

### **2.iii Equal Opportunities Policies**

The relevant Equal Opportunities Policies for the purpose of this section of the Inquiry are to be found in two Council documents:

- a) *Equal Opportunities in the City Council 1991*, Section A paras 2.5 and 2.7. and Section C paras 3.7.3- 3.7.4
- b) *Sheffield: Agenda for Change*, 26.10.93

The Panel have decided to quote extensively from these documents in order to provide a context for assessing whether or not the Council have complied with its equal opportunities policies in the way the YCA was treated.

#### *a) Equal Opportunities in the City Council 1991*

Section A Para 2.5 of this document states:

The achievement of equal opportunity in society entails the equitable distribution of resources, meaning the distribution of resources and opportunities according to the need of each individual and/or group so that they may become active participants in society. This must include the sharing of power, flexible and responsive policies, procedures and priorities, and the fostering of a pluralist culture.

Para 2.7 sets out an Equal Opportunities Statement of Purpose, as follows:

Sheffield City Council considers its primary objective to be the achievement of a high quality of life for all the people of Sheffield, and it will use the powers, resources and influence at its disposal to this end. The City Council recognises that discrimination and disadvantage on the grounds of race, sex, disability, age and sexuality have undermined the quality of life

for many of Sheffield's people. It therefore sees the elimination of such discrimination and disadvantage as a crucial way of improving the quality of life for all, by bringing about a fair and just society. The City Council has a commitment to working towards the elimination of such discrimination and disadvantage within the local authority organisation itself, in the way it delivers services, and in its promotional role within the city and elsewhere. Additionally, the Council has a legal obligation to promote good race relations in the city, under Section 71 of the Race Relations Act 1976. Ultimately, Sheffield City Council intends to become an organisation which reflects the local community in all its diversity so that it is able to deliver services which are truly accessible to all the people of Sheffield, regardless of their background or resources.

The document accepts that:

If the local authority wishes to develop a relationship with the local community which enables it to achieve its prime goal of improving the quality of life for all, then it must acknowledge these inequalities and take action which compensates for their effects.

Section C makes a number of specific commitments:

Para 3.73:

It is through the process of making separate provision and targeting that most progress is likely to be made in improving accessibility to Council services by, for example:

- providing particular services to specific groups e.g. Sheffield United Multicultural Education Services.

- funding community and voluntary organisations to enable them to provide services themselves for their section of the community' e.g. ethnic minority advice centres, housing projects for young women.
- targeting provision within existing mainstream services, e.g. priority rehousing for women who have suffered domestic violence.

Para 3.7.4:

In addition to providing basic training for the workforce in eliminating discrimination, a positive action approach will require Officers involved in policy and project development *to be aware of the factors impeding access to services and how they could be overcome* (emphasis added).

The Panel note a dramatic change in grant aid to voluntary bodies resulting from the adoption of this policy. This can best be illustrated by the rise in grants from £41,188.00 in the 1989/90 financial year to £205,376.00 in 1991/92.

The 1991 document stressed that only when barriers and obstacles are removed can the Council expect to achieve an effective and positive relationship with its ethnic minority communities. In a section called 'Corporate equal opportunity strategy for service delivery', it identified:

- I. The need for a better understanding of community needs through effective consultation mechanisms and research, recognising that:
  - a) the groups are not homogenous and that there would be varying needs within each group;
  - b) different Departments will need to use varying consultation processes depending on the issue and the target concerned.
2. The need to develop policies and guidelines, at corporate and Departmental level, on improved access to services.

3. The need for improved communication and information about existing and developing Council services for all groups, but particularly disadvantaged groups for whom written information in English is not appropriate.
4. The need to develop guidelines for staff on all aspects of equal opportunities services delivery supplemented by training for staff on being sensitive to the needs of people they encounter in their work.

b) *Sheffield: Agenda for Change* (adopted by the Policy Committee on 26.10.93.) This document arose out of a review conducted by the Council with the aim of improving the ethos of service delivery throughout the Council. As the following excerpt makes clear:

The concept of public service in the 1990s is not the same as "serving the customer" which is a narrower idea. It encompasses the idea of trusteeship towards the community, founded in local democracy, and the development of elected members' roles as advocates or champions of local recipients of services - whether those services are provided by or on behalf of the local authority or by central government agencies or quangos. It is consistent with the support and empowerment of local communities and with the Council's role, working with other agencies, as a catalyst for change in wider partnerships. It does not imply that the Council seeks to maximise its own direct service delivery nor that it sees value only in what it does itself.

