

**MINUTES OF A MEETING OF THE COUNCIL
OF THE PROBATION ASSOCIATION**

26 NOVEMBER 2009

Present: *Avon & Somerset - Joe Kuipers; Bedfordshire – Adrian Heffernan; Cambridgeshire – Kevin Ellis; Cheshire – Leslie Robinson; Cumbria – Richard Rhodes; Devon & Cornwall – Robert Nairn; Co Durham – Sebert Cox; Essex – Bill Puddicombe; Hampshire – Michael Fisher; Humberside – Ram Subramanian; Kent – Janardan Sofat; Lancashire – Les Sewell; Leicestershire & Rutland – Jane Wilson; Lincolnshire – Alan Phillips; Greater Manchester – Syd Lloyd; Merseyside – Linda Bloomfield; Northamptonshire – Allan Siu; Nottinghamshire – Christine Goldstraw; Staffordshire – John Ryan; Surrey – Vic Verma; Warwickshire – Robin Verso; West Mercia – James Kelly; West Midlands – Alan Harrison; Wiltshire – Phil Humphris; North Yorkshire – Ken Bellamy; South Yorkshire – Ken Wyatt; West Yorkshire – Stan Hardy; Dyfed/Powys – Ian Cripwell; North Wales – Clifton Robinson; South Wales – Wyn Williams; Northern Ireland – Ronnie Spence.*

Attending from PA: Norma Beechey – HR Manager; Mike Caldwell – Governance Services Manager; Chas Dowden – Employment Relations Pay and Policies Manager; Ian Fox – Business Capability and Policy Development Manager; Christine Lawrie – Chief Executive and Company Secretary; Nigel Spencer – Projects Manager; Jo Whyte – Board Secretary.

1. Welcome, Apologies and Conflicts of Interest

Jo Whyte welcomed members to the meeting and explained that the Chair was having difficulties with public transport and would be late arriving. She asked Council to nominate a member to chair the meeting in Alan Wooderson's absence. Mike Fisher nominated Stan Hardy and this was agreed. Stan Hardy duly took the chair.

Stan Hardy welcomed substitutes to the meeting and noted that apologies had been received from: Paul Aviss – Wiltshire; Lesley Bessant – Northumbria; Jonathan Carruthers – Humberside; Pauline Dawkins – Surrey; Mary Fielding – Dorset; Tony Fitzsimons – Gloucestershire; Roy Hunter-Martin – Teesside; Joanna Jenkins – South Wales; Neil Lampert – PA PR and Communications Manager; Roy Male – Lancashire; David Moir – Northamptonshire; Judith Poole – NAPA; Deep Sagar - Hertfordshire; Ivan Smith – Suffolk; Peter Smith – South Yorkshire; Stephen Taylor –

Derbyshire; Keith Turner – Dyfed Powys; Hilary Tucker – Gtr Manchester and Phil Westwood – Gwent.

There were no conflicts of interest declared.

Stan Hardy congratulated all Areas that had won an award at the awards ceremony the previous night.

Stan Hardy announced that Clifton Robinson was attending his last Council meeting. He thanked him for his valuable contribution.

2. Minutes of the meeting held on 17 September

The minutes were approved as an accurate record of the meeting.

Matters Arising

Item 5, 2nd bullet point – Consultancy Project

The minutes indicated that Nigel Spencer would give a full report on the project at this meeting. Nigel Spencer explained that he had not prepared a report as a decision had been taken to provide feedback through two workshops, rather than in the form of a written report. These workshops would take place in Sheffield on 29 January and in London on 2 February.

Item 5 – Trust Development

Christine Lawrie reported she had just heard that trusts were to be given NDPB status. There was uncertainty as to the full implications of this and it was agreed that PA would provide guidance to members in due course.

3. Board of Directors report

Stan Hardy reported that the process to appoint a replacement for the Chief Executive was underway. The appointments panel were to see three agents and decide on one to manage the selection and interview process. Council would be kept informed.

a) Membership of BNP – Peter Reading from the Equality and Human Rights Commission had attended the PA Board meeting on 12 November to brief directors on whether probation would be able to proscribe membership of the BNP and other far right parties. It had been agreed that PA would ask NOMS if it would require probation to proscribe membership on account of there being a contractual relationship between NOMS and trusts and whether NOMS would require trusts to pass on that restriction to sub-contractors. If the answer was yes, then PA would seek legal advice. Otherwise the production of a code of conduct would be

considered as it might be preferable to deal with racist conduct rather than with membership of a particular group. A proposal would be put to Council in due course.

b) Trusts update - there were different elements to this report as follows:

- Mike Caldwell reported on the letter recently received by chiefs from Ian Poreé concerning governance and monitoring requirements for all external funding bids. He had sent this out to members and all the responses received urged PA to contest the requirements on the basis that they were unnecessary and over-bureaucratic.
- Mike Caldwell reported that he had attended a meeting with NOMS regarding the financial delegation letter. The meeting had also been attended by the Chief Executive of Leicestershire and Rutland and the Director of Finance and Chair of Greater Manchester. A number of concerns were discussed and a proposed re-write of the letter had been submitted to NOMS on 21 October. A response had just been received saying that NOMS was still working on the proposed amendments. Mike Caldwell assured the Council that if they were not accepted then PA's concerns would be pursued through other avenues. Members agreed that pressure should continue to be exerted on NOMS and that it should be ascertained how NDPB status might impact on the issue.
- Christine Lawrie reported that the Board had discussed what approach PA should be taking with NOMS in relation to the issues raised in the Trust Position Paper. It was unlikely that PA would be able to get any further forward with these issues and she had asked for guidance as to how she should proceed. The Board considered the following:
 - Areas should join forces and review the decision to sign up to trust status until the conditions were right;
 - Areas should wait until sufficient numbers of boards had achieved trust status before trying to exert further influence;
 - there was no ability to significantly influence NOMS either as trusts or boards and the only practical way forward was to nurture good relations with the DOMs;
 - the line in the Gateway Review about the risk of losing the support of chairs might be a useful way to advance the arguments;
 - an approach along regional lines might be the most effective way to exert influence.

Christine Lawrie asked for Council's opinion on these suggestions. A number of views were expressed, including the following:

- members must be realistic about the influence they had – if opposition to NOMS was too troublesome, trusts and boards could be removed and not replaced;
- PA and Areas should continue to exert pressure but with a narrower agenda which concentrated on the key issues;
- PA and Areas should concentrate on trying to achieve year-end financial flexibility;
- PA should press hard to form a partnership with NOMS and to work with NOMS to achieve the desired outcome;
- areas should agree the same message to put forward to DOMs as well as NOMS to ensure consistency;
- rather than asking NOMS for particular freedoms, we should concentrate on explaining to NOMS the barriers that were in place which would prevent trusts operating effectively.

It was agreed that PA should continue to put pressure on NOMS but that it should be selective about the issues raised and be more tactical in approach.

- Christine Lawrie had written to chairs about the new contract, asking what issue should be taken up with NOMS. There had been a low response but the message was that it would be useful to have a meeting of chairs to discuss the contract and to explore what collective action PA should take. This would be arranged.
- Christine Lawrie reported on two other pieces of work in which PA was engaged:
 - with NOMS there was work being done on chief executive development – they were looking for a chair to join a working group on talent management;
 - without NOMS work was being done on trust chair appraisals – PA was drafting a chair appraisal document which it was hoped NOMS would adopt

c) Appointment of Board Director – Jo Whyte explained that following the retirement of Brenda Palmer a new representative was required from the East of England to join the PA Board. As required by the articles of association, all the board secretaries in the region had nominated Adrian Heffernan. The Council appointed Adrian Heffernan as a Board Director.

d) Business plan 2009/10 six month report – Christine Lawrie introduced the report. On behalf of members, Stan Hardy congratulated the PA team on their hard work during the year.

4. Pay and conditions

a) Report on current situation –

Chas Dowden gave a power point presentation on the pay negotiations for 2010. He confirmed that the aim was to achieve an affordable settlement which represented a good balance between employees' expectations and the protection of jobs and services. This must be the clear and consistent message put to the unions. Some suggested percentages were put forward.

Negotiations would be taking place during December 2009 and January 2010. It was hoped that the Public Sector Pay Committee would ratify the resulting agreement in January. There would then be a special NNC meeting in February and it was hoped that the settlement would be implemented on 1 April 2010.

Council supported the approach outlined and recognised that the negotiators may need to exercise a small degree of discretion to secure an agreed settlement. Chas Dowden would circulate a summary of his presentation to members.

b) PA surveys on pay negotiations –

Chas Dowden thanked members for their responses to the two questionnaires. It had provided useful feedback.

Chairs welcomed the surveys as a good opportunity to give their views to PA, although there was agreement that they should have been circulated to chiefs as well.

c) Review of NNC employers' side arrangements –

Christine Lawrie reported that the working group had devised a proposal which it was hoped would satisfy the issues raised by Council. She explained the detail as follows:

- An Employment Strategy Group (ESG) would be established, comprising ten chairs, one from each region, and which would be chaired by the PA Chair. No substitutes would be permitted. Eight of these chairs, including the PA Chair, would attend each NNC as negotiators on behalf of the employers. Attending, but with no vote, would be PA Chief Executive, the Employment Relations Pay and Policies Manager and the PR and Communications manager.

