

Appendix 2

Business Management and Administration Committee 1 February 2011

Transcript of the Discussion on Appendix 1 to Agenda Item 4 – Summary List of Actions

Jennette Arnold (Chair): If we can move to item four? Can I ask the Committee to note the completed and outstanding actions arising from the previous meetings and can we then go through the particular ones that are shown? The first one is Appendix 1. The letter from the Chief Executive to Len Duvall AM dated 1 December 2010. Len, do you have some comments to make?

Len Duvall (AM): Chair, it is a letter to me. I thank the Chief Executive. I wish he were here to answer my questions and no doubt someone else can. I have got a number of questions. An audit took place. Did the audit take place prior to finding out about this particular issue or was it planned ongoing? Did it cover the entire organisation or just this section of the organisation?

Martin Clarke (Executive Director of Resources): I will try to answer that, Chair. The audit that took place took place very shortly after 10 August last year. I do not know if that was before or after that.

Len Duvall (AM): Sorry. In the letter you sent me it was not clear. There was a recognition in the organisation we needed to do an audit of these payments. This came to light because I raised it. Were you aware of it? When I raised it no one seemed to be aware of what was going on in this section.

Martin Clarke (Executive Director of Resources): I was aware of it. I do not think the Chief Executive was aware of it. In the summer specific allegations were made to me about a specific case. Therefore, I arranged for that to be investigated. The investigation was undertaken. As part of the results of that investigation, checking with audit was how can we change the system?

Len Duvall (AM): You were present at the meeting I raised it with the Chief Executive.

Martin Clarke (Executive Director of Resources): I do not think I was.

Len Duvall (AM): You were not? No one else was aware of that, who was present at that meeting?

Martin Clarke (Executive Director of Resources): No, because the person --

Len Duvall (AM): You might want to go back and check the records. I might follow up on that, Chair. That may have saved a lot of exchange of letters if someone had just answered my questions.

Martin Clarke (Executive Director of Resources): Exactly. I am happy to write and say what the timeline of this investigation was.

Len Duvall (AM): I have some further questions. The audit is done in August 2010. This comes up at roughly the same time that prompted you to do it. What action was taken? The lack of audit trail. Are you confident that [as a result of] the procedures that you put in place now, that this would not occur again?

Martin Clarke (Executive Director of Resources): The procedure we have put in place is to take away local management responsibility to deal with agencies. Centralising. On that basis there is strength in the system. It is action we could take. Given the volume of transactions, and the other actions that have been taken to bear down on the number of agency and temporary staff, we can manage it from the centre in a cost effective way. This is one area each year we do get internal audit to review our system procedures on how people engage and manage agency and temporary staff.

Len Duvall (AM): We are quite clear then in this section, because I am not clear now from the letter that I have received and some of your answers, that even though this was not done appropriately, this was carried out under - Leo Boland presumably, or someone who has drafted this - used the phrase that this was done within the policies of the GLA. Clearly it was not or it would not have happened in this way would it?

Martin Clarke (Executive Director of Resources): Prior to centralising responsibility, I think it is probably about September 2010 time, individual managers had delegated management responsibility to deal with budgets. That also included dealing with any supplier. In this case it would be a supplier of agency staff. Until early autumn last year we ran a devolved system in that area. Following the specific case we took the decision to centralise in the way the Chief Executive has outlined. Now all arrangements with agencies and junior staff. Anyone who wants to vary any arrangement has to make a business case and that comes to me.

Len Duvall (AM): Chair, I am perplexed. I have a letter in front of me and I am very grateful for the answers. The letter says these allegations have been investigated and were raised with me in the past. There are some issues here. I asked questions. Someone cannot help me at the meeting. We exchanged letters. It comes up. Yet, even in the letter that I receive, it is not a full answer.

Jennette Arnold (Chair): I think the best way forward is to take it to a meeting of the Business Management and Administration Committee (BMAC) where the Chief Executive is present to answer your questions.

