

ALACE Council Meeting

Date: Thursday 23 March 2017 Time: 12.30pm – 2.30pm

Venue: Westminster City Hall, 64 Victoria Street, London, SW1E 6QP

Attendees: Tracey Lee (Acting Chair), Ian Miller (Hon. Secretary), Charlie Parker, David Hughes

Consultants: Cheryl Miller, Roger Morris, Richard Penn

Attended by telephone conference: Michel Saminaden (Hon. Treasurer), Mary Pitcaithly, Jerry Hutchinson, Karen Satterford, Duncan Sharkey, Rachael Shimmin, John Sellgren. Consultants: John Schultz, Peter Bounds, Pete Morris

1. Welcome

The Acting Chair welcomed those attending.

2. Apologies

Alison Ward, Alistair Buchan, Alastair Stewart, Mark Williams,

3. Chair's update

Tracey Lee confirmed that she would serve as Acting Chair following Rob Tinlin's retirement until the AGM in July.

4. Minutes from the meeting held on 5 January 2017/Matters Arising

The minutes were approved as an accurate record with no matters arising that were not covered on the agenda.

5. Relationship with SOLACE

(The Director of SOLACE, Graeme McDonald, attended for this item)

The Honorary Secretary introduced his report which had been circulated with the agenda. The paper advised that John Schultz had been in regular touch with the Director of SOLACE to ensure that the two organisations work effectively together. A particularly pleasing development had been the willingness of 'SOLACE in Business' to refer requests for Independent Investigators where statutory officers are involved to the JNC Joint Secretaries for nominations from the list held for this purpose.

The Acting Chair invited Graeme McDonald to comment further. Mr McDonald described recent discussions with ALACE as the beginning of an ongoing conversation rather than a one-off. He referred to the work to pull the different strands of SOLACE together to provide a more coherent response to the needs of SOLACE members. He was also initiating a review of SOLACE membership that would recognise the way that local government had changed and its new relationships with other local government and wider public sector bodies. This was designed to help people develop their careers in the wider public sector not just in local government. Mr McDonald also pointed to the work with the LGA on programme delivery such as the apprenticeship levy (SOLACE is an approved supplier) and Ignite. A key part of his agenda was to develop the policy work capacity of SOLACE and a head of policy was being recruited.

In the discussion that followed it was emphasised that the proposed ALACE involvement in regional SOLACE events was not simply a recruitment exercise but was designed to make SOLACE members aware of potential employment pitfalls based on Consultants' experience. It was noted that the Honorary Secretary and John Schultz would coordinate ALACE's involvement in regional SOLACE events in consultation with Graeme McDonald. Cheryl Miller will be attending the Scottish SOLACE Conference in September 2017 and the main SOLACE Summit in Manchester in November 2017 to talk about pensions issues.

The Acting Chair thanked Mr McDonald for his contribution and for the commitment to work with ALACE in the interests of the members of both organisations.

Activity updates

6. Financial and membership report and proposed membership fees for 2018

The Honorary Treasurer presented his report and emphasised the need to increase income to stop the current pattern of annual deficits, which had been running at about £50k/year. It was agreed that the approach had to be based on increasing membership rather than simply increasing annual membership fees.

In the discussion that followed there were mixed views about whether the requirement for new members to pay two years' membership fees up front was acting as a deterrent to joining the Association. It was also suggested that paying by monthly direct debit could ease the problem but the Honorary Treasurer pointed to the significant increase in administration that would be involved.

It was agreed that the Acting Chair, the Honorary Secretary and the Honorary Treasurer would discuss modeling of future membership levels and options for phasing the upfront fee, including a possible two stage arrangement whereby new members would pay an initial year's fee up front and commit to 12 months payments.

There was a further suggestion that the current practice of allowing new members to have free access to pension advice in the first six months should be reconsidered.

Following a discussion about current annual membership fees Council agreed to recommend to the ALACE AGM in July 2017 that the annual membership fee for 2018 should be increased to £370.