- Every year a PA HR Strategy would be produced by the ESG, working with the Employment Relations Pay and Policies Manager, following consultation with all chairs and with all chiefs and HR directors through a PCA Management Advisor.
- The HR Strategy would be presented to the Council for endorsement/amendment.
- The ESG would produce an HR Negotiating Strategy following on-going consultation with all 42 chairs and with all chiefs and HR Directors through the PCA Management Advisor. There would also be consultation with NOMS at this stage.
- There would be a meeting of the Employers' Side of the NNC, including NOMS, before negotiations within the full NNC.
- Terms of Reference for the ESG and a job description for the Management Advisor were being worked on.
- Communication would be very important.

There was concern that the members of the ESG were to be chairs as pressure on their time was increasing and there were often board members with greater skills in this area. It was agreed that this issue would be looked at again. Otherwise, Council was content that the proposal should continue to be developed. The working group was thanked for their hard work.

5. Report from PA Review Group and PA Vision Group

Sebert Cox thanked colleagues on both working parties for their valuable contributions. He explained that the two groups had liaised closely and as a result they had produced consistent outcomes.

Vision Group – the proposal was to develop a pamphlet of about 6 sides, written in plain, punchy language which would promote and explain probation. The strap-line for the pamphlet would be that probation was “making our communities safer”. It would explain how probation worked, that it did so within local partnerships and that in terms of the future, the new status of trusts as responsible authorities would allow probation to shape the local offender management agenda. The pamphlet would be aimed at policy makers, politicians and local partners and could be used with good effect in the run-up to the General Election.

A draft had been produced by the working group which Neil Lampert was now refining. PCA had been involved in the working group and it was hoped that they would be happy to endorse the pamphlet. Council would be kept informed.

PA Review Group – Sebert Cox explained that the starting point for the group had been that since the previous review, members had been well served by PA and that there was no need for significant change.

The Strategic Framework required refreshing, rather than re-writing. It was now a much shorter document which set out what PA was and did and had consequently been renamed a “Statement of Purpose”. The detail which had been in the Strategic Framework would now more appropriately be included in the annual business plan. The emphasis had also changed from PA being seen as purely an employers’ association, rather than as, in effect, a trade association which provided a range of services to its members, one of which was employment services.

The working group had also concluded that one of PA’s key roles was to work to influence policy makers and for this reason the group had recommended that a stream of work should begin immediately to influence opposition parties and the current Government in the formation of their manifestos for the up-coming General Election.

Members agreed that there needed to be a close working relationship between PA and PCA in order to avoid any difference in opinion where possible. Sebert Cox confirmed that this had been discussed at length by the group and that Christine Lawrie was working to ensure an on-going dialogue.

It was suggested that the bullet points in the “Statement of Purpose” were not strong enough on the need for PA to influence policy. Sebert Cox agreed to look at this again. There was a discussion as to whether PA was indeed the “national collective voice for probation” and it was agreed that this was a legitimate statement to make.

Council endorsed the direction taken by the group and approved the “Statement of Purpose”. Sebert was thanked for his invaluable work chairing the two groups.

6. Options Appraisal Team (OAT) Process

The meeting welcomed Angie Munley from the Probation Trusts Programme who had kindly agreed to speak about the OAT process.

She explained that the OAT process had been devised because an effective mechanism was needed for dealing with Areas that had failed their trust applications. The scheme would also be given to Directors of Offender Management to deal with trusts that did not operate properly and in line with their contracts in the future.

There were three possible options for failed Areas:

- Remedial – assistance would be given in a particular area of weakness in an attempt to help the Area achieve trust status

- Amalgamation – an Area would be asked to merge with a successful trust (Areas must share a geographical boundary for this to be considered)
- Limited trust status – the Area would deliver the services reserved to the public sector but the rest would be obtained from another trust or from the private sector.

The process would last a minimum of 30 days and a maximum of 90 days and each of the three options would be looked at equally and in turn. A tool kit was being finalised as to how the detail would work. At the end of the process, a presentation would be made to the relevant DOM and the Minister would make the final decision. The identification of team leaders and members of OAT teams would begin in January if necessary.

It was confirmed that if an Area was successful in its trust application but did not sign the contract, it would not be treated as a failed Area and it would be dealt with separately. Similarly, it was confirmed that an Area that had failed its trust application would not be treated as a failing Area (under the current Act, which required a management order to give the Secretary of State power to intervene) but would be invited to work with the OAT team to resolve the situation.

Members were concerned that an Area being unsuccessful in its trust application could be damaging to public confidence in probation. Communicating the fact of failure in these cases would be very important. Angie Munley agreed to take this concern on board.

Stan Hardy thanked Angie Munley for her time and for an interesting presentation. Jo Whyte would circulate a copy of the slides to members.

7. Confidential items

There were no confidential items.

8. Date of next meeting

The date of the next meeting was confirmed as 28 January 2010.