Len Duvall (AM): I am not sure if he understands. Whoever drafted this letter or provided the information appears not to have put that information in. It sounds like I was the only one

raising it. Clearly I was not the only one raising it because the alarm bells happened in the summer. Some of the information you are giving me now I might have covered on a different approach.

I am not saying there is something wrong and I am not saying I distrust in the information I have got. It is incomplete. It will lead others to have doubts about what has been going on under the eyes of senior management of this Authority at a time when we are being lectured on restraint around cost issues and other issues. The lack of audit trail. OK. You have rectified it. You have dealt with it. I do not think I have had a full answer. That goes to the heart of some of these issues I have raised at this Committee over Human Resource (HR) issues. Where are we seeing a log of these decisions taken? Where are the things that get reported back? Not maybe for Members' comment but somewhere internally there must be a list of these decisions that Members can access if they desire to see what is going on in HR.

This came about with permanent staff sitting next to agency staff getting dramatic increases in their pay at a time when we were saying none of the permanent staff could have any rises. I understand the context. The letter sets out the context of why that happened. I do not understand why I have got incomplete information at this stage and why you present this, and new information is coming to light.

Martin Clarke (Executive Director of Resources): It is because, Chair, there are two separate but obviously related issues. Some staff reported from some channels some concerns. At the same time managers have reported concerns to me to investigate. I have gone away and, since it affects staff, investigated that in a confidential manner. We have come to a conclusion, discussed it with audit and, in the light of the specific case, introduced new procedures. I will publicise the new procedures. I have not publicised the investigation.

Len Duvall (AM): I am not asking you to publicise the investigation. I welcome the new information. I am wondering why it was not included. I am not asking for the ins and outs of the investigation, albeit I might follow up and ask for that now. I believe that this could have been put to bed much earlier in terms of the information and it goes to the heart of people raising questions and getting answers back. We have got to get this bit right. If we do not get this bit right then how can I trust other information presented in this form to this Committee? I wonder about what is going on.

Chair, I will explore this further outside and share anything else with Members. You have given me two bits of information there, Martin. Originally I thought it was staff members. You are now telling me that management concerns prompted you to do this, in raising it with you.

Martin Clarke (Executive Director of Resources): The management of that area brought the issue to me, as they are required to.

Len Duvall (AM): I am glad that bit worked in the system, albeit the system failed, because you would not have changed it.

Jennette Arnold (Chair): Len, can I take you back to the letter? What we have heard from Martin about the management arrangements is fine and they are not relevant to the letter. Do you wish this Committee to progress any further action regarding your concerns? There is an issue that you have identified and we could go away and look through the minutes to find out. When you raised that question with the Chief Executive you should have got a response. There were officers present who should have been able to give an answer. If they were not then the question is why didn't they? We can go and find out those things. Do you wish the Committee to go back and undertake that review on behalf of you and this Committee? We are sat here and we expect answers to questions because that is the purpose of this Committee. If we are not going to get them from either the Chief Executive or senior officers sitting here then that is totally unacceptable.

Len Duvall (AM): I am grateful for the way they are answering the questions now, Chair. It is the previous issue and this letter that I have difficulty with. If you could let my colleague, Brian, come in --

Jennette Arnold (Chair): No, I will not. I want an answer from you on this matter.

Len Duvall (AM): We do need to pursue it because it goes to the heart of the matter of issues that we have raised before about HR decisions and issues around HR that go on in this Authority.

Jennette Arnold (Chair): Thank you. Brian Coleman, what do you have to say?

Brian Coleman (AM): Thank you very much, Chair. What horrifies me is one of these agency staff was given £92 a day, if I am reading this correctly. Mr Clarke, I see I am reading it correctly [in the confidential paper provided to Members].

Jennette Arnold (Chair): The yellow sheet is confidential.

Brian Coleman (AM): Then why is it in the middle of the public papers?

Jennette Arnold (Chair): It has been circulated only to Assembly Members. As long as you do not disclose any names --

Brian Coleman (AM): I do not see why this is in secret. There are no names here. No names.