The relevance of *Agenda for Change* to equal opportunities is that it is the most up-to-date statement of the Council's programmes for the future. The concept of 'empowerment', of seeing 'public service as trusteeship towards the community', and of a 'tripartite approach' to the delivery of civic service (p 4, para 12), is one which is wholeheartedly endorsed by the Panel. However, the document as a whole is weak on equal opportunities, for example, the Panel are concerned that the core objectives:

- to combat disadvantage, poverty and deprivation
- to prioritise services to poor and disadvantaged people

outlined in *Agenda for Change* do not include a reference to racial discrimination. This may give the impression that equal opportunity in its technical sense is not a core objective. The Council maintains that its equal opportunities commitment has not changed. The Panel accept this assurance. However, to remove any possible misunderstanding, a clearer link needs to be made between the two documents. The Panel also note that a review is now taking place, designed to produce an updated policy approach on anti-racism.

### **Compliance with equal opportunities policies during the investigations**

After a review of documents and oral evidence, the Panel are of the view that not all Officers complied with the equal opportunities policies. All the staff who were involved with the initial investigations and subsequent reviews did their best to comply with equal opportunities policies. As for the Corporate Management Team<sup>2</sup>, the Panel's view is that they paid less attention than their staff to the equal opportunities ramifications of the investigations. The second stage of the investigation arose out of a recommendation to the Chief Executive by the F&CS Internal Review Panel to consider investigating matters which the complainants raised at the Review Panel's meeting on 26th July 1993. Although it is now generally agreed that the Internal Review Panel was not the appropriate body to deal with the matter, the Chief Executive felt obliged to act on their recommendations. The Review Panel was chaired by a Councillor and two independent persons. The Chief Executive, however, had a difficult decision to make in the circumstances, but the difficulties could have been avoided had more attention been paid to two things: a) the wording of the Review Panel's resolution; b) the impact on the YCA of yet another investigation by the Council.

According to the Chief Executive, she had hoped that the investigation which she asked the Internal Audit to conduct would help to clear the air one way or another. We accept that this, nevertheless the YCA's main objection is that this second stage of investigation was unnecessary and oppressive. We have to consider whether or not the Council could have avoided embarking on this investigation. The problem lies in the Internal Review Panel's terms of reference. It was not a body able to appraise the nature of the complaints; hence its recommendation for the Chief Executive to consider conducting what it called a corporate investigation of the YCA. It also concluded with the positive statement that the 'responsible Officers' who conducted the initial stage of the investigation and the subsequent review did so 'properly within their terms of reference'.

Internal Audit were of the view that some aspects of the initial investigations and review were not conducted adequately, and that the conclusions drawn by the responsible Officers, which were by and large favourable to the incumbent YCA management, could not be supported by the evidence. When the Chief Executive invited Internal Audit to carry out its investigation, they went in with the aim of finding answers to what they believed to be unresolved questions arising out of the previous investigations. The Panel do not impugn either the Chief Executive's and Internal Audit's motive a) in making the reference, and b) in conducting the investigation. However, should the investigation have been carried out at all?

The Panel has to consider the following in arriving at an answer to the above question:

1. That the YCA is a small community voluntary organisation.

2. That the Council already had at its disposal information from the earlier investigations that monies from Council grants were not at risk. This is so because most of the grants were in the form of capital projects and revenue grants to pay wages.
  
3. That the Internal Review Panel recommendation was an invitation to the Chief Executive to 'give consideration to' conducting a corporate investigation of the allegations against the YCA. The Chief Executive could have done more to resolve the apparent contradiction in the Internal Review Panel recommendations, that is to say if responsible Officers were deemed by the Panel to have carried out their investigation properly within their terms of reference, then it was open to the Chief Executive to separate matters which were already conducted 'adequately' from new allegations which were made at the Review Panel meeting which probably had not been investigated at that point. Had the Chief Executive done this, the consequence would have been a much narrower second stage investigation. Internal Audit are of the view that there is a statutory duty to investigate allegations which are made. The Panel understand this, but in this particular case the complainants made several allegations and continued to make new ones. Most of the allegations had been extensively investigated, and the Council could not have been accused of neglecting to investigate. The Panel are of the view that much as there is a duty to investigate complaints, there is also a duty for the complaints system not to be abused.

