maximise know-how.

Lessons Learnt from our tender processes

We are now commencing our fourth tender process in the UK, and in addition have run processes in our international businesses. The key lessons we learnt, as a procurer, can be summarised as follows:

- **Do your homework first.** Often organisations aren't clear what legal work they are buying – still less what they need. Equally, it is important to know – accurately – what you are spending and on what.
- **Pre-qualify firms.** Tendering takes time and effort on both sides – taking only firms who you know can do the job to a full tender can help greatly.
- **Be clear on what you want in a proposal** – this way you can compare tenders properly against one another.
- **Be clear what you want from your firms**. If you want "added-value" extras, say so; if you want particular management arrangements, controls, or particular types of lawyer – say so.
- **Issues around innovation**. It's easy to ask for innovation – but unless a firm has worked with you and understands you, it will often not come – conversely if you can work out what you want and ask for it, often it can be improved.
- **Define how you will run the relationship.** We write a very detailed protocol, currently around 25 pages, on the basis that we engineer our problems before they arise.

- **Explain the context**. If the law firm knows why you want advice, how your organisation works and is developing, the advice provided can be better targeted.
- **Communicate, involve, project manage.** You are buying legal advice for the entire organisation, not just the legal team – communicate and involve your organisation, and treat it as a serious project.
- **Don't underestimate the size of the task**. The task can be significant and time-consuming- it isn't something that can be done in a few weeks as an aside.
- **Handle the media**. The legal media is interested in panel reviews – be prepared to decide how you will answer queries sensibly and professionally, or you may find that unhelpful speculation is published.

Our ongoing relationship with Network firms

One of the biggest risks having appointed a panel, or Network of law firms, it is critical to ensure that it is then managed with the same care and attention as it was brought together. Some of the issues around our ongoing relationship are as follows.

- **Formal, managed Network.** We treat the Network as an extension of our legal team. Often, they will be the face of our team to our colleagues, or to Carillion's customers. They must understand our values, our philosophy and our requirements.
- **Relationship defined with written Protocol.** We use a formal, written document to define our relationship, covering everything from who may instruct a firm, formulation of advice, how billing and reporting is carried out, how we work together, and what happens if something goes wrong.
- **Formal, defined reporting and measurement.** Carillion is a process-driven organisation, and we manage the Network with the same reporting and measurement requirements as the rest of the organisation.
- **Regular review meetings.** As well as process, review meetings – face-to-face as well as virtual, are important and we expect them to be provided as part of our arrangements.
- **Know-how development.** Face-to-face legal advice is only one aspect of our relationship; we need to ensure that businesses are equipped with tools, precedents and checklists, and that our commercial and professional teams have access to on-line resource so lawyers are dealing only with matters that they need to work on.
- **Network Conference.** One very effective tool is a conference of all our law firms and key Carillion people, setting out our needs and context and allowing interaction.
- **Partners' meetings.** Equally, at senior level, the bringing together of our contact partners and the senior members of the legal team allows our goals and objectives to be defined and clarified, and key new projects such as outsourcing and matter management to be developed seamlessly.
- **Quality systems.** Carillion is a quality-assured environment, and within Carillion Legal we hold Lexcel accreditation, the first corporate law team to do so. As such, whilst we do not yet insist on our firms holding Lexcel, we do expect to see evidence of their quality assurance processes, and we do use Lexcel-assessed processes in managing our Network.
- **Technology.** We need to use technology to manage and communicate with the network. Our key tools are an on-line matter management system – to be evolved during 2011 into a Datacert Passport system with full e-billing capability, and Carillion C-Net. This is a Microsoft SharePoint portal which provides a single resource for Carillion Legal and all our law firms, allowing know-how to be shared,

reports posted, queries to be raised and resolved, and information and announcements about Carillion to be communicated in real time.

- **Innovation.** Innovation is something which is useful to us – in terms of allowing us to provide better, more cost-effective and timely advice focused on business needs. Our last review saw more than 100 individual work streams under the heading of innovation, from C-Net mentioned above, to a root-and-branch change in our handling of HR matters, to training arrangements.

Top Tips for would-be providers

As an organisation, the majority of Carillion's work is won by tender arrangements, so we are conscious that in asking for providers to give us a tender, we have to live by the same rules. These are some tips which might be helpful:

- **Read the invitation to tender**. There is a tendency to assume what is required. Don't!
- **Respond as you are asked** – in form, content, style, proposal format, and in relation to fees. Many organisations will have thought deeply and carefully about what is required; respond accordingly so that proposals can be compared properly.
- **Be careful** with standard marketing department output. It isn't always appropriate or what is needed.
- **Ensure the proposal is perfect** – attention to detail is critical in legal services, and the proposal is the shop window. If you are asked to provide example work, ensure it is exemplary.
- **Understand the buying criteria.** Many organisations will tell providers what their buying criteria will be; we include ours in our invitations to tender, and it is essential that they are understood.
- **Research the organisation** – don't rely on the invitation to tender alone, or your general knowledge. A huge amount of information is available on the internet about organisations and their legal teams.
- **Show how you will relate to the organisation.** Understand the culture of your target organisation – for example, Carillion is values driven, and has been focused on sustainability for many years. The lawyers who work with us must respect and support our ways of working. If a firm is a sector specialist, don't assume all competitors want the same offering.
- **Show who will do the work, not just the partners.** We will ask to see some of the fee-earners, as well as the partners – and our practice is to invite our business colleagues to presentations as well as members of the legal team.
- **Rehearse all your presenters.** Your presentation is an opportunity to impress, ensure everyone knows what they are saying and doing, are fully briefed, and have read your submission and the invitation.
- **Don't lobby.** At best, lobbying will disadvantage a firm; at worst it can lead to disqualification.

