

## 2.v Assessment of the investigators' recommendations

Of the four investigations, three made recommendations:

- Yvette Smalle made three recommendations, the most relevant being "should the complainants remain unsatisfied, [a] letter [should be sent to them reiterating] the advice given to them verbally by different Officers, that is, to contact the Association's Auditor for an in-depth itemised analysis of the accounts, or to contact the Law Centre for advice on engaging an independent auditor and/or the police. A copy of the report, accompanied by a letter, should be sent to members of the Association, informing them of the findings and recommendations.."
- The Modest/Pringle report contained ten recommendations, which are repeated here because of their salience.
  - a) Prior to a complaint being acted upon, there needs to be sufficient evidence to warrant an investigation: unsubstantiated allegations should not be regarded as adequate.
  - b) In respect of a complaint against an independent organisation, and prior to it being acted upon by the Authority, a decision must be made as to whether the complaint is in regard to an issue that is legitimate for the Local Authority to investigate, or whether the complainant should be referred to the organisation in question, or to any other appropriate authority.
  - c) Proper guidance and assistance for initial investigators- including conferring with the Equal Opportunities Unit where there are complaints against Black and ethnic minority organisations - should be made available.

- d) Where there are extensive allegations and complaints in respect of an independent organisation in receipt of support from more than one department, one corporate and comprehensive investigation should be carried out
- e) F&CS small grants should be processed in a manner that ensures that they, like all grant decisions, become publicly available information.
- f) It is imperative that there be co-ordination and the sharing of information between departments and their respective Grant Officers, in order to avoid the existing potential for confusion and duplication.
- g) The various departmental Liaison Officers monitor the adoption and implementation of a standard receipt book to record, in both English and Arabic, all transactions by the YCA .
- h) The YCA's expenditure of, and report on, its 1992 UrbanAction grant be satisfactorily concluded by the Education Department at the earliest opportunity.
- i) The respective grant aid officers monitor the **YCA's** agreement to itemise all grant aid in their audited accounts.
- j) A report on the missing Yemeni Immigrant General Union cheque be provided on the conclusion of the separate investigations into this matter.

These recommendations were not acted upon because the report was thought by Internal Audit to be inadequate. The Panel commend these recommendations to the Council for further consideration.

- For their part Internal Audit made the following recommendations follows:
  - a) Funding for the YCA should cease other than for inescapable commitments.
  - b) Future funding should be to a democratically elected management committee and operate within a constitution which is acceptable to the Council.
  - c) Some past and present members of the management committee have either jointly or severally been involved in what must be considered as unsatisfactory conduct. Consideration needs to be given to the implications for the Council should these persons hold future office in Yemeni groups.

Some of these recommendations were incorporated into the paper which went to Policy Committee on 27 July 1994. Essentially, the Chief Executive asked the Policy Committee to approve the Internal Audit recommendations and added four more. in an attempt to forge a middle way between the contending forces. The additional four recommendations were:

- There are issues surrounding the Council's current processes and procedures, and the role of staff within them, that do need further urgent consideration.
- Members should confirm that they wish to continue to support the community in its efforts and agree that the best way to do so is that a "line be drawn" under what has passed, and efforts be directed to creating a newly-constituted YCA using the methods and approach adopted in Birmingham.

- The Council should accept the offer of help and assistance from that Authority in the shape of the use of the Assistant Chief Executive who drove the process there.
- Members should delegate to the Chief Executive the right to take all necessary and appropriate action in order to achieve the aims and objectives set out within this report subject to consultation with the Chair of this Committee, the Education Programme Committee and the Family and Community Services Committee.

There then followed an Open Letter which, in the opinion of the Panel, was most ill-advised.

With the exception of the first one, and following meetings with the Black Community Forum, none of the recommendations has yet been implemented.

The Chief Executive's proposed solutions outlined in her Open Letter have in some respects been overtaken by events. The Council have indicated a desire to bring this matter to a conclusion, and it is apparent to the Panel that a fresh start is called for. The Panel recognise the Chief Executive's desire to ensure that the Association is administered satisfactorily because it receives public funds. As part of the fresh start, we propose that the Council discuss with the YCA Management Committee areas of support in the spirit of partnership.

## Recommendations

1. That the Chief Executive's Open Letter be set aside.
2. That the Modest/Pringle recommendations be considered by the Council.
3. That the Council engage in a dialogue with the YCA in a spirit of partnership to discuss areas of support and future co-operation.

## 2.vi. Review of the way YCA was run

The YCA is a Community Association of about 300, covering Sheffield and Rotherham. Until 1985, the adult literacy rate among the population was low. The Association, with help from the Council through the Sheffield United Multi-Education Service (SUMES), mounted a successful adult literacy campaign. Alongside this campaign, the Association runs an Enterprise and Training Centre which has received glowing praise from Sheffield Training Enterprise Council and the Department of the Environment under the Urban Programme.