It was agreed that there was a pressing need for the issues of increasing membership and reducing the annual deficit to be brought together with a holistic approach to increasing annual income. It was accepted that if this matter was not successfully addressed then ALACE would cease to exist in due course.

The Honorary Treasurer was asked to produce Income and Expenditure Accounts for future Council meetings that would clarify the Association's financial situation.

It was agreed that there was a need to increase awareness of the ALACE 'offering' and to target recruitment activity on eligible senior managers rather than only on chief executives. Cheryl Miller undertook to produce a note for the Members' section of the ALACE website explaining how the revised Pensions and Financial Planning and Investment Services operate (new contracts are being negotiated with current providers of pension advice) and what they offer to ALACE members. Cheryl Miller will also produce a shorter version containing no confidential information, which could be provided on an ALACE 'stall' at SOLACE events. This work would involve creating anonymised worked examples illustrating the financial benefit of joining ALACE as compared to using private support on pension and negotiated departure. Cheryl Miller, in consultation with Hymans Robertson, would also work up examples including potentially a table illustrating for different salary levels when it might be financially beneficial for an individual to consider leaving the LGPS because the amount of money they are paying in tax in respect of the Annual Allowance (and other tax issues) exceeds the net pension growth they are getting.

7. Hon Secretary's Report

The Honorary Secretary presented his report which he explained was largely for information as most of the items were dealt with elsewhere on the agenda.

He advised Council that the staff side of the JNC for Chief Officers was currently considering incorporating the Model Disciplinary Procedure for Chief Executives into the JNC for Chief Officers Handbook as the model procedure for statutory officers.

Duncan Sharkey, Rachael Shimmin and Jerry Hutchinson left the meeting at this point.

8. Consultants' update

The case work schedule for January/February 2017 was noted. The Honorary Secretary reminded Council members that any discussion of current cases was on the basis of complete confidentiality.

Consultants referred to a number of ongoing cases. It was noted that cases involving pension advice were still in the majority although the volume of such work had reduced. It was agreed that Cheryl Miller should produce a paper for the next Council meeting on the cost of providing pensions support and whether ALACE should continue to provide it free in the first 6 months of membership or whether some other sort of arrangement would be more appropriate.

When the position about the £95k cap on exit payments and any further changes to the annual allowance were clearer, a seminar would be arranged for members.

The Consultants were thanked for their work.

Peter Bounds and Charlie Parker left the meeting at this point.

Constitutional matters

9. Amended Constitution

It was agreed that the Honorary Secretary and Roger Morris would draft a revised ALACE Constitution for consideration and agreement at the AGM in July 2017. This would include the issue of whether a 'Past Membership' category should be introduced.

Policy issues and services for members

10. Policy on filling of chief executive post in cases of voluntary merger of councils

The draft policy statement prepared by the Hon Secretary was considered and agreed by Council, subject to clarification that

this policy applies to chief officers as well as chief executives. The policy statement is attached to these minutes.

11. Support for new members

The Honorary Secretary presented his report, much of which had been dealt with in earlier discussions. The proposals for change recommended in paragraphs 6 and 7 (to allow new members to access employment support at a rate of £85/hour in the first six months of membership) were agreed in principle by Council, although it was accepted that the details needed to be worked to reflect the previous discussions.

12. Response to Welsh Government White Paper '*Reforming local government*' and report of Scottish Parliament's Local Government and Communities Committee's report '*Payments to Returning Officers in Scotland*'

The Honorary Secretary presented his report, and Council approved the response to the Welsh Government's White Paper in principle (with the addition of a reference to the head of democratic services) and delegated the Honorary Secretary to finalise the response in consultation with relevant colleagues in Wales.

Council also authorised the Honorary Secretary to finalise and submit a response to Scottish Government at the appropriate time in consultation with the ALACE Scottish Branch officers.