Further Reading

More information on our tender processes, including copies of the documentation which we use in tendering, establishing and managing the Carillion Legal Network, and a series of tools used in identifying our legal needs can be found in *Managing External Legal Resources*, Page and Tapp, published by ICSA Publishing (www.icsabookshop.co.uk).

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For all your legal needs contact:
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London, Manchester, Norwich

MILLS & REEVE

Jill Mason
Partner

MILLS & REEVE

"Legal Services Procurement – A Tenderer's perspective"

Ask any lawyer or marketing team what they think about tenders and they might say they were:

T time consuming
E exhausting
N necessary evil!
D debilitating
E enlightening
R repetitive
S strategic

2008 external research indicated that the average bid took a law firm 70 hours to complete. Others articles talk of a law firm spending £112k on bid which they lost and a property advisory firm spending £130k to retain a client. Multiply these by the total number of tenders / pitches per annum and the numbers start stacking up. These figures probably assume headline rates and full realisation but none the less!

Such outlay is understandable when legal fees in excess of £1million per annum could be at stake.

On discussing this topic with colleagues 4 key themes emerged. Some points apply to the public sector, or the private sector, or both. What do you think?

<u>Who / What?</u>

- What do we mean by procurers? Is there a disjoint between those doing the buying and those controlling the process? Are external procurement companies dictating?

- What is the procurers' raison d' etre?

- Procurers have huge power because firms are often desperate to win places on panels.

- Procurers vary with different approaches, levels of interest and involvement. They are becoming increasingly sophisticated.

- Why is there overlap and duplication between panels. In the public sector there are a variety of frameworks. There seem to be many different "clubs". There are differences between central and local government. Why?

Financial

- The number of financial questions posed is expanding.

- Our accounts were audited in a recent tender.

- If a firm is profitable this means it can invest in good people and systems which benefit clients. Therefore is it in your best interests to “beat us down”?

- Rates could be fixed for 2 +2 years - a long time!

- Reduce legal spend by not getting into scrapes in the first place! Do things correctly and you will need lawyers less. Trying to negotiate down on rates could be likened to closing the stable door after the horse has bolted!

- Firms are asked about costs and “innovative” proposals but then find clients sticking with the standard hourly rate. Fixed fee quotes are sought but the nature / extent of the project is not defined.

- Bearing in mind the “costs” of tendering, if there were less tenders firms could provide more for free / offer reduced rates.

- The impression can be created that, at times, the process is being used to benchmark an existing provider or that a procurer has already decided who they want to use and are tendering just in case something better comes along.

Questions

- We often think why am I being asked this? Questions sometimes seem to have been designed for use in another type of tender not relevant to professional service firms.

- Questions are getting more adventurous. We were recently asked as part of a private sector ITT – did you find this a voyage of discovery and, if so, in what ways?. We have also been asked about contracts that have been terminated, panel appointments lost and claims against the firm, even if they relate to advice provided by a different sector in the firm who would not be doing the work being tendered.

- Do procurers always understand the value of personal relationships? It is not just about hourly rates.

- Who will do the work – a paralegal or a partner? It’s all about getting the right people on the right tasks, people you can work with, people who understand the corporate history and are specialists in the area. This does not always mean the cheapest is the best.

- Some tenders ask “Does your organisation hold a recognised quality management certification.” This was a key point from the procurer perspective at the seminar.

- We are often asked the same question a number of times in the same PQQ / ITT when the question could, with a little thought, have been posed once.

- There is sometimes a failure to understand the nature of a law firm's relationship with its clients e.g. our duty of confidentiality so, when providing details about other clients and the work we have done, we have to be circumspect in the information we provide.

- There can appear to be a reluctance to answer clarification questions, or they are seen as a challenge, which results in less than helpful answers.

- Not all procurers ask for presentations. I am sure if I was a procurer I would want to see before buying.

Time

- It can appear that procurers have no clear idea of what they want and use the tendering exercise for information and knowledge gathering. That makes it difficult to complete the tender documents inevitably taking more time.

- Sometimes too many bidders are invited. Some firms may prefer not to be invest time in something that they have no reasonable chance of winning.

- We are often given very short time frames in which to respond when it is apparent that a project has been ongoing for a considerable period of time.

Opportunities for Standardisation of process / IT requirements

- There are clearly some opportunities here. Perhaps a model PQQ template or standardised approaches for financial information? Having said that each client is different to varying degrees, even within the same sector. Could there be 1 framework / system at least per sector?

- There are a plethora of different "portals" each with their own software and idiosyncrasies which crash easily! The portals are becoming standardised within sectors but not across sectors.

- Procurers often want bidders to provide copies of policies which will involve printing large quantities of papers if the process is not online.

- In some sectors there is a move away from free form to boxes. Is the process becoming more procurement driven and less of a capability statement?

- Think about the word and character limits you give us – can we really tell you our previous experience of providing similar services in 400 words?

- Then there is the issue of scoring. Software can be used but it is not designed to assess the quality of proposals, other than in pure compliance terms. It assists with the logistics of the tender but without any artificial intelligence element. There is a definite knack to approaching the PQQ and ITT in this is the case.

- Whether evaluators will get to read the whole document influences our approach which seems odd as we would really expect an overview to be taken.

