

WELCOME



LGG welcomed some 5000 delegates to over 150 training courses and conferences in 2005. It's a major achievement for a small team who invest great energies in building relationships with the best speakers and eminent commentators in their field in order to deliver a continually evolving programme.

But in the year ahead we want to do so much more and to do that we need your feedback. You could have a requirement for a specific piece of training, a local need, or maybe we could help you team up with colleagues in a neighbouring authority for an in-house course.

If I have one theme for 2006 it would be helping to put the lawyer back at the heart of local government. Training is going to be pivotal to that and we look forward to seeing you at our events in the coming year, but also important is your input, ideas and suggestions.

Finally, can I thank all those readers who took the time to comment on the launch issue of Training Brief. I hope you will find plenty of interest in this latest edition – and I would personally like to thank James Goudie QC, David Monks and Graham Smith for giving so generously of their time by providing contributions to our publication.

With best wishes for a rewarding and successful year ahead.

*Dudley Lewis,
Director of Training, LGG/ACSeS*

CAMPAIGNER OR DECISION MAKER? PLANNING CONFERENCE TOLD LOCAL MEMBERS MUST CHOOSE



Caption: Lorem ipsum dolor sit amet, consectetur adipiscing elit.

180 delegates attended LGG's 12th Annual Planning Law Conference at the Royal College of Surgeons in December – on a day that also coincided with the Chancellor's pre-budget statement.

Held in association with Landmark Chambers, the day began with a keynote speech from Leonora Rozee, director of policy and head of profession at the Planning Inspectorate and was followed by Landmark's David Elvin QC delivering the case law update.

A plethora of cases concerning gypsy injunction litigation, further issues from the European Commission Habitats Directive and the role of locally elected members in the decision making process were among the items covered by David Elvin in a review that focused on a broad spectrum of cases and rulings.

There was a rare example of a successful challenge to policies in a government white paper in relation to a failure by London Luton Airport to consult on plans to extend its existing runway rather than build a new substitute. The importance of officers giving accurate reports to committees was also highlighted, as was the need for local members to decide if they are campaigner or decision maker. "They cannot be both," said David Elvin.

Under enforcements, the Court of Appeal decision (Mid-Bedfordshire v. Brown) to suspend indefinitely an injunction restraining gypsies from using an area

of green belt land was reviewed. With the defendants pressing on as originally planned and as if no court order had ever been made, they had in the CoA's opinion "cocked a snook at the court" to "steal a march on the council" and offered "no explanation or apology for breaches of the court order."

Commenting that it would come as no surprise that the past year had seen further litigation in the area of environmental assessment, David Elvin said the Habitats Directive in Luxembourg was a "trap for the unwary" and that it appears likely a revision to UK law will be required to achieve full compliance.

The packed programme also included updates on planning obligations and the planning and compulsory purchase act; a look at how current issues affect the negotiation of affordable housing; amendments to the Use Classes Order and a review of Enforcement Regime, and new guidance on gypsies and travellers.

The day was chaired by Christopher Lockhart-Mummery QC and other speakers were Mark Harnett of Fladgate Fielder, Christopher Katkowski QC, Bob McGeedy (head of planning and public law at Kester Cunningham John), planning specialist Graeme Keen and Tim Mould, a specialist in planning, the environment and the European Community.

• LGG's 13th Annual Planning Law Conference takes place on December 4, 2006. Further details will be published on our website as they become available

OUT OF THE UNDERGROWTH



James Goudie QC, head of chambers at 11 King's Bench Walk, looks at some of the complex issues and challenges facing local government and the local government lawyer in the year ahead.

There are at least three paths the local government lawyer will increasingly have to tread. One will continue to be across the traditional terrain of domestic legislation and case law, with familiar canons of statutory construction and principles of administrative law. The other paths take us into realms more exotic than Westminster, Whitehall and the Law Courts in the Strand, but increasingly influential and pervasive.

