

Committee on Standards in Public Life – Local Leadership and Public Trust

Submission to Inquiry

Background

I make this submission in a personal capacity, but drawing on my experience as a member of the London Assembly for the period 2000 – 2008 and as its Chair for a little more than four years (serving in alternate years, and as Deputy Chair in the years in which I was not Chair). I am a member of the House of Lords, where I lead the Liberal Democrats on Communities and Local Government.

The Greater London Authority

1. I have seen a late draft of the submission from the London Assembly and agree generally with the proposals and substantive points made, and therefore will not repeat them. (I do not share the support expressed for the “strong mayor” model of government, in part for political reasons which go beyond the focus of this Inquiry.)

2. Openness and transparency

2.1 The Assembly plays a crucial role in the transparency of Mayoral decision-making. This has been achieved in part because the Assembly and the first Mayor of London agreed procedures, particularly for Mayor’s Question Time, which are more demanding of the Mayor than might have been expected, and which could be difficult for subsequent office-holders to row back from. (This is not to imply that the current Mayor does not support them.) The length of Mayor’s Question Time (two and a half hours, and often more) and the absence of a limit on the number of questions which each Member may ask, for written answer as well as orally, is notable when compared with for instance Parliamentary procedures. Mayor Livingstone was prepared to answer questions on topics well outside his formal remit.

2.2 The opportunities for raising issues in public contribute to transparency, even if this outcome is not immediate. For instance, the original contract for the operation of the congestion charging scheme (between Transport for London, of which the Mayor was Chair, and Capita) was published after the matter had been raised repeatedly in public, when Members put it to the Mayor that he should seek a waiver of the confidentiality clause which it contained.

2.3.1 Assembly procedures are also used to question and discuss in public the functions of the four functional bodies, using questions to the Mayor, question times devoted to the functional bodies and meetings of committees of the Assembly. Though the functional bodies are separate entities, the

Mayor's involvement (increased by the 2007 Act) means that it is difficult to distinguish between matters that are the Mayor's responsibilities and those which are for a functional body; I believe this potential confusion gives scope for avoiding transparency, or at any rate means transparency can unintentionally be jeopardised.

2.4 The London Development Agency, one of the regional development agencies, is subject to different legislation and comes from a different political programme. I am not aware of how far changes to how it organises its business may have affected this but in the period to May 2008 its board agendas appeared to have been structured without transparency being a major consideration. Perhaps because so many board members came from the private sector, and had "day" jobs to go to, meetings held early in the morning had the meatiest subjects as early agenda items; perhaps because many of these had a commercially confidential or sensitive element the whole item was planned to be discussed in closed session. It probably did not occur to members whose experience was mainly in the private sector, that this was anything but entirely sensible.

2.5 Individuals with local government experience are accustomed to open meetings and access to agendas and documents. However, the application of Part VA of the Local Government Act 1972 by the Greater London Authority Act 1999 is to the Assembly, which is the entity which has almost no decision-making powers.

2.6 Assembly Members crossed swords with the LDA very early on when they were not allowed into the first (or an early) meeting. Towards the end of the 2004-2008 term, the Assembly challenged the Mayor and also the LDA Chair about excluding members of the public from meetings but allowing the Mayor's senior policy adviser (holding the post of GLA Policy Director) to attend. The explanation was that the Board needed to know the Mayor's views, which his adviser could give – understandable, but apparently not taking into account the perceptions and concerns raised by the arrangement.

2.7 In short, the presumption was that issues should be discussed in private unless quite clearly they would raise nothing which might be sensitive or confidential. This is in sharp distinction from the local authority position; councils generally make great efforts to deal with as much as possible of a given item in public, separating the confidential sections out if possible (and having passed a resolution to go into closed session).

2.8 It was in connection with the LDA that concerns regarding the status and role of mayoral advisers were most strongly expressed. It may be inherent in the mayoral model that what a mayoral adviser says or does is thought always to be as the mayor's agent, and that officers in the organisation, especially junior officers, will not challenge a mayoral adviser. The remit and authority of mayoral advisers needs to be very clear.

2.9 The Assembly's investigation into the operation of the LDA, for which concerns about a mayoral adviser were the catalyst, led to it referring the

matter to the District Auditor. This was not the first time the Assembly had made a reference, which highlights the limit on the powers of the Assembly.

2.10 The Governance Review led by the then Chief Executive of the GLA addressed some of these issues, and procedures were put in place at the very end of the last mayoral term and the start of the current term to deal with certain problems identified.

3. Accountability

3.1 I came to believe that the role of the Assembly as the scrutiny arm of the GLA was to ensure that matters were brought into the public domain, when they might otherwise not have been, either by being raised by Members or because the executive anticipated that they would be raised. This meant that the Assembly was quite reliant on the media for publicity. There was grumbling from Members, particularly in the early days, that questions to the Mayor had not led him to change his mind. (I do not regard this as the main function of scrutiny.)

3.2 There were also complaints from the public that the Mayor had not altered policy or decisions even when a majority (sometimes a substantial majority) of the Assembly disagreed with him. This of course arose from a misunderstanding of the Assembly's role, but may be worth noting in the context of openness and accountability. This was at its most stark in the case of the Mayor's budget which cannot be amended or blocked unless two-thirds of the Assembly votes against it; it is counter-intuitive to the public that when a majority of the Assembly oppose the proposed budget it is nevertheless carried. (On one occasion Mayor Livingstone sat in the gallery to listen to the Assembly's debate, and when the Assembly voted against it by a simple majority shouted out "Budget agreed".)

3.3 It would assist both accountability and openness if the Mayor were required to publish a forward plan of key decisions, and the Assembly were able to call in for debate and questioning mayoral decisions before they take effect. I do not take the view that all scrutiny must be in arrears.

3.4 Though I have expressed concerns about the budget arrangements, I also support proposals that the Assembly should be able to amend the Mayor's (draft) strategies by a two-thirds majority. This would enable a public debate at the final stage of policy development.

3.5 Members of the public time to time demanded that the Assembly "make" the Mayor comply with codes of conduct and standards and it did on one occasion unanimously call on Mayor Livingstone to apologise for certain remarks. However, I do not believe that the Assembly's scrutiny role means that it has the responsibility to ensure compliance with standards. The Assembly's role is distinct from the Authority's Standards Committee.

4. Local Government

4.1 I am concerned that the “strong leader” model (whether leader or mayor) carries the risk of backbench members of local authorities being excluded (and being perceived to be, and feeling, excluded) not just from decisions but from responsibility for the authority’s policies and actions.

4.2 In my view the Leaders’ Boards proposed by the current Local Democracy, Economic Development and Construction Bill, which will be responsible for developing regional strategies (outside London) with the regional development agencies, will tend to exacerbate this.

4.3 The Bill also proposes Economic Prosperity Boards for sub-regional areas which may include a minority of non-councillors, and to which local authority functions may be transferred by the Secretary of State. I believe that, among other concerns, this carries a considerable risk of blurring accountability and of transparency being clouded.

5. In summary

In the case of the Greater London Authority, matters have (with some notable problems) worked better than one might have expected from the legislation, because the constituent parts were in the early days largely committed to openness and transparency. (Mayor Livingstone said that the GLA would be “the most open, transparent and accountable government the UK has ever seen”, though I am not confident that quite that standard was achieved.) The importance of the culture to which individuals (politicians and officers) subscribe, as distinct from formal rules, cannot be emphasised enough in achieving this. The proposals made by the Assembly in its submission would advance the matter significantly. Whether it is possible to encapsulate that culture in formal rules, I am not sure.

Baroness Sally Hamwee