There is evidence of a relatively harmonious relationship among the members of the Management Committee after unification of the two Associations which existed before 1981. However, there was some disagreement in 1988 which led to the first of the City Council's inquiries into the Association's affairs. On that occasion, the Council played a mediatory role and advised the parties on how **bestto** improve the running of the Association. The Council also advised the Association to obtain the services of a named Auditor to help it to prepare its annual accounts. This advice was followed and the services of this Auditor are still retained.

Little is known about the relationship between the members after the 1988 City Council investigation until the Council received complaints from a new group of complainants from within the Management Committee in 1992. The information before the Panel suggests that these were long-standing complaints. The Association operates under a centrally-structured constitutional document which did not contain provisions for resolving disputes within the Management Committee itself. As the evidence shows, the complainants felt, with justification, that they lacked an effective mechanism within the Management Committee for ventilating their concerns.

In their evidence before us, the complainants made their mistrust of "current Association officials" obvious. Their complaints are in two parts:

- a) those which identify the failure of the YCA officials, and
- b) those specifically against the Council's handling of their allegations.

For example, they listed six areas where they believed the Council had let the Association down:

- i Failure to ensure that the correct constitution was lodged with the Council when the Association was created.
- ii Failure to take account of previous investigations by Peter Sacker of F&CS in order to get a picture of the complainants' position.
- m Failure to assess the current YCA constitution.
- iv Failure to carry out thorough inquiries into YCA financial matters.
- v Breach of natural justice by suggesting that the complainants have not been truthful, and withholding financial records about the YCA.
- vi Allowing two of the Council's staff [who shall remain unnamed] to influence the investigations in spite of obvious conflicts of interest.

As for the allegations against the current YCA officials, they gave Internal Audit very comprehensive information spread over 67 points. Some of the allegations were in addition to those looked into by the initial investigators. Both the Chief Executive and Internal Audit took the allegations seriously, and met with them on numerous occasions, usually at their request. They had every opportunity to provide documents and statements in support of their case. In relation to grants to the Yemeni groups, Internal Audit extracted and collated the information for the complainants. In general, they appear to have co-operated

fully with Internal Audit by providing documents which according to their own admission they were not prepared to make available to Mr Modest and Mr Pringle.

Following a preliminary assessment of all the information before them, Internal Audit drew up a list of questions which they put before the incumbent YCA management. According to Internal Audit, they were not asked to conduct an audit of the YCA's financial records. Their investigation was confined to information received principally from the complainants, the incumbent Management Committee, and the Council's own internal records. With the exception of the financial records, Internal Audit can be said to have looked into the allegations in a very comprehensive manner.

Whatever defects the complainants may have felt the initial investigations had, these were remedied when Internal Audit did their investigation. In spite of this, they continue to express dissatisfaction with what has been done, as they had expected the outcome of the Council's investigation to be a recommendation that they should have direct access to YCA financial records held by the bank. In the Panel's view, this was unrealistic and went beyond what the Council can request a voluntary body to do. As for matters between the complainants and the YCA management, it is the Panel's view that documents relating to the running of the Association's affairs should, as a matter of routine, be available to Committee members. The complainants maintain that this was not the case. However, according to the reports of the Link Officer, Yvette Smalle, and Donovan Modest and Ray Pringle, information regarding the accounts was made available.

The Panel have also been assured by one of the complainants who later retracted his complaint that information about the accounts was made available at meetings of the Management Committee and of the Association. In his evidence before the Panel he stated that he had not been under pressure to retract his

allegations, and that the decision to do so was his own. He said that after careful reflection, he came to the conclusion that the incumbent management were doing positive things for the Yemeni community and that increasingly he came to see his co-complainants as negative.

For their part, the incumbent Management Committee saw the allegations as an attack on the Association. Although the manner of the complainants' removal from the Management Committee is not clear, it would appear to be by a majority decision of the incumbent Officers. On a careful examination of the Association's constitutions, the Panel found that there is no provision for removing members from the Management Committee. The complainants would appear to remain Association members, as it has not taken formal steps to expel them.

The complainants were advised by Mr Modest and Mr Pringle to use the constitution to challenge their removal from the Management Committee, but the constitution itself is silent on the issue of expulsion, and only independent legal advice could have helped them to resolve it. Alternatively, they could have requested that a meeting of the Association be held for them to put their views before the Association. These are decisions that they could have made without the assistance of the Council.