Relationship building before submitting the tender

- Relationship building beforehand is absolutely critical. We need to be on and stay on the radar. Obviously one has to have the capability and demonstrate capacity but often these are taken as read. What is more important is that people can work with us and can trust us with "their baby".

- There is work that in house teams will not outsource. We need to be sensitive to what you want – do you want to outsource run of the mill work or specialist work. We need to show we have the "bandwidth".

- We are unlikely to tender in the private sector if we have no insight into the prospective client or no underlying relations. The incumbent will have a lot of knowledge. We want to have already asked questions such as what do you value about lawyers and what do you like about your lawyers?

- This is a complex area. On a recent private sector tender once notified that the tender was about to be rolled out we had to report monthly on relationship building.

- With regard to local authorities we are keen to develop relationships but often find that a reluctance to meet or talk. Then, by the time the tender is advertised, we cannot meet as this would not be fair to other bidders. Therefore bidder meetings (especially in the context of panel appointments) are good. Much can be gained through this process.

Successes and failures

One cannot afford to rest on one's laurels. Firstly because being appointed to a panel does not guarantee a flow of work. Secondly, because we have to start thinking about the next tender for you. This is particularly the case where there were some lots that the firm did not succeed in.

Debriefs are very important but often hard to get from private sector. Feedback is critical to understanding why were unsuccessful and equally important when we are successful. Having said that we cannot draft the next tender based on what a previous procurer was looking for!

Conclusion

If only tenders were:
Tantalising, **E**nlivening, **N**ice, **D**ynamic, **E**nergetic, **R**ealistic and **S**uccessful

Michael Samson
Legal Services Manager

LEGAL SERVICES LINCOLNSHIRE

"The Use of Mediation in Planning Disputes"

Background
The specific use of mediation in planning disputes has been the subject of a report commissioned by the National Planning Forum and the Planning Inspectorate. The report "Mediation in Planning" by Leonora Rozee OBE, published in the last year, investigated the overall use of mediation in the planning system. There were studies of local planning authority "live" cases, suitable for mediation, such as delivery of a major project, addressing enforcement issues and developing area action plans. Some of the live case studies produced positive outcomes through mediation.

The mediation process
The mediation process involves both parties agreeing to the terms of mediation, with each party setting out their concerns. The mediator may consider holding an overall joint session between the parties and then proceeding to individual sessions with each of the parties in turn. Any settlement agreed through such a process and signed up to will be binding on the parties. Significant preparation time is often required in mediations and it must be agreed to hold the discussions in an atmosphere of confidentiality. As mediation involves the help of a neutral third party there is the likelihood of improving communication, negotiation and consensus building between the parties.

Outcomes from the live mediations
The report sets out details of several live mediations in various planning scenarios and the results achieved. In evaluating findings from the mediated cases, one of the common threads identified was the fact that the tone and atmosphere differed from a formal hearing, local inquiry or a public meeting. This meant that the parties could work through issues themselves. The role of the mediator in achieving a successful outcome is crucial. The tone of the discussions, the setting and structure of the process are important to establish right from the start. The report identified that whilst issues were sometimes difficult to resolve, it was possible to reduce complexity and give the parties a sense of optimism and a will to succeed.

From the live cases, suggested improvements included the need to recognise and use mediation techniques earlier in each appropriate planning process and to ensure that all the right people with the ability to make decisions on the matter are included in joint discussions.

Even an enforcement case, which had a lengthy history, was appropriate for mediation but it was found that due to caution within the local planning authority and the range and intractability of the issues, it was difficult to get parties to consider the matter objectively. A "live" case involving major regeneration was explored as a possibility for making progress on the developments proposed. What was identified from that case was that the local planning authority which is charged with getting the best for the area could be encouraged to develop their role as community leader. This could be achieved through the local planning authority engaging with the community and other interest groups, whilst maintaining effective separation of the statutory role and that as trustee of public assets. There is therefore recognition that mediation can also be utilised in overall strategic terms as well as in particular cases.

How should local planning authorities use mediation?
The report discloses that a survey of local authorities showed that many planners did not fully understand mediation as a process, or its potential in resolving disputes. Equally, developers and consultants were wary of a system which they felt was untried and untested. In particular, there was a need to understand the difference between mediation, negotiation and other alternative dispute resolution methods. There was therefore a need for training local planning authority officers as to where mediation can be used in resolving planning disputes and equally so within the private sector.

Mediation is a facilitative process and could be used in various planning and environmental schemes, with possibilities including flood relief schemes, renewable energy issues and neighbour disputes. These aspects were identified in the Guidance document in Scotland-"Guide to Mediation in Planning", under the heading "Particular Opportunities for the use of Mediation in Planning". Negotiations in planning obligations and enforcement area action plans, pre-application processes and major infrastructure developments have all been identified as schemes which could be effectively handled through mediation. The defining factor in planning is that it is a statutory process, effected through inclusive and transparent democratic decision making. Thus, in suitable cases, mediation could be agreed through the normal member decision making process as providing an opportunity to develop local solutions for local issues,.

Benefits of using mediation
Mediation is a process involving an independent third party, whose role it is to help parties on a confidential basis to set out the real issues between them. This means that the parties need to identify their concerns, the options for resolving matters and where possible, adopt a solution acceptable to all concerned. Mediation therefore is a flexible method for achieving consensus within an appropriate planning process. The outcome of any mediation is reached by the parties themselves with the guidance of the mediator. Further, under a planning performance agreement within the local planning authority, a mediator could be identified, taking into account any potential conflict of interest which might arise on projects. One of the major benefits of using mediation is its cost effectiveness with potential savings to the public and private purse.