The long, hard road to the European Court of Human Rights is taken less frequently since the Human Rights Act came into force. However, decisions of the Strasbourg Court remain of great importance, and not just in cases emanating from our own shores.

On the European Union side legislation continues to pour out of Brussels, and decisions of the European Court of Justice in Luxembourg are directly effective, not only on the interpretation of particular measures, but also in the development of the Treaty principles. Many areas of law, for example employment and the environment, are largely EU driven. EU creatures, such as public procurement law and state aid, have become of increased concern for local authorities and their advisers.

Moreover, breaches by authorities of human rights or EU law can sound in damages, still a relative rarity in situations that have neither of these features. The way ahead is paved with potential financial liabilities.

On the domestic front all is far from quiet. The Local Government Act 2000 has reduced but by no means eliminated the importance of the ultra vires doctrine; but the same act has introduced new complexities in relation to constitutional arrangements and decision-making and created a new industry in relation to so-called ethical standards. Further although vires, in the sense of finding a source of power, has diminished in significance the reasonable and proper exercise of power takes us into an increasingly dense minefield.

General administrative law principles become more and more exacting. We have come a long way from Wednesbury. Proportionality is now a big concept. It is often urged that there are both procedural and substantive legitimate expectations. Increasingly due process will require the giving of reasons and what would have passed for adequacy in that respect is no longer so. And long established principles - for example in relation to delegation - raise difficult questions of application in areas such as outsourcing.

Local government lawyers will not only need to master an unabated spate of primary legislation, statutory instruments, directions and guidance, but also to try to ensure that they are involved from an increasingly early stage in relation to transactions and proposals, and to provide an overall view.

The client obviously is always the authority as a whole, never a particular department. Specialisation in a subject matter area is a menace if it is divorced from broad general legal knowledge and lateral thinking. Balances will often have to be struck, between, for example, the requirements of open government and freedom of information on the one hand, and data protection, privacy and confidentiality on the other.

The way ahead is beset with acronyms: PPP, PFI, LIFT, BSF, UASC, CPA, LAAs. (I could go on!) - and longer and longer paper trails. There will be more and thicker undergrowth, no shortage of trees and the occasional glimpse of a wood.

The role of local government is changing rapidly and in some ways radically. It will change further upon the enactment of the Education White Paper and in other respects. The role of the local government lawyer, however, remains essentially the same - keep the client on the rails. And, equally important, ensure that the client is seen to be keeping on the rails.

PUTTING THE LAW AT THE HEART OF LOCAL COUNCILS

With only one in five local authority chief executives now coming from a legal background, one of the challenges for LGG in 2006 is to help lawyers progress in their chosen area of speciality while at the same time providing them with the opportunities to gain skills to open up a wider career path.



X MARKS THE SPOT – BUT WHAT ABOUT ELECTORAL FRAUD?



The march of technology seems almost unstoppable and while exercising our electoral rights online might still be some way off, postal voting has taken a firm hold on the UK democratic process.

David Monks, chief executive of Huntingdonshire District Council, has seen the growth and appeal of postal voting both in his own authority and in his role as chair of the SOLACE electoral panel. It's a role that is currently taking him and a handful of other local authority chief executives

to a monthly meeting with Harriet Harman, Minister of State at the Department of Constitutional Affairs. With that growth, however, come issues of security and concerns over electoral fraud. Witness last year's events in Birmingham that saw the police criticised and the returning officer accused of having "thrown the rule book out the window". Acknowledged as a leading commentator and expert on electoral processes, Monks will address LGG's election training conference on February 16. With the emphasis on new legislation and protocols, the event will focus on issues of constant concern to returning officers and chief executives. "In Huntingdonshire postal voting has increased 100 per cent in the past few years and it's something that is hugely popular with the general public with demand only likely to grow as life gets busier. Walking to the polling station is no longer seen as a key part of the democratic process – not surprising given the now widespread use of email, texting and the internet," says David Monks, who also cites low turnout and a Victorian-style system unsuited to modern electoral administration as reasons behind the shift to postal voting.