Jennette Arnold (Chair): It is not secret. It is confidential because it is dealing with staffing issues that you could identify the particular member of staff. We have a duty to protect individual members of staff.

Brian Coleman (AM): This is not even a member of staff; this is a contractor and we are discussing the rate of pay to agency staff which is not Part 2 in anybody's local authority.

Jennette Arnold (Chair): Can you not put any names or any mention --

Brian Coleman (AM): I do not know the names. They are not here.

Jennette Arnold (Chair): -- to anything on the yellow paper that could identify any individual or organisation. Thank you very much.

Brian Coleman (AM): I am sorry. It is in the public papers. It is numbered consecutively, as Mr Biggs has just pointed out to me. This is a public document and I am tabling it. It is numbered consecutively. It is numbered in the public papers consecutively. I am sorry. This is not the way to deal with a Part 2 item.

Jennette Arnold (Chair): It has only been given to Assembly Members. Can you just carry on with the question that you wanted to ask?

Brian Coleman (AM): Chair, under a point of order, you cannot insert a Part 2 document, with consecutive page numbers, in the middle of a public report.

Caroline Pidgeon (Deputy Chair): My report carries on consecutively. I have got different page numbers to the one with the yellow in. No, it says restricted. It has a blank page.

Brian Coleman (AM): It is consecutive page numbers here in the public report.

Anyway, the issue is we have the right to summons the managers and the directors involved in this matter. Summons. I would suggest to the Committee that we ask the Assembly to exercise that right on our behalf and summons the Chief Executive. Whether or not he is still employed is irrelevant; he can be for eight years after he has ceased to be employed, according to the Act. As does every member of staff, I believe, and every Assembly Member I believe the Act says. A lawyer will correct me. Have we got a lawyer present? No. A lawyer will correct me that you can be summonsed for eight years after you cease to receive payments from the GLA, if I remember the Act. I suggest that the relevant directors and managers are duly summonsed, Chair. I do not know whether that needs support from colleagues? Part of this Committee's responsibility is to dig down into these sorts of matters.

Jennette Arnold (Chair): Who is with us? Somebody want to give some advice on summonsing?

Janet Hughes (Head of Scrutiny and Investigations): I will go and get somebody.

Brian Coleman (AM): We can summons anybody who has been on the pay roll for, I believe it is, eight years. It was increased under the second GLA Act.

Jennette Arnold (Chair): It is not really an issue. We have got a Chief Executive who is still with us. I do not know why we are looking so quizzical. Going back to Len's reply, we are going to continue working on this and we can decide, at the next meeting, to request the Chief Executive and senior officers to come in front of this Committee and give detailed answers to questions. I do not know why we want to jump to a summons. If necessary, if they refuse - which I have no reason to see why they should refuse - then, of course, there is a summons.

What I would suggest to you is that we take this matter at the next meeting, which hopefully, the Chief Executive will be at because, as I understand, he is off because he is unwell. I would hope that he is present with us at the next meeting and we can then carry on with the work that we are charged to do. That seems to me the easiest way to carry on. Yes, John Biggs?

John Biggs (AM): I am not too sure we need a lawyer to tell us that we can delegate to you to make sure that appropriate people come to the meetings to explain to us why we have done what we have done. That is perfectly reasonable, Chair.

I was tempted to make another comment which is I have been around a long time, as have all of us here, and it always seems to be the case that the junior members of staff who do something inappropriate tend to get their heads kicked in but the wagons are always circled when there is something organisationally that seems to cover up what looks to us a bit smelly.

The bit that might be a bit more awkward for the Conservative Members is that we have a feeling that this may involve one of the Section 67 officers --

Brian Coleman (AM): Does not bother us.

John Biggs (AM): -- who has a management responsibility. If necessary, that person needs to be brought in front of us, Chair.

Tony Arbour (AM): We scrutinise everybody.

Darren Johnson (AM): Chair, I was going to suggest the same point; that we give you delegated authority to ensure that the correct people that we need come to the next meeting. I would also suggest that we agree delegated authority for you to summons appropriate people if that is needed.