Internal Audit criticised some aspects of the investigation by Ms McAuley and Ms Smalle. They also informed the Panel of the failure of Mr. Modest and Mr. Pringle to submit their report to them before it was published, which gave rise to a sequence of events that fuelled suspicion between sections of the Council. For example, a 37-point memorandum<sup>3</sup> from Internal Audit effectively discredited the Modest/Pringle review by effectively presenting it as inadequate and partisan. Once Internal Audit's views were known, the F&CS management

failed to reach their own independent conclusions. Internal Audit take the view that this could have been avoided had they been allowed to see the review before publication.

For their part, the initial investigators expressed to us surprise that recommendations which they made were not acted upon by the Chief Officers of the Department of Education and F&CS. This they believe created a state of paralysis and inaction. They also believe that Internal Audit lack knowledge of how small voluntary organisations operate, and that their call for clear guidance was not heeded. On the other hand, Internal Audit maintain that Mr. Modest and Mr. Pringle did not take up their offer to discuss their review of the McAuley and Smalle reports before it was published. Mr. Modest and Mr. Pringle felt that unless Internal Audit wrote thereport, they would never be satisfied. The Panel believe that the matter could have been brought to a conclusion at this stage, had the Council been in agreement on how best to deal with the reports that it had already received.

The Panel recognise the complexity of this matter and the difficulty encountered by all those who attempted to deal with it. Ms Smalle and Ms McAuley informed the Panel that the complaints that they received initially were confused and that it took considerable effort on their part to make sense of them. Furthermore, not all the allegations were strictly in the Council's domain. The complexity surrounding the complaints was compounded because of the absence of an agreed 'house rule' for handling complaints against voluntary organisations funded by the Council.

The junior Officers expressed disappointment at the failure of the Chief Officers of the Department of Education and the F&CS to act on their recommendations, a fact which from their point of view reinforced their suspicion that their objectivity and professionalism were being questioned. Internal Audit's 37-point memorandum suggesting that the initial investigations were flawed may have had its impact on the Chief Officers' freedom of action with regard to the recommendations.

In spite of the disagreements which arose regarding the best way to handle the complaints, the Council continued to fund YCA's and YETC's core activities, although the relationship with YCA was negatively affected by the complaints. In general, the organisation's activities have continued and the literacy campaign has been acknowledged as a success.

### Black Officers and equal opportunities

The Panel saw examples of positive initiatives by the Council in the field of equal opportunities. Equally, in the course of our inquiry, we were made aware that the YCA issue gave birth to other investigations in which the conduct of some Black personnel of the Council who acted as Link Officers with Black projects, was called into question. The Panel received evidence of an investigation of two Black Officers in the Education Department, concerning the **YCA**. This cross-over which they believe occurred between investigating the **YCA**, and in some cases covert investigation of Council staff, continues to cause concern among them.

One, a senior staff member, informed the Panel that he regarded his encounter with a member of staff of Internal Audit as intimidatory. The encounter arose out of his official duties with the YCA and the YETC. Internal Audit deny that any intimidation was involved, and state that they were pursuing a routine investigation into the administration of Urban Programmes. It appears that Urban Programmes are chosen on a random basis for investigation. In this instance Internal Audit requested the Black Officer to produce the time-sheets of one of his staff. The Officer informed the Panel that he was never told why this information was required and that as the line manager he was satisfied that the time-sheets were being kept satisfactorily.

On the surface Internal Audit's request seems unexceptional. However, in the context of the YCA disputes the Officer felt that the request was neither routine nor random, and that it was connected with other investigations. He based this suspicion on information given him by the Director of Education that he was himself to be investigated.

He informed the Panel that he has been either excluded from, or not invited to attend meetings which prior to the YCA issue he attended as a matter of course. For their part, Internal Audit stated that they never conducted any investigation, and are not aware of any decision to exclude him from meetings.

The information received by the Panel shows that Internal Audit were interested in other matters as well as the time-sheets. Internal Audit appeared to see the two Black Officers as having extraordinary influence within the Education Department, and to suspect that they were likely to misuse or abuse this influence.

The Chief Executive also conducted her own investigation into related matters. These are mentioned only to convey the atmosphere of suspicion that surrounded the YCA allegations and dispute.

The Panel do not question the right of managers to ensure that staff carry out their work efficiently and adequately, but in the atmosphere of the YCA debacle, it was important for both the Director of Education and the Personnel Department (if not Internal Audit) to treat this Officer with candour and transparency. In the Panel's view, everything must be done by the politicians and the Chief Executive to ensure that conduct of this kind is never repeated.

