

BCFE (09) 1st Meeting

Minutes of meeting held on Tuesday 20 January at
Broadway House, Tothill Street, London, SW1H 9NQ

Present:

Max Caller CBE (Chair)
Joan Jones CBE
Dr Peter Knight CBE DL
Professor Ron Johnston
Jane Earl
Professor Colin Mellors

Also present:

Archie Gall	Director
Gareth Nicholson	Media Relations Officer
Elizabeth Morrow	Senior Lawyer
Graham Essex-Crosby	Local Government Adviser
Chris Wheeler	Independent Financial Consultant
Tony Hall	Independent Financial Consultant
Eric Fisher	Independent Financial Consultant (Quality Review, observing)
Sam Hartley	Review Manager
Alison Wildig	Review Manager
William Morrison	Review Officer (Norfolk)
Kalim Anwer	Review Officer (Suffolk)
Tim Bowden	Review Officer (Devon)
Megan Bayford	Review Assistant

1. Minutes

- 1.1 With some amendments, the minutes for 11/12 November, 19/20 November and 18 December were agreed.

2. Matters arising

- 2.1 There were no matters arising not on the agenda.

3. Independent financial consultants – reports on affordability

- 3.1 The independent financial consultants (IFCs) gave a presentation on their reports on the extent to which the Committee's draft proposals and other patterns of merit met the affordability criterion. These took account of the question/concerns raised in the period up to 24 December during the consultation period on financial reports published on 21 November and also the extent to which the various patterns met the affordability criterion in aggregate. It was noted that an in aggregate report on the draft proposal for Suffolk was to follow.
- 3.2 There was some discussion about the fact that Norwich City Council had produced what was effectively a new set of assumptions in relation to the Greater Norwich and Rural Norfolk pattern of authorities. The new assumptions followed the shared services approach to service delivery adopted by Norfolk County Council. Norwich's original approach included expanding its existing PFI. The IFCs explained that this representation from Norwich City effectively constituted a new set of figures and the Committee would need to consider whether it wished further extensive analysis to be undertaken in order for it to be assessed in the same way as all other patterns.
- 3.3 The Committee agreed that it would need to consider whether it would assess the new figures provided by Norwich City and also the workbooks provided by Great Yarmouth Borough Council. This would only follow if the decision-making 'tree' that the Committee had agreed to use indicated that either pattern had the capacity to meet the five criteria in aggregate.
- 3.4 The Committee discussed different definitions of risk and how the IFCs had applied their risk modelling in the new in aggregate reports. The consultants pointed out that its risk matrix measured the margin by which an authority would be likely to meet the criterion rather than the likelihood of whether the pattern would meet the criteria. The Committee discussed the differences between the risks identified by the IFCs and the risks that the Committee may identify in assessing the affordability of a pattern. The Chair concluded that it was for the Committee to apply its judgment on these reports as evidence – the reports were not conclusions.

- 3.5 The Committee described how it might treat proposals which required the transfer of reserves from one authority to another due to the increased likelihood of risk.
- 3.6 The Committee questioned why Norwich alone among the cities seemed to fall so far under the line of “passing” and whether there was an underlying fundamental issue with Norwich’s figures. The IFCs explained that they had only assessed the financial information that had been provided to them. It was not their task to express views on the accuracy or otherwise of information that had been certified by the relevant Section 151 Officer.
- 3.7 The Committee considered the impact of the ‘in aggregate’ evaluation. Specifically, a two unitary pattern in Devon was one that significantly changed in the in aggregate modelling (from both authorities being considered high risk to the two-unitary authority pattern being considered low risk).
- 3.8 There was discussion about the change in the financial climate and how it may have affected current balances. The Committee recognised the need for it to have applied some sort of cut-off date for the figures. The Committee agreed to re-address the issue pending a decision on the possible extension of the reviews. It may be that further consultation would be needed to obtain data from current authorities on whether their balances had been dramatically affected by recent events.
- 3.9 The IFC providing Quality Review, who had been observing the discussion on affordability, confirmed that he would be providing an assurance report for its meeting on 2 February. He indicated that his attendance at the meeting had given him the opportunity to observe the Committee’s approach to consideration of the affordability reports by the IFCs.