"If this is a method that can re-engage voters it can only be a good thing. The challenge, however, is for local authorities to get a grasp on this before it becomes an overwhelming problem. The issue in Birmingham was that votes were being intercepted and tampered with on an almost industrial scale, but the danger is that this becomes, by its very nature, a seasonal topic. That isn't good enough and as a profession we must see training and familiarisation with legislation as absolutely vital."

For the local authority lawyer, the role they play is pivotal. While some operate on an advisory level, others actually fulfil the role of returning or deputy returning officer. This can lead to a brief that can span the delivery of advice through to the defence of a petition should something go wrong. So what can delegates attending the February 16 event expect?

Legislation to introduce "personal identifiers" and ultimately combat electoral fraud will be a key area of discussion – and it's hard to imagine anyone in a better

YER BACK AT THE GOVERNMENT

"Lawyers have traditionally played a pivotal role at the heart of local government. Their input has been integral at the highest level and they have – and continue to have – vast responsibilities for the actions of the local authorities in which they work," says LGG's director of training Dudley Lewis.

A recent survey by Local Government Chronicle shows that almost as many chief executives now come from a finance background as do from law, while professionals in housing, policy, planning, HR and social services are all making significant progress towards top positions in local government. In some cases lawyers are no longer heads of departments, nor do they sit on management teams.

"To some extent lawyers have lost position within local authorities," adds Lewis. "One of LGG's great ambitions is to play a key role in reversing this trend. We are actively looking at a wider programme of courses and events – including regional and in-house training – that will have a specific and ongoing remit to put the lawyer back at the heart of local government.

"There is, however, equally a need to maintain an effective and efficient legal practice in the public sector and we shall continue our present level of provision of legal courses as well as striving to provide chances for the individual to grow and develop.

"We are actively seeking feedback from existing and potential LGG delegates, so please do let us know if you have any suggestions."

position than Monks to bring an audience bang up to date. "Security is absolutely vital for the future of postal voting which, as we have seen, is something the general public want and have supported on an impressive level.

"We have a Victorian electoral registration process in place in this country that leaves the rather quaintly titled 'head of household' with the responsibility of ensuring all those eligible to vote are detailed on the forms sent out annually.

The move is likely to be towards a situation where all electoral registration forms in England and Wales will require active input from every prospective elector and not just one nominated individual. Personal identifiers including signature and date of birth are likely to be requested, while in Northern Ireland additional identifiers such as national insurance number and a statement of residence are prescribed." It's a move that comes with its own problems as David Monks explains:

"It will be expensive, time consuming and will require significant levels of training within local authorities. The proposal has been trialled in Northern Ireland where registration went down by 10 to 15 per cent, so there are issues to be addressed. It is likely that any move will be piloted in selected areas of the country before decisions are taken on national implementation.

"But all of this is part of wider concerns about actually getting names on the electoral register in the first place. Figures show that only between 60 and 70 per cent of people in inner cities are registered, while Government statistics estimate one in 10 Londoners are not on the electoral register. The issues are many and complex. We hope to shed some light on new legislation and problems at the conference on February 16. But it's safe to say that these are issues that will require a constant eye on developments and a continual investment in training with local authorities."

ELECTORAL TRAINING CONFERENCE

Date: Thursday February 16

Time: 10.00 am to 4.00 pm

Venue: Local Government Association, Local Government House, Smith Square, London SW1.

Cost: £195 plus VAT

CPD: This course carries 4.5 CPD hours

FREEDOM OF INFORMATION ACT – ONE YEAR ON



Now a year old, Freedom of Information (FOI) has presented local authorities with a new set of challenges in dealing with requests from the general public, organisations and the business community.

Graham Smith, the deputy information commissioner, will be using LGG's January 26 review of the first 12 months to provide an update on decisions that have already been made as a result of FOI and how they affect local authorities.