Janet Hughes (Head of Scrutiny and Investigations): Chair, can I suggest that the Committee returns to this question after the other business. We are now seeking advice as to what the correct procedures are for you to follow in this particular circumstance. For instance, I am not sure that you can delegate authority to the Chair to issue a summons. That has to be done by a Committee. If the Committee is content, we will prepare advice for you during the rest of the course of the meeting and present it to you at the end so that you can return to this issue with proper advice.

Jennette Arnold (Chair): We can certainly take that at the end. The issue is quite clear. Members are agreed they wish to investigate this matter further.

Caroline Pidgeon (Deputy Chair): Very much so.

Jennette Arnold (Chair): They also wish to call in front of them the Chief Executive and the appropriate senior officers to answer the questions relating to the matter in front of us. I will take that on. We will put that on the next meeting of BMAC.

John Biggs (AM): If we wanted them to come to the next meeting, because time is reasonably important, then we might need to name those people at this meeting. There are a couple of names in the frame, Chair, as I understand it.

Len Duvall (AM): Shall I clarify, Chair, the names? If it is not the Chief Executive it is Martin Clarke. Then it is the Assistant Director, Chair. We can name the individual?

Juliette Carter (Assistant Director of Human Resources and Organisational Development): The current London Engagement Assistant Director and the previous London Engagement Head of Unit

Len Duvall (AM): No, we do not need the previous. We need the current. Who took the decision?

Martin Clarke (Executive Director of Resources): The previous.

Len Duvall (AM): The previous one and the current one. Then Mr Ritterband.

Caroline Pidgeon (Deputy Chair): Do we have the two peoples' names?

Juliette Carter (Assistant Director of Human Resources and Organisational Development): Christine Chau is the current Assistant Director of London Engagement. The previous head was Jayne Whitton.

Martin Clarke (Executive Director of Resources): A former employee.

Jennette Arnold (Chair): She is a former employee. Jayne Whitton is a former employee.

Brian Coleman (AM): She will have to be summonsed.

Jennette Arnold (Chair): We will look and get the proper advice about the summons of former employees. Daniel Ritterband is the overall head of that area. We have the names. We just need to check about the former employee.

Brian Coleman (AM): Chair, my knowledge of the Act is that all former employees over a certain level - it was changed in the last Act - can be summonsed.

Jennette Arnold (Chair): That is fine. We are just going to get that checked, Brian.

Brian Coleman (AM): It has to be a summons.

Caroline Pidgeon (AM): I think we need to summons them all.

Brian Coleman (AM): Former employees can ignore letters.

Richard Barnes (AM): Chair, before we breach the rules of this organisation, can I suggest we invite them to attend? If they start refusing and playing difficult that raises a whole range of different issues.

Jennette Arnold (Chair): That is exactly the point that I have put to Committee Members. Can we just agree that and move on?

All: Agreed.

Jennette Arnold (Chair): We were waiting. What was the legal advice about former employees?

Joanna Brown (Senior Committee Officer): Former members of staff cannot be summonsed. No members of staff can be summonsed if they are not current members of staff. That is clear in the Act.

Brian Coleman (AM): Where?

Joanna Brown (Senior Committee Officer): Former Assembly Members and Chairs of bodies and the Mayor can be summonsed up to eight years.

Brian Coleman (AM): It depends on the level of salary doesn't it?

Joanna Brown (Senior Committee Officer): Current members of staff can be summonsed.

Caroline Pidgeon (Deputy Chair): We need to do some summons now then, don't you?

Jennette Arnold (Chair): Do you want the particular section of the Act?

Brian Coleman (AM): Yes.

Joanna Brown (Senior Committee Officer): Section 61.

Brian Coleman (AM): Something about those in receipt of payment. Isn't that the phrasing, something like that? Contractual relationship?

Joanna Brown (Senior Committee Officer): The legal officer was clear that former members of staff could not be summonsed.

Darren Johnson (AM): Might we need an additional meeting on this then?

Richard Barnes (AM): Aren't pension and redundancy payments contractual arrangements?