13. Reforms to public sector exit payments

The Honorary Secretary presented his report and confirmed that there had been no further developments. Draft Regulations to implement the £95k cap exit payment 'cap' were still awaited and would be the subject of consultation. Proposals for further general changes to exit payments in the local government sector were also awaited from DCLG. It was agreed that there would be a need for ALACE to respond on behalf of members as the proposals emerge.

14. AOB

Following a short discussion about coverage for ALACE in the media, the Hon Secretary would confirm that the union had provided support if the member was happy to have their membership identified publicly. There were no other items of business.

15. Dates of meetings

The AGM will be on Wednesday 5 July 2017, 12 noon to 2pm, Birmingham (venue TBC).

Dates for Council meetings in September and December 2017 are to be identified and agreed.

Policy statement

Chief officer roles in councils which are merging voluntarily

An increasing number of cases where councils are voluntarily considering formal merger has led ALACE to consider how such circumstances should be viewed in relation to ALACE members who may be affected by such proposals.

ALACE recognises that voluntary mergers involve the creation of new councils. "Voluntary mergers" in this policy statement means mergers involving:

- two or more district councils;
- two or more unitary authorities (including London boroughs and metropolitan districts);
- a county council and all the district councils in that county;
- any other variant where all the principal authorities for an area are merging, and no area served by a principal authority is being split.

The position of voluntary merger should be contrasted with local government reorganisations which have occurred since the mid-1990s in several parts of England. In the latter cases, the change was imposed by Government (although Parliamentary endorsement was required) and it took the view that new councils should be required to advertise for the appointment of their Chief Executive.

The situation of voluntary mergers can be distinguished, because it is locally driven, rather than externally imposed, even if it involves secondary legislation to implement it. The councils concerned might well expect that their existing shared chief officers will continue if there are any (it would be fairly extreme for councils to choose formal merger simply as a means to secure departure of an officer) or that there may be a ring-fenced competition if sharing is not already in place.

A merger of two or more councils means that their whole economic undertakings will be transferred into the new council and therefore that all employees should be transferred to the new council in accordance with the Transfer of Undertakings (Protection of Employment) Regulations 2006 or, failing that, in accordance with the Cabinet Office Statement of Practice on Staff Transfers in the Public Sector (December 2013).

ALACE's policy stance is that:

- 1) where post holders already hold shared posts that cover all the councils involved in the voluntary merger, they should not be required to re-apply for their jobs;
- 2) where there are no shared posts, the councils concerned are

encouraged to reach an agreement with the affected individuals to avoid open competition for chief officer posts, including the chief executive or the other statutory officers, when undertaking a voluntary merger with no change of powers. This is consistent with the principles of local determination;

- 3) therefore Government/Parliament should not impose a requirement for open competition to fill posts where there is a voluntary merger of councils.

This would allow councils merging voluntarily to retain any existing shared employees in post; and to consider ring-fenced recruitment processes from across relevant staff in the councils in cases where posts are not already shared. ALACE believes that this approach recognises that:

- organisational change can be disruptive, and therefore continuity of staff in key roles can be important and provide significant advantages;
- maintaining the confidence of stakeholders and partners when undergoing organisational development is important, and keeping key staff in post can support this objective;
- the staff involved will have been committed to the respective organisations. Building on that commitment to make the change effective may be best served by keeping the key players in place;
- staff below senior levels will be critical to a successful merger project. Staff will respond to how their senior managers are managed and treated;
- there can be an advantage to members in retaining staff that they know and can work with.

A factor applying to Chief Executives (and also monitoring officers and S151 officers) in England and Wales is that they cannot be dismissed by their authorities except in accordance with statutorily defined processes – the ‘independent panel’ procedure of S.I. 2015 No. 881 in England and the designated independent person (DIP) procedure of S.I. 2006 No. 1275 in Wales. Like any trade union, ALACE is anxious to minimise the risk of its members being exposed to redundancy, particularly as this is a route to dismissal which does not require the statutory processes to be invoked.