Conclusions

- Because of its overall effectiveness in planning disputes, the use of mediation should be embedded in the policy framework of the local planning authority. This could be set out in a protocol as to when mediation could be effective, the status of mediation, where it is likely to be beneficial and the role of elected members in the mediation process.
- The report suggests that mediation in appropriate planning matters should be strongly encouraged. This could be effected through developing awareness and understanding, by disseminating knowledge and good practice and then assessing its effectiveness.
- With the Localism Bill encouraging and requiring communities to take more responsibility for planning issues in their area, a more consensual process through mediation could be adopted within local planning authorities in many cases where planning disputes arise.

Finally, local planning authorities should develop the skills awareness and knowledge of all stakeholders in the planning process, by establishing the relevant infrastructure to support the use of mediation in appropriate cases.

Peter Feehan
Partner

"The Future of the Feed-in-Tariff"

Background

There has been much focus on the Feed-in-Tariff (FIT) in recent weeks, focus which was sparked by Chris Huhne MP's announcement on 7 February 2010 on the immediate review of FIT renewable energy schemes above 50kW, inevitably targeting market interest in large scale solar. Although DECC has been quick to clarify certain aspects of its recent statements, there remains some uncertainty as to the future of FIT in relation to viability solar as a renewable energy source.

Current landscape for FIT

FIT was introduced in April 2010. The focus of FIT was to encourage domestic mirco-generation and covered a series of renewable mirco-energy sources, including Anaerobic Digestion (AD), mirco-combined heat and power, hydro and solar. The FIT on these schemes is favourable and will support projects for 25 years. It was clear from the Government's announcements in the Compulsory Spending Review in October 2010 that FIT would be subject to future review, albeit the market view was that such review would not take place until March 2012. The market generally accepted that FIT was artificially high and in the medium to long term was unsustainable at 41.3p per KW/h generated for smaller individual installations (such as domestic rooftop) to 29.3p per kW/h for large scale installations up to 5MW (ground mounted schemes or solar farms).

The industry has looked very keenly at events in Canada and Germany (where equivalent schemes have been in place for some time) where there had been pressure to review the Canadian and German levels of subsidy. In these countries, the mirco-generation renewable market is more mature leading to calls for the equivalent tariffs to be reduced, given more general domestic uptake. Interestingly, what seems to be apparent in the UK and DECC's response, is not so much the long term sustainability of FIT (although this will have been a factor), but more the rise in planning applications for large scale solar in the South and South West of England.

The future and impact on current schemes

DECC's announcement is very clear not to openly oppose solar farms, cleverly, the language in Huhne's statement suggests a review, but the financial and property markets were very quick to react to the statement from DECC and reading between the lines, Chris Huhne's statement has abated market excitement in FIT. The reasoning behind DECC's statement (unofficially) appears to be driven by: (a) lack of uptake/ interest in small scale AD by the farming communities; and (b) a concern that FIT was being diverted away from domestic roof-top take up, by speculative investment on larger scale solar initiatives (ground-mounted solar). There are some funds/generators who are still actively persuing planning applications, but these have reduced significantly in the last month. Only solar farm sites which are in the process of construction or are currently going through planning now have any real prospect of being supported by FIT at its current levels as there is wide speculation that DECC will shortly issue a clarification of its position and commence an industry consultation on the future of FIT, with an interim statement on the future of FIT in July 2011.

Market reaction

Perhaps a sign of the fragile nature of the UK economy, but the markets reacted very quickly to DECC's clarification on FIT. Almost as quickly as the ground mounted solar market evolved and the rush to sign up potential sites began, the market evaporated as the lack of market certainty, coupled with a distinct lack of seed equity resulted in a potential glimmer of light in the property and energy markets quickly fading away.
Can this apparent market failure be blamed on DECC policy re-alignment? In short, perhaps not.

First, when reviewing the FIT legislation, it is clear that DECC wanted to foster the general public to invest in renewable technologies. Solar, of all the potential recipients of the Government backed scheme was the first to become more commercialised, potentially allowing individuals to invest in such technologies. What the Government had not envisaged or certainly under-estimated was that there would be a commercial application for FIT for schemes of 5MW or less. It was this, more than anything else, which prompted DECC to react so decisively.

Second, is the perceived impact on the low voltage electricity networks (distribution networks). The market evolved so rapidly, it was difficult to ascertain the impact that it would have on the existing electricity networks. The more savvy developers/generators had recognised a need to obtain a connection offer, but how many would-be solar developers/generators understood the potential impact on an over-stretched electricity infrastructure? Our UK energy infrastructure is ageing and it is possible that reinforcement to the electricity network is needed for ground mounted solar to be commercially viable for export. The generation IRR for these solar farms is typically around 8-10% return, so margins are tight. Any electricity works would need to be undertaken to an agreed design with the distribution network operator for the low voltage networks (DNO), this in itself can create a significant hurdle, in terms of agreeing: (a) specification and timescale; and (b) most importantly, cost. The electricity networks are significantly challenged already given the large scale of intermittent forms of power (wind farms) taking up much needed capacity and the need to invest in the National Grid (high voltage network) with the longer term impact of the move to nuclear energy. No solar developer/ generator could have known the real cost of a connection and more importantly, guaranteed energisation by March 2012, as commercially it is difficult to see any DNO committing to this obligation – therefore, snaring the most favourable levels of FIT were never a foregone conclusion. The roof top schemes do not pose the same issues given the electricity is self-consumed and only excess is allowed to be exported to the electricity grid.