Brian Coleman (AM): Sorry, I thought those who had been in a contractual relationship. Isn't that the phrase in the Act?

Jennette Arnold (Chair): I can get a written note out to you and refer you to that. At the moment let's go with the legal advice that we have got.

Joanna Brown (Senior Committee Officer): He looked at that point in the Act. It was clear that it did not mean former members could be summonsed.

Brian Coleman (AM): No, it does mean former members. Specifically.

Richard Barnes (AM): We need clarification.

Darren Johnson (AM): If need be then, can we agree delegated authority for the Chair to set an additional meeting if we need to act swiftly on this?

Jennette Arnold (Chair): What do we need an additional meeting for?

Darren Johnson (AM): To have the relevant members of staff.

Tony Arbour (AM): They could come to a regular meeting.

Caroline Pidgeon (Deputy Mayor): On 1 March 2011.

Jennette Arnold (Chair): Darren, I am lost. We have agreed that they will be asked. They will be required to come to the next meeting. 1 March 2011. Why do you want an additional meeting? Before 1 March 2011?

Darren Johnson (AM): In case we need one. In case members of staff are -.

Richard Barnes (AM): Chair, we can delegate to you but we can delegate to you and representing others - the Leader of the Labour party and the Leader of our own party - to make a decision if there appears to be an impediment to those people to attend. That can inform a sub-committee of this to make a decision.

John Biggs (AM): Chair, I seem to remember we grappled with this some time ago. It may be that we need to have a specifically worded resolution which identifies the matters. If you summons someone in from five years ago and it was a fishing expedition to ask anything they had ever done here, that would not be reasonable. You have to give people notice of the matters you want to discuss with them. It might be that it needs to be a legally advised formal resolution. We might need to have a convened meeting to do that. I think that is the point that is being made. If we can do it through a form of delegation that would be better still.

Brian Coleman (AM): I do not think it can. It cannot.

Jennette Arnold (Chair): I am going to go with the advice saying I cannot be delegated to apply the summons. We have already got a list of people in front of us. We can agree, as a Committee, to seek summons against the individuals named. Then, if there are any concerns that arise, then I will liaise with Group Leaders and we will agree a way forward. That is the best way to do it. The summons. We are going to have to put together the wording for the summons.

Roger Evans (AM): The summons has to go to the Assembly doesn't it? It certainly has done with all the summonses we did before. That does give us a window between now and the Assembly meeting to clear this matter up. We do not need an extra meeting of BMAC. What we need is to be straight by the Assembly.

Jennette Arnold (Chair): Yes. What we will do is, with Group Leaders, we will put together the words of the resolution which would then form the summons.

All: Agreed.

Jennette Arnold (Chair): Just a minute. Janet?

Janet Hughes (Head of Scrutiny and Investigations): Can I make a suggestion that will prevent you having to go through further bureaucratic situations? That, you, as a Committee, identify whom it is that you wish to attend your meeting on 1 March 2011. That would be the current and previous heads of that unit. Then you can agree that you will either summons or invite them as appropriate, subject to legal advice. We can make that agreement and we can advise or seek further advice if you like. Then you will not have to revisit the matter.

Jennette Arnold (Chair): We would do because someone has been named so it would be reasonable to write to that individual and give them the opportunity to come along to answer our questions.

Brian Coleman (AM): Chair, I hate to disagree with you but it has always been the policy of this Assembly, cross party if I recall, that we automatically summons officers of the Authority, whether it is to the Assembly or here, because of difficulties we had in the past with officers being rather shy, put it like that. Ever since then, I think, we have routinely summonsed, whether it is to Plenary meetings of the Assembly or even to BMAC. It has become routine. I do not think that is a routine we should depart from.

Jennette Arnold (Chair): The letter of invitation does talk about the default position to a summons. I know where you are coming from. We know that happened. We want to avoid that. Janet's proposal puts us in a good position. We have got the timeline. We can get it sorted. It has to go to the Assembly. It will go to the Assembly with enough time to meet the 1 March 2011 date. I do not think it is any more complicated than that.