## Corporate Management Team and equal opportunities

In a hierarchical organisation such as Sheffield City Council, staff members take their cues from the attitudes of Corporate Managers towards particular policies. The Panel detect an atmosphere of suspicion and cynicism among some staff regarding the Council's commitment to equal opportunities. The Corporate Management Team has a big task as part of the resolution of the YCA dispute to renew and nurture the spirit of equal opportunities in the authority. One important step in this direction is for the Corporate Management Team to reassure staff in the field of equal opportunities that they have confidence in their abilities and professionalism.

### **Approach to Birmingham after the Open Letter**

The Chief Executive approached Birmingham City Council to find out how they had handled a similar dispute in Birmingham with their Yemeni community. This proved to be controversial within the Sheffield Yemeni community, though it is not unusual for one authority to seek opinion or advice from another on major social issues. The Panel accept that the approach was made in a genuine attempt to deal with the matter because of a similar situation there. We doubt whether a solution appropriate for one city is necessarily or readily transferable to another city. The idea that all Yemenis are the same regardless of their geographical location in the UK is a fundamental mistake. At no time did any of the Corporate Management Team seek the opinion or expertise of their Equal Opportunities Policy Officers, although a memorandum was written by a staff member of the Equal Opportunities Unit warning of the pitfalls in adopting the Birmingham solution. There is still no standard procedure for these Officers to offer advice unless it is sought

The Chief Executive assures us that the Equal Opportunities Unit was undergoing major transformation at the time, and that this affected the situation. We accept this. However, we note that there were staff with knowledge of the

Yemeni community within the Unit who could have been consulted, and can only put the failure to do so down to the atmosphere of suspicion already referred to.

It is essential that the Equal Opportunities Unit is treated as a reservoir of knowledge, information and expertise; in this instance it was woefully under-used and it is still underdeveloped in this Authority.

### **Resolution of the complaints**

Overall, the complaints could have been handled more speedily and effectively, and a more satisfactory conclusion reached, by considering a range of options including, for example, mediation by the civic leaders or someone designated to do so by the Corporate Management Team. It is therefore to be regretted that a pimple was allowed to grow into a carbuncle, at a great cost to the Council. The politicians must bear a share of the blame because they failed woefully to provide political insight and leadership in not helping to resolve the dispute early.

While we conclude that both Ms Smalle and Ms McAuley followed Council equal opportunity guidelines, as did Mr. Modest and Mr. Pringle in their review of the Smalle/McAuley investigation of the complaints, it is the Panel's **view** that the Corporate Management Team could have done more to balance the duty to investigate with greater sensitivity to the equal opportunities dimension.

### **Recommendations**

- 1. The Corporate Management Team should renew and nurture the spirit of equal opportunities within the authority, and stress that both White and Black projects deserve support, in spite of current financial constraints (see Recommendation 6, addressed to the Council, below).**

2. The Council's document *Sheffield: Agenda/or Change*, should include anti-race discrimination as one of the core objectives.
3. Corporate management staff should be required to undertake training in equal opportunities and anti-racism.
4. If there is a need to seek opinion about equal opportunities beyond the Council, senior management staff should first consult with their relevant Officers in the strengthened Equal Opportunities Unit. Furthermore, they should be required to take account of the advice of Link Officers working with community groups to help to make meaningful and credible the Council's commitment to improving relationships with ethnic minority groups.
5. The Policy Committee should take the role of custodian of equal opportunities, by being more proactive, and engage in a constructive dialogue with Black Officers within the Authority and other groups within its equal opportunities framework, to establish a credible equal opportunities practice for the people of Sheffield. Furthermore, politicians should ensure that there is adherence to the Authority's equal opportunities policy.
6. As equal opportunities policies are central to this dispute, and following on from changes arising from the reorganisation of the structures of equal opportunity in the Council, there is an urgent need for the Council to renew its commitment to equal opportunities.
7. An effective mechanism should be set up to implement it.

8. To achieve 5. above, the Policy Committee should require the Equal Opportunities Committee to provide a bi-annual report based on an assessment and evaluation of the implementation of the equal opportunities policy within the Council, and community groups that it helps to fund.
9. It should be a requirement for the Chief Executive to present the bi-annual report to the Policy Committee.