What does this mean for the public sector?

Commentators believe that DECC will offer clarification on the scale and size of the review in July 2011.

The industry also shares the view that not all schemes will be impacted – in particular roof-top schemes. There has been significant uptake in the third sector, particularly in the social housing sector which is keen to capitalise on cheaper and greener electricity for its tenants. The legal structures which have come to the market depend upon the relevant funding structures employed and availability of equity, however, most structures centre upon some form of roof lease model, whereby a generator "rents" the roof space.

What does the public sector need to consider?

The roof top schemes still offer a real opportunity for the public sector which is echoed by the increase in tenders for PV installers for roof top schemes which have come to market in recent weeks. DECC is still committed to the low carbon transmission plan and solar very much has its place as part of that movement away from reliance on fossil fuel electricity generation. The public sector is central to this shift and the active support on the low carbon environment – the key issue remains in terms of funding. Some local authorities may chose to prudentially borrow, an option not open to housing associations, therefore the funding solutions (and levels of equity required) will need to be strongly considered before venturing into any solar project, particularly if the solution is to debt fund. Self-financed or the perceived "free" solar options remain, but these may not offer the best long term solution for the public sector, nor potentially fulfil value for money obligations.

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Steve Botham,
Director

caret

"Giving Bad News"

Nobody likes giving bad news – it is not a pleasant experience and there can be many negative consequences if we get it wrong. Yet across the public sector many leaders are preparing themselves to look colleagues (and often friends) eye to eye and say "I'm sorry you're redundant". But the bad news does not end here – you may have equally difficult conversations when you tell people "You're not redundant but I am afraid your job is going to get a lot more complex and demanding." Indeed the pain may continue into uncomfortable conversations with Members, partners and the general public.

In theory this is a part of a leader's responsibilities – but in reality this is new territory for many – and there will not be any opportunities for practice runs! Working in HR in the motor industry in the 1980's and in Financial Services at the end of the dot com boom I have given many people bad news and have seen many examples of poor practice. Some managers destroy their credibility when they seem to handle this process callously, and whole organisations can become toxic when redundancy programmes are seen to be unfair, brutal or secretive. More recently we have seen organisations where commitment and loyalty have dropped sharply when the workforce were informed about their futures by text. Managers hate giving bad news and poor managers choose poor methods of doing it.

It helps to think through your personal approach to giving bad news – so you can act in a way that is true to your values, looks at the long term impact on the organisation and enables you to be authentic. The starting point is – what outcome do you want from a bad news process? Poor practice has often been driven by selfish outcomes where managers have decided "I want to get this out of the way quickly with the least emotional trauma possible". The more professional approach is "I want to treat each person with respect, and to manage the process in a way that best enables those made redundant to move on with dignity - and those that remain to deal objectively with the challenges that lie ahead and have confidence in my leadership."

When handling redundancy conversations you need to prepare yourself emotionally – and anticipate each individual's response. Some people will be withdrawn, others angry, some may be very sympathetic to the dilemma you face. It is really helpful to have an agenda with some bullet points to make sure you know the issues you want to cover. Clearly they want you to cut to the chase and tell them the outcome – after that they will find it difficult to take in what you say.

Key things to cover include – giving clarity on what will happen to the individual, the timescales, what support is in place, what will happen to their job and your expectations of them in the time remaining (and check they understand this). They will often want to know how the news is going to be communicated to their team – and what the message will be. Give realistic guidance on the support you personally can give (don't set false and ultimately disappointing expectations). They may well benefit from another conversation in 24 – 48 hours time.

People who have been made redundant often have very immediate things on their mind – like “how do I tell my family”. If appropriate you might want to ask – “is your family expecting this?” and then move on to “have you given any thought to what you might do in the future?” It is really important to thank people for their contribution – I have often stressed to people that it is their job that is going and to point out what you have valued from them as an individual. Sometimes it helps their “coping mechanisms” if they know beforehand that redundancies will be announced tomorrow or the day after so they can prepare themselves (and family, friends etc). Empathy is important at this time – try to avoid the trap some managers fall into when they tell the individual that this is a bad time for them as well – people do not want to hear that right now!

For those keeping their jobs this can be a time of bad news too. There is lots of evidence that many teams go through a distinct bereavement process and some of the “survivors” can feel guilty about retaining their job when friends and colleagues have not. In these challenging times, of course, those that remain will often find themselves with considerably more responsibilities, a wider range of stakeholders and the need to drive significant change whilst delivering an enlarged operational focus. They may well be internalising some critical questions such as – “How will I cope? How will I manage this new group who will be feeling the loss of their old manager? How will I break this news to my family – what will the impact be on them? How do I make sense of all the issues and challenges? “

In our experience people take a long time to adjust completely and will go through a number of stages when they doubt they can cope with the change (especially as they get to broaden their understanding of their new roles). The key issue at this stage is to help them get focus and clarity. One of the more effective techniques is to ask them to come back to you with a plan that shows their key priorities, their key challenges and looks at the next ninety days and how they will move things forward. They need your support, advice and encouragement during this time – and you need to be able to adjust your time to have more regular feedback and catch up sessions.