"The most exciting thing about this course is that following four years of planning we now have an act that has been in operation a year and can draw on experiences and examples to create a programme that will provide practical information for delegates," says Graham Smith.

"There will be an element of reinforcing messages given in advance of FOI, but there is no substitute for reviewing specific cases and what can be learned. Those messages are now much more powerful for being supported by working examples."

Smith believes that one of the great successes of the past year has been the way in which some local authorities have provided more information without the need for the enquirer to submit a request under FOI.

"Local authorities making information available without being asked to has definitely been a major achievement," adds Graham. "But it's also important for councils to have the necessary knowledge and skills to deal with specific requests and this is something we will be focusing on at the conference. It's a case of being pro-active with the release of information and knowing how to deal thoroughly with requests that may fall under FOI."

"There is often a good reason why it may not be possible to provide the information requested and in these circumstances it is important local authorities adequately explain the situation. If full and detailed reasons are given then this is often accepted by the enquirer."

Among the cases to have fallen on the information commissioner's desk in the past year are those linked to the naming of officers, speed camera data and the local authority tendering process. Some of these will be highlighted as part of the day but Graham Smith is also keen that the event should be a two-way process.

"We need to hear the experiences of those at the coal face and that is why I've asked LGG to schedule a longer than usual Q&A session at the end of the day. The Office of the Information Commissioner needs to hear about cases and specific issues facing local authorities. Only by going through that process can we help those dealing with requests and provide the necessary guidance in the long term as people become more aware of their rights under FOI."

- As part of the day, data protection will also be discussed. Bernadette Livesey of Calderdale Metropolitan Borough Council, Rudi Leoni of the London Borough of Wandsworth and chair of the London Local Authority Forum FOIA, and Bridget Treacy and Aidan Thomson of Barlow Lyde and Gilbert will consider the implications of the new act and their impact upon the workings of local authorities.

DATA PROTECTION & FREEDOM OF INFORMATION – ONE YEAR ON

Date: Thursday January 26

Time: 10.00 am to 4.00 pm

Venue: Barlow Lyde and Gilbert, Beaufort House, 15 St Botolph Street, London EC3A 7NJ

Cost: £195 plus VAT

CPD: This course carried 4.5 CPD hours

PUTTING IT TOGETHER

How does the LGG team deliver over 150 training courses and conferences to local authorities personnel every year?

From planning, licensing and adoption to evidence preparation, ASBOs, housing and education, the LGG team devises and manages more than 150 training courses and conferences every year.

Designed for lawyers in public sector practice and others whose role may have legal implications, it's an extensive programme that relies heavily on constant research, awareness of a whole range of complex issues and effective relationships with the best speakers in the business.

Jan Eastaff is one of two course developers at LGG who, with a small administrative team, bring together around 5000 delegates annually at venues in London and across the UK to hear learned comment and observations on new and changing legislation.

"Research is absolutely vital to what we do, whether it's basic survival courses or conferences with a more specific remit," says Jan. "New legislation is obviously key to our work, while our brief basically covers anything that could have a legal impact on local authorities. Since the Licensing Act received Royal Assent in 2003 we have trained over 500 people on the new laws."

The typical LGG delegate tends to be loyal, attending more than one course or conference a year and places great emphasis on the quality of both speakers and materials.

"Feedback is vital and we attach great importance to talking to people who have raised specific issues following their attendance at an LGG event. Our work on planning and affordable homes came as a result of delegate feedback. We also keep a close eye on the local government press and, most importantly, we are very lucky to have built up exceptional relationships over the

years with our speakers. Many of them are local authority employees or do local authority locum work and they play a very welcome and pro-active role in helping shape our programme."

With local authorities carrying out more law enforcement, the need for on-going training is paramount. Regular evidence preparation workshops are always fully subscribed – an area that started as an idea for in-house training and grew as it became clear of the need within all local authorities.