## 2.iv. Review of the City Council's investigations

The complaints were made in the autumn of 1992 by a number of ex-members of the YCA Management Comminee<sup>4</sup>, with an apparent core group of four. The substance of their complaints at this point concentrated on allegations of financial mismanagement. The Directors of Education and F&CS asked their Grant Officers to investigate the allegations. This stage of the investigation was conducted by the two Officers with commendable speed. We received evidence that they worked with the complainants to clarify the complaints. We note that the Internal Review Panel concluded that the two Officers carried out their investigations professionally within their terms of reference, and therefore reject the complainants' subsequent criticisms of their work.

The evidence before us supports the view that the complaints are as much about the struggle for power within the Association as they are about mismanagement. This was made clear to us in evidence given by one of the complainants who in July 1995 withdrew his complaints. The Corporate Managers who received the Smalle and McAuley reports became drawn into a maelstrom of investigations of a small ethnic minority voluntary body. We record four investigations in all by the Council arising from the same complaints:

1. Yvette Smalle, Grant Officer, Education Department, Report dated 5.11.92\*
2. Agnes McAuley, Grant Officer, F&CS, Report dated 16.11.92\*
3. Donovan Modest, Equal Opportunity Unit, & Ray Pringle, Principal Officer, F&CS, Report dated May 19935 (report based on an assessment of the adequacy of the Smalle/McAuley reports and some original investigation of their own)

\* (Separate, but parallel)

4. Internal Audit 'corporate investigation' (the investigative team consisted of S. Taylor & S. Gill). Their report was submitted in April, 1994.

There were also other investigations, conducted by Sheffield Training and Enterprise Council (1992) and, in 1988, by Peter Sacker of the F&CS, about matters not directly connected to the present issues. In all, the YCA would appear to be the most investigated voluntary organisation in the City of Sheffield. The Panel consider this to be grossly unsatisfactory and undesirable.

The reasons for the repeated investigations of the YCA are incompetence and bad organisation within the Council. The complainants appear to have had no difficulty in seeing Corporate Managers and politicians, usually on several occasions, to present the same complaints. The Panel concede that the complainants were persistent and demanding, but it this does not justify the amount of attention which they invariably received from Officers and Councillors.

### **Handling of the initial investigations**

Ms Smalle and Ms McAuley carried out separate but parallel investigations into the first allegations against the incumbent YCA Management Committee. Ms Smalle and Ms McAuley are both experienced in working with voluntary organisations. Ms Smalle in particular had worked in a voluntary organisation prior to her appointment as a Grants Officer, and until she left the Authority she was the Chair of a consortium of Black voluntary bodies in Sheffield.

In carrying out the initial investigations, their concern was to establish whether Council grants had been misappropriated, as alleged by the complainants. Once satisfied that there was no evidence that such misappropriation had taken place, they made a set of recommendations to tackle some of the weaknesses that they found in the YCA administration. In a hybrid complaint of this kind, it is easy to be drawn into matters purely internal to the Association. The two investigators

showed an awareness of this, and skilfully avoided allowing the complaints mechanism to be used to settle internal disputes; they also cautioned the Council against allowing itself to be used to help settle scores within the Association.

The Smalle and McAuley reports were criticised by the complainants, and Mr. Modest and Mr. Pringle were asked to review the reports. In the course of doing so, they carried out some enquiries of their own. At the initial stage of their review, they consulted with Internal Audit, who advised that they should let them see the review before publication. As already indicated above, this offer was not taken up. The reason given by Mr. Modest and Mr. Pringle was that in discussions with Internal Audit during the course of their review, they gained the impression that what Internal Audit wanted was different from their brief. Thus, the opportunity for the Council to use all expertise to put this matter to rest was, regrettably, missed. As for the review, Mr. Modest and Mr. Pringle were also calling for clear guidance on how to carry out their work. Their frustration is conveyed in the following extract from their report:

The difficulties we had in defining our terms of reference and, more importantly, in holding to them, were considerable. The wide-ranging nature of the complaints presented an immediate difficulty. What was of critical importance in this regard was achieving clarity from the beginning as to whether we were expected to carry out a fresh and more wide-ranging investigation. Allied to this was the question of what was legitimate for us to investigate as part of the F&CS community care complaints procedure, and what issues pertaining to an independent voluntary organisation could be deemed as legitimate for the local authority to investigate. We concluded at an early stage that the complainants' request for a total and thorough investigation of the organisation was beyond the scope of this investigation. [On jurisdictional questions] we have indicated those issues that in our judgement are not properly the concern of the authority and which should be referred to the Association's own internal procedures for resolution.