Finally this is an important time to manage yourself – your time (with so many additional things to do during this period), your emotions, your focus and your ability to give a clear sense of the way forward to people who are looking for direction. Inevitably this may be a very stressful time. You need to be realistic about this and ensure you get the right level of support, so you can talk through your concerns and issues, before and after the “bad news events”.

We all handle stress in different ways but one of the key issues to watch will be your energy levels and the need for you to “re-charge the batteries”. One of the key ways to handle this stress is to know that you have done this difficult job in a professional and effective way. This takes us back to the need to set yourself some clear outcomes – they give you a clear reference point – so that you can be objective when you review your approach. It will not be easy – but it can be done well.

Helen Liddar
Solicitor (non-practising and coach)

Powercharge® Group

"Leadership - an appreciation of 'A simpler way'."

At the introduction of Compulsory Competitive Tendering 20 years ago, I realised that change was likely to be a constant in my working life. So if change is constant, how come we still call it 'change'?

In local government, the high degree of legislative change is legendary, not to mention repeated structure and boundary reorganisations. Is this not just what we do? We work with the differences as they appear, and are often influential in the differences which occur. The present economic situation is generating it's own differences, and yet funding has always been an issue in one way or another. So if this isn't 'change' what is it?

The essence of change is explored in a superb book called 'A Simpler Way' (1996) by Margaret J. Wheatley and Myron Kellner-Rogers which I heartily recommend to you. The authors suggested that Darwin's portrayal of evolution as a struggle means that we often believe that, "fear is the primary motivator for change" and that we see change as, "a defense strategy prompted by struggles with external hostile forces." "If an individual can change it may be lucky to survive".

'A simpler way' looks deeper into the science of life and describes change not as "redesign" but as continuous energy and part of the bigger picture of the development of organisations and individuals. Change is said to be part of nature's and individuals' natural inclination to self-organise, "Self-organisation is the capacity of life to invent itself".

The feelings that change brings with it can be negative and draining. 'A Simpler Way' suggests that it is often not the fact of the change that prompts such feelings, but when the change appears as "imposition rather than creation" which goes against a basic desire of life to take responsibility for its own creation.

The book recommends that organisations undergoing change must start by working with everyone to establish the purpose and identity of the organisation, to develop a coherence and integrity about what it is. The new understanding and awareness gained from this shared process leads people into "the territory where change originates". This is because "all change originates when we change our awareness of who we are."

This applies to individuals too. Giving yourself the time and space to think provides an opportunity to regenerate, to learn and be different. Someone once said, if you do what you've always done you'll get what you've always had. To stay the same limits our choices as "we strive to be consistent with who we already are" and do not look for new choices and difference. Where something isn't working, do it differently, absorb new ideas and information, because "we ... engage in change only as we discover that we might be more of who we are by becoming something different." This coaching approach to learning is very beneficial personal CPD.

It is said that the thought that evolution selects the fittest has driven us "into positions of paralyzing conformity for fear of getting things wrong," "our analytical culture drives us to so many cover ups that it is hard to see the self-organising capacity in any of us". Wheatley and Kellner-Rogers continue their Darwinian theme with, "There is no such thing as survival of the fittest, only survival of the fit. This means that in change, as in life, there is no one answer that is right but many answers that might work." The authors state that organisations form and exist to find solutions, which could be said of all local authority legal services, but a background in law can foster an approach that is looking for just one right answer.

'A simpler way' encourages us to develop a number of solutions that work and are viable, not just <u>the</u> right one. Sharing information widely and establishing many connections with others are also recommended as ways to help us and organisations flourish. This book is packed full of fresh perspectives on our capacity to develop and thrive.

'Simply' invest in a copy of this book, a snip at £12 on a well known booksellers website, and absorb this fascinating read. When working in as regulated an industry as a local authority it is interesting to consider how these approaches to management, leadership and operations will influence your organisation to generate successful individuals who are benefiting from ongoing change.

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"Moving On - The World is Your Oyster"

'The only thing we have to fear,' said U.S. President Franklin D. Roosevelt in his inaugural address on 4 March 1933, 'is fear itself'. Delivered during a banking panic, the words clearly have some contemporary resonance. But applying them more personally, if the Grim Job Reaper (GJR) does finally land up in reception asking for you, once the horror moment has passed, this can often bring a strange sense of relief. For as Roman philosopher, Cicero, once wrote: '. . .there can be nothing happy for the person over whom some fear always looms'. So when the worst does happen, the anxiety will often dissolve into something concrete you can take on and handle.

We can all find ourselves on fairly comfortable career tramlines from which we often feel we should fly, but cannot quite find the motivation to risk taking off into new territory. The GJR, unwelcome though the visitation may be, can provide a valuable opportunity to reflect, self-evaluate and reposition. In short to load some new mental software, re-bore and reboot. As part of this it's worth taking a long, hard look at yourself. What you've done, what you know, who you know, as well as your skills and attributes. What do you like doing? What gets you airborne, when and how? Can you build something from all this to fill a gap somewhere in the market – public or private? Clearly the market is tough so you'll obviously need to assemble a good product and talk some good talk.

Resting

Actors euphemistically call periods of unemployment between acting roles 'resting'. But (unless you're in the happy position of wanting to and being able to retire, have a private income or otherwise don't need to work) once you've had an initial period of decompression, it would be unwise to get into the habit of too much actual 'resting'. For if you're serious about getting another job, jobs or role(s), then that can be a full-time job in itself. So, apart from anything else, you will need to:

- Create an action plan – if only a mental one – for moving forward and keep it under review. It's a tough market out there but the world still needs to turn. Are you able to provide the magic ingredient for those who need it?