"We cannot underestimate those relationships with speakers and chambers. We stand or fall by the quality of training, as we do by our ability to respond to timing on legislative announcements and issues of topicality," says Jan Eastaff.

"Because we have those links and work hard at maintaining them, we can fill any last minute gaps in a conference programme while ensuring quality is maintained, and we can use the best legal minds in the UK to help us tweak any courses that may be affected by a delay in guidance following Royal Assent."

Looking ahead, LGG is well aware of the need to respond quickly and creatively to the needs of the public sector lawyer and is continually researching new areas.

"We are very keen to expand our regional courses and to build on the initial success and we are talking to delegates about this around the country.

"Bespoke training is also an area we are very keen to develop as it has enormous potential when training members or cross-departmental personnel. Some authorities are partnering with neighbouring councils to run such courses and are finding the economies of scale and efficient use of time invaluable. This method of training also enables our speakers to offer a more focussed service and we are keen to assist local authorities in bringing these opportunities forward".

• If you would like to make any suggestions concerning an LGG course, or have a specific training need you feel we could help with please contact Jan Eastaff or Lisa Ellis on 01483 275577

CONGRATULATIONS! Congratulations to Elizabeth Ellam, principal solicitor at Hampshire County Council, who won a case of champagne by completing and returning the form sent with the launch issue of Training Brief. Thanks to everyone who took the time to help us keep the LGG database current. Do keep us informed of any changes to your contact details and, of course, let us have any suggestions for items that we could include in future editions.

DRIVING FORWARD INNOVATIVE TRAINING

Known for its comprehensive and innovative training, the LGG team also has the added benefit of working with some of the most experienced talent in public sector legal practice to help shape and further define its extensive annual programmes.

As directors of LGG Limited – Maria Memoli (who also serves as chair) and Peter Rhodes (who is company secretary of LGG Limited and treasurer of SLG) work closely with ACSeS and the team to review training needs in line with changing legislation and identify new opportunities.

Maria has worked extensively in local government, holding various posts at county, district and city level, has worked in private practice, and in 2003 gained an MBA from Bath University.

Now semi-retired Peter Rhodes had a long career in law, rising from clerk in a firm of Chester solicitors to head of law at Liverpool City Council. Peter is currently company secretary of the Fire Support Network and continues a life long passion for rugby by serving as vice president, secretary and honorary solicitor for Cheshire RFU.

LGG Limited is owned by SLG (Solicitors in Local Government) and its current chairman Oxford City Council solicitor Helen Liddar.

"I have always found LGG courses to be of the highest quality and tailor made for my requirements as a local government practitioner. I am delighted to see their programme, interest in their courses and the number of delegates who attend go from strength to strength," says Helen.



Maria Memoli



Perer Rhodes



Helen Liddar

DIARY DATES

Special Education Needs and Disability Tribunal

Date: Tuesday February 28
Time: 10.00 am to 4.00 pm
Venue: ETC Venues, Avonmouth House, 6 Avonmouth Street, London SE1
Cost: £189 plus VAT
CPD: This course carries 4.5 CPD hours

Finance for Local Authorities

Date: Thursday March 23
Time: 10.00 am to 4.00 pm
Venue: ETC Venues, Avonmouth House, 6 Avonmouth Street, London SE1
Cost: £169 plus VAT
CPD: This course carries 4.5 CPD hours

Houses in Multiple Occupation & Licensing

Date: Thursday April 27, 2006
Time: 10.00 am to 4.00 pm
Venue: ETC Venues, Avonmouth House, 6 Avonmouth Street, London SE1
Cost: £169 plus VAT
CPD: This course carries 4.5 CPD hours

HOW TO BOOK AN LGG EVENT



FAX a booking to LGG on 01483 277888



POST a booking to LGG, 64 Smithbrook Kilns, Cranleigh, Surrey, GU6 8JJ



EMAIL a booking to bookings@lgg.org.uk



Book online at www.lgg.org.uk



Call 08707 303040

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