They also noted that the complainants were not likely to be satisfied by a report which did not support their version of events.

The complainants made the following observation:

They (the investigators) put our allegations to the committee, who then denied them. We were then accused of making baseless allegations.

So what are we supposed to do? If we air suspicions we are told they are groundless and are challenged to produce hard evidence. We are not sure what the Council's definition of hard evidence is, but we cannot produce documentary evidence without access to the records [reference to being denied documentation by the committee]. The Council keeps saying, in the reports of its Officers, that it is not its job to carry out a total and thorough investigation. We dispute this .... why should we disclose all our evidence or suspicions if the Council has no intention of properly investigating them, or allowing us to see or comment on the financial documents?

If we keep some of our suspicions to ourselves we are accused by Mr Modest and Mr. Donovan [sic] of being evasive or disunited. This is not true, but at times we have been confused to know how much it is best to say to a Council that is failing to make proper enquiries.

We suspect that whatever allegations we make are swiftly passed within the Council, by the Officers doing the enquiries or by other Officers, to....• [thus enabling the committee] falsify minutes and to shift its ground....

The Modest/Pringle review was also criticised by the complainants as inadequate. Mr. Modest and Mr. Pringle reject this criticism and point out the difficulty they had in carrying out their review. They say that the complainants were either raising new allegations or failing to provide evidence to support existing ones.

While Mr. Modest and Mr. Pringle were conducting their investigation, Internal Audit were meeting with the complainants. Internal Audit maintain that there was only one such meeting, and that they met with the complainants for the purpose of finding out what they had to say. But by their own admission, in their comments on the review, they had more than one meeting with the complainants:

Internal Audit have produced this paper with the intention of assisting the management of F&CS in any future dealings with the complainants. The queries and comments raised are from the perspective of a 'devil's advocate'. This approach has been taken with the benefit of experience of contacts with the complainants, the result of these contacts are some understanding of the likely response of the complainants to the report

According to Mr. Modest and Mr. Pringle:

[W]e were disturbed to learn that the complainants were gaining access to official records pertaining to the Yemeni Community Association and held by other organisations, [and armed with this information] they challenged our findings on a number of points. [When asked to disclose what this information was, they refused to do so, stating that] they would withhold fresh evidence that they had acquired until such time as we had produced our report or when a total and thorough investigation into the Association was carried out by the authority'

Although we accept Internal Audit's responsibility to receive complaints, and where appropriate investigate, in this instance Mr. Modest and Mr. Pringle should have been involved in their meetings with the complainants. It is also a

matter of regret that the complainants were not directed to make available whatever complaints they had to Mr. Modest and Mr. Pringle. The outcome was that suspicion was not dispelled, and confidence in the review which was then in progress was undermined. The complainants may unintentionally have been encouraged to expect further, more comprehensive, investigation. If Internal Audit and Mr. Modest and Mr. Pringle had worked together, it might have been possible to use this review stage to conclude the matter.

A further opportunity to resolve the issue was missed when, at the complainants' request, the Modest/Pringle report was reviewed by the F&CS Internal Review Panel. It is now accepted that the matter should not have been brought before this Panel in the first place, as the complaints were about the management of the YCA and financial impropriety, not about community care application. There was indecision at the F&CS, and responsibility for the delay, the indecision, and the wrong use of the complaints review mechanism under the community care legislation lies with the senior F&CS management.

### **Referral to the Chief Executive**

The Internal Review Panel felt unable to resolve the matter, though it stated that the initial Investigatory work had been done properly, within the prescribed terms of reference. As new allegations were made by the complainants at the review hearing, the Chief Executive was asked to consider conducting a 'corporate investigation'. It was at this stage that Internal Audit were formally asked to do the investigation, although they admitted that they had been keeping what they called a 'watching brief on the YCA situation. Both the Chief Executive and Internal Audit saw this as an opportunity to lay to rest some of the allegations which they believed had not been satisfactorily dealt with. While this reasoning was understandable, the Chief Executive could have taken into consideration other factors:

- the likely impact of a further investigation

- the fact that the Internal Review Panel had been satisfied with the junior Officers' work
- the need to restrict the new investigation to matters not previously investigated
- the need to recognise the sensitive relationship between the Council and a voluntary body.