- Identify and watch out for the types of opportunity you would want to go for - and go for them. Be selective because drafting an effective job application is time-consuming. Brevity is the soul of wit but what you write needs to pack a punch. Wrack your memory for valuable aspects of experience which may be gathering dust in a far corner of your brain. Public sector opportunities will usually be advertised so make sure you check out likely sources, online or otherwise. Also (as mentioned below) keep in touch with contacts who will be a valuable source of opportunity intelligence, often before advertisement.

- Consider interim manager opportunities. Many agencies now deal with these and if you have recent management experience you may well be attractive. Flexibility as to location will be an advantage. Whilst the interim market is a fairly well-fished pond, some may find it useful either as a stopgap or a working lifestyle in itself.

- Keep in touch with relevant developments. In the electronic age this should be fairly easy. For there are abundant free online sources of news and information.

- Contacts will also help you keep up to speed with ‘soft information’ – what might be called relevant ‘metadata’ which doesn’t tend to find its way into print.

- If you think you may be interested in working in the private sector, take the bull by the horns and contact organisations likely to be suitable. But your pitch will need to be focused on how you would advance their particular business.

- Keep busy and positive. Positive sells. Negative is failure’s best friend.

Public or Private?

The age of austerity bites hard across the sectors. For the public sector, public funds are being radically reduced. For the private sector, selling product amidst increasingly fierce competition into a cash-strapped market is a tough call. So it does help to have some insight into the fundamental differences between the two sectors so that you can properly evaluate where you might best fit in your present circumstance. So, whilst for instance, if you happen to be a local authority lawyer, used to operating within local government, you will still be practising the same law if you move across to a private sector local government team, the context will be very different. This is simply part of understanding the nature of the organisation you may wish to join and evaluating whether (a) you would actually want to and (b) whether you have what the business needs at the relevant time.

And whilst the core difference may seem blindingly obvious, it does markedly affect organisational culture and approach. So local authorities and other public sector bodies are set up by statute or otherwise to perform public functions i.e. governmental type functions in the public interest. They are funded substantially from the public purse i.e. local or central taxation. Public sector service organisations (such as local authority legal services departments) usually experience infinite and relentless demand against a decidedly finite (and diminishing) resource base. So managing the demand against your given resources is one key role of a local authority manager.

Private

The private sector is of course very different. Private businesses are voluntary enterprises set up for the purpose of making profit for the proprietors. Firms can choose which markets to operate in and the products and services they wish to sell to that market. So whilst the core purpose of a public authority is public service, that of business is to maximise profit. But whilst public authorities usually operate as monopoly suppliers, businesses of course operate in a fiercely competitive environment. So if customer service fails, so will the customer base. And without customers the business will founder. For businesses (not being able to rely upon taxation funding) need constant sales and cashflow to pay for outgoings (premises, employees, insurance etc), before any profit is available. So it’s unlikely it will be enough for you just to do the work you happen to be given. You’re likely to be expected to pull your weight in generating work.

However, many former local government officers (lawyers and others) have successfully crossed the floor. But if you’re contemplating doing so, do make sure that you’re realistic as to whether there is a good match between what the business you’re thinking of joining needs and what you can offer. And in any discussions it’s best to follow Shakespeare’s

Polonius and ‘to your own self be true’. For if your pitch is not really the real you and you get appointed, you are likely both to disappoint and to be disappointed.

Public

As mentioned, keep a lookout for suitable positions where they tend to be advertised, both on line and in print. If you’ve already built a career in local government, you’ll know the score backwards on public authority recruitment and appointment processes. Job adverts, person specs, job descriptions, information packs, trial by assessment centre etc. And the more senior the post, the more hoops to jump through. So if you get longlisted you may have to pass through a gatekeeping interview with recruitment consultants whose job it is to put up a shortlist for the appointing authority of people they consider most likely to meet their client’s requirements. You will need to be able to evidence all the ingredients of the person spec and to have done suitably penetrating background research into the authority in the context of the role in question. And be realistic as to salary expectations in the present market.

All very time consuming and ultimately a bit of a lottery. Because as ‘scientific’ as processes may appear, ultimately human and psychological factors will play a key part at each stage of human interface. So, unless time is a luxury for you, don’t waste your time on applications for which you have no enthusiasm or for which realistically you don’t stand a chance. At interview, the more genuine passion and energy you can display for the role in question, evidencing how you would do it as though you are already in it, the higher your chance of success. However, many authorities do seem in practice to be a lot more (small ‘c’) conservative in what they are looking for than the ‘dynamic, creative, innovative, transformational etc’ adverts might suggest. So be prepared. But most of all, be the best of yourself.

Freelancing

Being your own boss is of course an attractive prospect. Far from the madding member and free from the tyranny of relentless and often unreasonable demands. Well, possibly. But like everything else in life there are pros and cons. On the plus side you can get up when you want, your commute is a doddle (a few slippered paces from bed to computer) and you can have a day off, nay a week off, whenever you want. No appraisals, no performance targets, no budget cuts, no fraught management issues, no late night meetings, no. . .the list goes on. So what’s not to like? Well, as mad old curmudgeon, King Lear, once observed, ‘nothing will come of nothing’.