The complainants trace the origin of the problems to events that happened as far back as 1988. They still believe that the Association is mismanaged, and remain strongly critical of certain key members of the current Management Committee. Some of the complainants continue to claim positions in the Association which they clearly no longer hold, and discuss YCA affairs as if no changes or developments have taken place within the Association since their allegations were made. There is so much mistrust that some of the complainants have indicated that they would not take part in new elections, however open, unless certain members of the Association were debarred from holding elected positions.

The Panel is of the view that voluntary organisations should look to their own means to resolve internal disputes; it is not for the Council to act as the arbiter between dissenting parties. This is important to protect voluntary bodies' autonomy and to avoid drawing the Council into contentious areas which often become personalised, and difficult to resolve.

### **Assessment**

In the Panel's view, the Council did its best - in fact it bent over backwards - to ensure that the matters were thoroughly investigated. The complainants were disappointed when the recommendations set out in the Chief Executive's Open Letter, which they broadly accepted, were set aside, following representations by the Black Community Forum. Events have moved on since the issuing of the Open Letter, and the Council has to base its decision on how to resolve this matter by taking account of the overall circumstances as indicated in this report.

In spite of the adverse publicity which followed the publication of the Open Letter and media reports of maladministration, the incumbent Management Committee have succeeded in maintaining and improving services for their community and others. The women were particularly appreciative of the various educational programmes, run under the aegis of the Association, which have helped them to acquire new skills, and to integrate themselves better into the Sheffield community.

The Panel visited the Yemeni Enterprise & Training Centre and were impressed by the quality of service provision that was taking place there. It is to the credit of the incumbent Management Committee that they have continued to develop services even though they have encountered difficulties in attracting funds because of the publicity arising from the complaints.

The following is indicative of independent assessment of the work which has been done at the YETC under the management of the YCA:

I am writing to thank you and your colleagues for the efforts you have made to make the recent monitoring visit by the Government Officers such a success. They were impressed by the Economic and Training Centre and what had been achieved so far, they also hope you will be successful in the future, as do we all.

[Letter from Pauline McCarthy (Urban Programme Monitoring Officer, Urban & European Policy Unit) dated 7 July 1995.]

There are other letters from the TEC expressing similar satisfaction.

In the Panel's view, the current Management Committee have taken a number of steps to strengthen its management and democratic structure. For example, women are now part of the policy-making of the organisation. Minutes of meetings and the quality of book-keeping have improved.

As is typical of community organisations, the YCA would appear to be stronger on custom and practice than on constitutional niceties. This does not mean that it is not run democratically or along constitutional lines; it simply means that things function according to the ethos and relationships developed within the organisation. Law becomes a strong issue only when traditional measures of dispute resolution fail to resolve difficulties, which then become endemic. On three separate occasions (in 1988, 1992 and 1993), the Association received advice from the Council, on how to improve the process of accountability within the organisation. The Link Officer also played a mediating and supportive role prior to the quarrels. As indicated above, the Association's activities are thriving and their methods of administration have improved.

The complainants, on the other hand, maintain vehemently that the Association is undemocratic and unaccountable.

As to whether the Association was treated in a manner comparable to other similar organisations in the voluntary sector, the Panel lack sufficient information about the treatment of other voluntary organisations in Sheffield to form a firm judgement on this. Insofar as the Leadmill, the Crucible and the Lyceum are concerned, they are much bigger operations, and much larger sums were involved. None of these enterprises appears from the evidence available to us to have been subjected to the kind of investigations experienced by the YCA. On the other hand, the circumstances may have been different, and not affected by internal disputes.

## Recommendations

1. The YCA should organise an election as soon as possible. It should be open to all Yemenis who are registered members of the Association.
2. An independent Returning Officer should be appointed to supervise the elections.
3. The Council should acknowledge the special relationship between the Yemenis in Sheffield and Rotherham.
4. The Association's current constitution should be endorsed subject to the following modifications:
  - a That no-one be barred from holding office by reason of lack of competence in the English language, but the constitution could specify the kind of skills which holders of particular office would be expected to possess.

- b That the section of the current constitution concerning disclosure of information about the Association to outside bodies be reworded so as not to create the impression that loss of membership would result from a proper disclosure of such information.
- c That the constitution should contain clear provisions on the role and functions of the Management Committee and on the relationship between the Management Committee and the rest of the membership.
- d That there should be clear provisions for the ventilation of disputes within the Association.