4.0 Structural reviews – arrangements for cities – BCFE (09) 02

- 4.1 The Committee discussed the paper on cities.
- 4.2 Some issues that were discussed are as follows:
- The Committee only has the power to propose an alternative pattern of new unitary authorities; it can suggest some associated arrangements, but does not have the power to secure them;
 - There is a need to put in place protective measures for any cities in a new county-wide unitary authority;
 - Strong voice is more important than specific responsibility;

- A local governance review might help address any perceived lack of voice for a city. However, they are something that are conducted locally and it would be up to local people to put the appropriate systems in place;
- There are existing rural unitary authorities with cities that seem to function well within them, although they were not comparable in size to Exeter and Norwich;
- The Secretary of State had wide powers in the context of structural change Orders. However, the extent to which she could require any new authority to establish systems that would facilitate a 'city voice' was open to some question.
- They concluded that it was possible to move forward on the basis that if a multi-unitary solution was to be recommended, a series of 'conditions precedent' would need to be specified and commissioned a revised note to take account of the discussion.

5.0 Structural reviews – implications of the East Devon judgment – BCFE (09) 01

- 5.1 The Senior Lawyer presented the paper on the implications on the judgment in the East Devon judicial review.
- 5.2 The Chair outlined a series of question the Committee would need to consider (assuming that it was minded to follow Cranston J's direction):
- what exactly would the Committee be consulting on;
 - how would the consultation work;
 - how long would the consultation last;
 - what are the implications.
- 5.3 The Committee discussed the difficulties of consulting on two options, resulting in what would appear to be a simple tally of votes. It also discussed the issue of 'consultation fatigue'.
- 5.4 The Committee agreed that to not proceed with the reviews would constitute a waste of time, money and effort for all concerned, but particularly for local government. If the reviews were abandoned, it was possible that no new unitary structures could reasonably be considered for the next several years. The Committee was mindful that there did seem to be a real push from some stakeholders for some form of unitary local government in all three counties and this view had been heard consistently at the roundtable discussions.
- 5.5 There was a real concern that should the reviews continue, the Committee's independence from the Secretary of State should be seen to be maintained. The Committee was very mindful of its existing reputation for independence. .

- 5.6 The Committee agreed that it was very disappointing that it had arrived at this situation, but that it was down to several factors, including: Legal Counsel's advice on the number of proposals that could be consulted on, the new guidance from the Secretary of State and the Department's witness statements in the judicial review proceedings..
- 5.7 It was confirmed that counties with only one viable unitary pattern would not have to undergo further consultation. It was agreed that in the East Devon/Breckland appeal the Committee should seek to overturn Cranston J's interpretation of the singular/plural "proposal". This might result in a shorter extension of the review process. It was noted that the Committee would still have to take a decision on what to consult on since the appeal court ruling would not be received until well after the Secretary of State's current deadline of 13 February.
- 5.8 The Committee were mindful that the current progress of these reviews could compromise negotiations on the Local Democracy, Economic Development and Construction Bill. In addition, an extension of the structural reviews would be a continued diversion of resources away from electoral reviews and possible future principal area boundary reviews.
- 5.9 The Committee did feel, on the other hand, that at this stage stopping the review process would not be in the interests of the residents of the three counties.
- 5.10 The Committee agreed that it would continue with the reviews adhering to Cranston J's direction pending any appeal outcome. However, the Secretary of State would need to be asked to extend the date by which she had sought the Committee's advice. Any extension would, of necessity, have to be for several months. Any less a period would have serious consequences for the whole process and impact on the Committee's ability to provide any advice whatsoever.
- 5.11 It was agreed that the request for an extension would need to be carefully worded and explain exactly why there was this need to further extend the reviews.
- 5.12 The Media Relations Officer then outlined the potential public relations/media risks in the reviews being extended. The Committee noted his concerns but ultimately affirmed its decision to carry on with the reviews and comply with Cranston J's direction.
- 5.13 The Committee agreed to analyse each pattern to assess which would be likely to meet the five criteria in aggregate. Following this decision the details of consultation could be determined.
- 5.14 The Committee agreed that the Chair would seek the SoS's consent for a further extension of time to complete the reviews but not to finalise the time required until further work had been done to consider the

timescales. They also agreed that the Chair would issue a press release at the most appropriate time to explain the position. The chair would ensure that observations from members would be sought where possible before publication.

6.0 Any other business

6.1 There was no further business.

January 2009