For the thing about employment, annoying as it can be, is that you get paid regularly with all the admin – tax, national insurance etc. – dealt with for you. Including paid holidays and pension contributions. And whilst the constant demands of employment can be a nightmare, when you’re self-employed, you first job is actually to *create* demand for your services. So you have to become your own Business Development Manager. Then of course you have to meet the demands you create by providing first class service (while keeping the business development momentum going). Then there’s the file and other admin and making sure you deal properly with tax and national insurance etc. And if you’re a solicitor and wish to remain on the roll, there will also be the practising certificate fee – no small expense (although this can be set against tax).

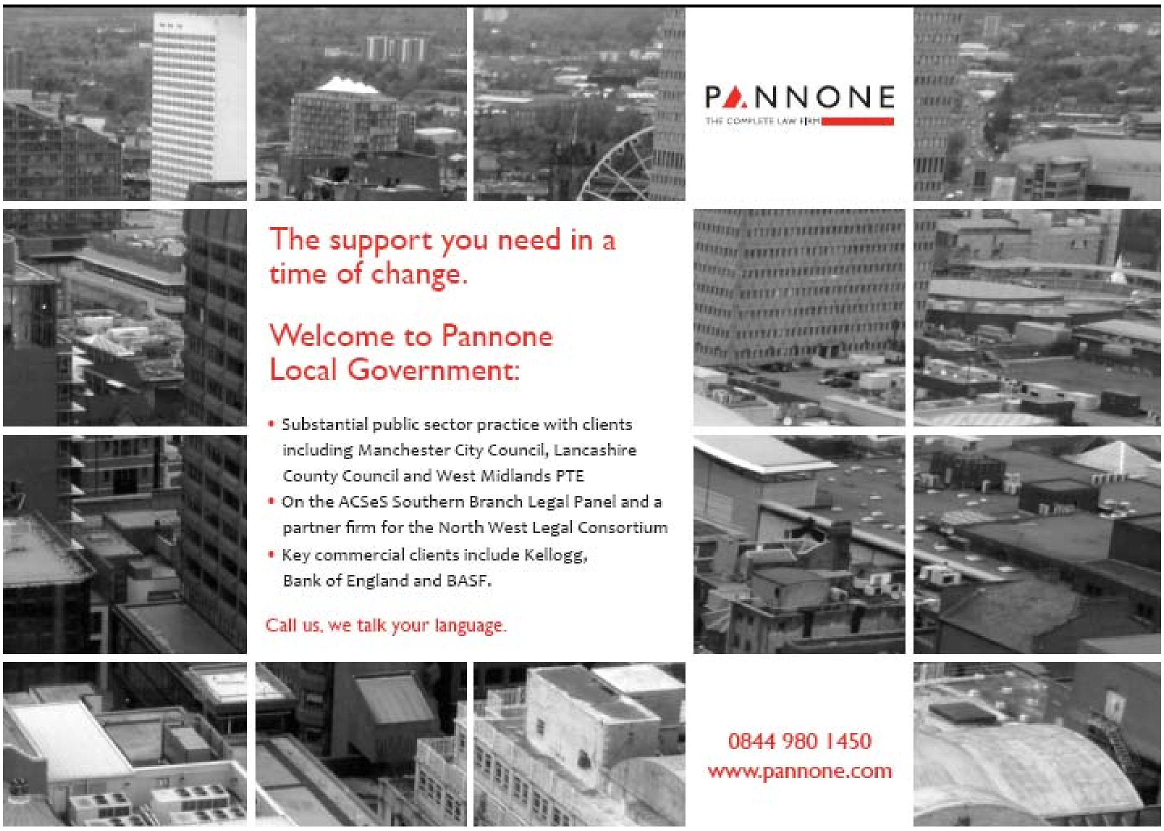
If you have the luxury of a good pension and you’re thinking of freelancing as a souped-up hobby or a source of some additional discretionary cash then the role is likely to be fairly carefree. But if freelancing is to become your entire livelihood it will need regular attention which may at times may you almost nostalgic for the unreasonable demands of local authority employed life!

Freelancing can on the other hand be liberating, fulfilling and empowering, and with the right temperament and approach you could well find yourself thinking that it's the best move you ever made. But before you go down this route you will need a business plan (strategy, or whatever you choose to call it) as to how you're going to translate your skills and experience into cash. You may be wanting to assemble a portfolio of occupations; perhaps some interim work, perhaps some board appointments, perhaps some private work, perhaps some consultancy for professional firms or others or other ways of turning your talents into cash. Many former local government people have already trod this path. So if you know someone who has, it would be worth having a word. As to interim management, agents handling these appointments will often be able to put you in touch with off the peg arrangements for forming your own company and dealing with the necessary taxation and other admin.

World's Your Oyster

Low life companion of Falstaff, Pistol, observed in the Garter Inn, that: '. . .the world's mine oyster/Which I with sword will open. . .'. Leaving aside the offensive weaponry, the world is indeed your oyster once you step off the employment treadmill. The trick is to make sure it isn't your ostrich. Keeping active and maintaining a positive approach will be vital as you move forward. And as Alice Thomson pointed out in *The Times* on 2 March 2011: 'The only thing that almost all successful people share is that they are robust, resilient and resourceful. They can cope with 14-hour days and setbacks and can fend for themselves'. You are certainly likely to have these qualities if you've been operating at a senior level in local government! If not, best acquire them.

But you will equally have some time to do some of the things you've wanted or needed to do for years but have had to put off because of the relentless demands of employed life. The important thing is to try to get the best match possible between potential remunerative activities, the person you really are and what ignites your particular lights. For as Chinese philosopher, Confucius, once said: 'Choose a job you love and you will never have to work a day in your life'.



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