## 2.vii. Lessons to be learned

- Sheffield City Council needs to be more proud of its achievements in supporting Black projects, and to publicise them. For example, the Adult Literacy Campaign is regarded in the UK and in Europe as a model of good practice, and has brought many marginalised people into the mainstream of Sheffield life.
- The Council must tackle at a political level the climate of suspicion which has arisen in matters concerning the funding and management of Black voluntary organisations.
- The practice of speaking about Black projects only in terms of problems and difficulties, and never in terms of success, should be resisted. Whereas the Council had been willing to write off losses such as the £80,000 of the Sheffield Festival debacle, the series of investigations have seriously damaged relations between the Council and the Association. The Council needs to give more recognition to the real achievements and progress which have been made and are still being made by the Yemeni Community Association and the Yemeni Enterprise & Training Centre. They are achievements of which the Council ought to be proud, and it should do more now to embrace both the YCA and the YETC in a genuine partnership for the good of the Yemenis and of the people of Sheffield as a whole.
- The Panel is of the view that the Association is well-run, and that its last election was democratic, free and fair. The Association will be further strengthened if our recommendations, for a fresh election to be held and supervised by an independent returning officer, are followed. The YCA is an organisation which the Council can continue to support in the knowledge that the grants will be well-spent.

- Our appraisal of all of the investigations has led us to stress the need for the Council to draw up standard rules for investigating voluntary organisations. The rules must respect the autonomy of the voluntary organisations and their ability to function effectively. The rules must also set out the standard of proof to be observed. The common law principle of benefit of the doubt must be respected.
- All investigations of voluntary organisations need to be conducted in a manner which is consistent with the Council's commitment to fairness and equal opportunities.
- The Corporate Management Team should give careful thought to the consequences of meetings with complainants which may by implication **be** interpreted as an indication of lack of confidence in an ongoing investigation. Where it is considered necessary by the circumstance of a particular case to meet with complainants, this should **be** done by a designated individual and the investigator(s) should **be** informed or involved.
- The Council needs to strengthen its support for voluntary organisations in a number of ways:
  - i Give more support to Link Officers.
  - ii Put in place a mechanism for Link Officers to discuss with their managers difficulties arising from their link work.
  - iii The Corporate Management Team should as a matter of routine demand periodic reports on the management and monitoring of projects supported by the Council.

- Unless there is a clear case of fraud or threat to the efficacy of projects, every effort should be made to protect projects funded by the Council until the outcome of an investigation.

## Conclusion

Our terms of reference have restricted us to examining and analysing the matters which have already been investigated, and not to investigate them anew. We have confined our conclusions to an assessment of oral statements and evidence produced by the parties concerned. This first Report is based on information thus obtained, and we have made recommendations which if followed we hope would prevent the recurrence of mistakes that have been made.

This Inquiry started in May 1995, and the Panel have had to learn about the practices of a major and under-resourced Local Authority which was, and probably still is, undergoing an extensive review of its policy and procedures. However, the issues that we have been examining cannot be attributed to lack of resources only. The Panel also had the opportunity to learn a great deal about the work and the efforts which have been made by one of Sheffield's long-established ethnic minority communities. In spite of some avoidable delays, we have been greatly helped in our work by all who have been involved in this unfortunate conflict which we believe could have been handled better and more speedily.

In the course of our Inquiry, the Panel have detected a clear wish amongst those caught up in this prolonged affair, for it to be ended. We very much hope that this Report will not be seen as an invitation to go over well-trodden ground. Instead we offer it, as we hope it will be received, as an opportunity for understanding and for a new beginning. We urge the Council to ensure that the recommendations are implemented as soon as possible and no longer than nine months from the date of the official publication of this Report.

## Footnotes

- <sup>1</sup> These principal recommendations have been extracted from the main body of the text. The numbers in square brackets refer to the relevant pages in the text. These have been inserted for ease of reference.
- <sup>2</sup> The Panel are assured by the Chief Internal Auditor that all decisions in respect of their handling of the investigation were made in consultation with the Chief Executive and the City Solicitor.
- <sup>3</sup> Memorandum entitled 'Internal Audit Comments on Investigation Report' (no date). It is aimed that the paper was produced with the specific intention of 'assisting the management of F&CS in any future dealings with the complainants'. It contained points claimed to be from 'the perspective of a "devil's advocate"'. According to Internal Audit, this memorandum contained their appraisal which would have been conveyed to Mr Modest and Mr Pringle had their report been submitted to them before publication. It is a matter of regret that this was not done.
- <sup>4</sup> The complainants claim that they were still members of the Management Committee when they first made their complaints, though this is disputed by the incumbent YCA Management. The complainants with the most contact with the Council at various stages of the dispute were: Messrs. Mosleh, Noor & Kadet.
- <sup>5</sup> The adequacy of this report was challenged by the complainants at a Complaints Review Panel appeal hearing under the NHS & Community Care Act 1990, which took place on 26 July, 1993.
- <sup>6</sup> The two signatures confirming the bank mandate cannot be said to be the true signatures of those who purported to sign the document.