On the whole, the desire to investigate predominated over other considerations, and thereby contributed to the worsening of relations with **YCA**.

#### Internal Audit's handling of the complaints

In their paper to the F&CS management on the Modest/Pringle review, Internal Audit made clear their opinion that the review was inadequate. Internal Audit's own handling of the complaints has also been criticised, mainly by the incumbent YCA Management Committee. On the other hand, the report was partially accepted by the complainants, who saw it as vindicating their position, though they believe it did not go far enough. The complainants also expressed disappointment that the Council had not acted on the Chief Executive's 'Open Letter' of 19th May, 1994.

In our view, Internal Audit's investigation of the YCA followed the professional guidelines in conducting investigations of this kind, and was very detailed. The YCA management were given an opportunity to respond to the allegations, and they co-operated with Internal Audit as they did with the previous investigations. There were matters on which there was disagreement, for example the fact that the committee did not produce some papers relating to an insurance claim. Internal Audit held the view that the insurance claim was fraudulent, an allegation which YCA denied, maintaining that it was a matter between the committee and the insurance company and not the Council. They also maintained that the relevant papers were in the possession of their Secretary, who had joined the complainants, and therefore they were not able to produce them.

In general, Internal Audit found the YCA management had misled previous investigators on certain matters: forged signatures on bank mandates; fraudulent insurance claims; operations of bank accounts not disclosed to the Council; and inaccurate statements made by members of the management committee.

For these and other reasons, Internal Audit decided that the conclusions from previous investigations were not soundly based. However, we doubt whether this was appropriate. We conclude that the amount of time, effort and expense on this matter was far in excess of what is defensible. Furthermore, members of the YCA management committee were treated as if they had already been found guilty of wrongdoing; they were therefore entitled to feel that the investigation had not been conducted with an open mind. On the non-disclosure of the operation of bank accounts to the Council, Internal Audit felt that had a complete picture of the Association's financial position been available, the Council's funding decision may have been different. The Panel were informed by the committee that many of the bank accounts alleged not to have been disclosed were in fact dormant.

The Panel note that in spite of Internal Audit's detailed investigation, the Chief Executive felt unable to lay the matter to rest. We also note that the complainants are still unsatisfied. The whole exercise has been long, complex and confusing. Both the complainants and the YCA, who looked to the Council to help resolve this dispute, have reasons to feel let down. This is not due to lack of effort on the Council's part, but lack of clear guidance for investigating hybrid complaints.

In conclusion, we are of the view that Internal Audit's investigation went wrong for the following reasons:

- The idea of a 'corporate investigation' should have been more carefully thought out, bearing in mind that investigations had already been conducted by the Council. Care should be exercised to ensure that a 'corporate investigation' does not compromise the autonomy of a voluntary body.
- The Internal Audit report should have been confined to new rather than allegations already looked into by previous investigators. The Panel believe it is damaging to repeat the same investigation because previous ones were deemed to be inadequate when no obstacle was put in the way of the investigators. It is the Council's duty to do a good investigation promptly and expeditiously.
- The failure to draw a boundary between matters relating to its funding and those outside of its domain was a serious flaw. It is right for the Council to satisfy itself that the voluntary body it is dealing with is well-administered to receive public funds. However, this does not mean that such a voluntary body should be treated as if it were a Department of the Council.
- As regards the equal opportunity implication of the investigation, in the Panel's view Internal Audit were more preoccupied with carrying out their investigation and less likely to see the relevance of equal opportunities to the whole process. While Internal Audit have a statutory duty to ensure that public monies are well-spent, they should also endeavour as a Council Department to ensure that trust is not damaged in the process.
- The lack of clear guidance on the standard of proof required is a matter of concern to the Panel. The Chief Executive's Open Letter indicated that some allegations could not be proved one way or the other. This is unsatisfactory. The standard practice at common law of giving the benefit of the doubt should be respected.

- While the kind of book-keeping required by Internal Audit makes sense in terms of sound administration, it is important not to lose sight of reliance on volunteers by small voluntary organisations.
- We list a number of instances where Internal Audit drew conclusions against the incumbent YCA management which the Panel consider to be doubtful:
  - i A cheque for £1,667 sent to a personal address by a Council official, enabling that individual to fraudulently cash the cheque. (The bank, which should have been more vigilant to prevent such a fraud, clearly bears some responsibility also.)
  - ii The YCA Management Committee being held responsible for the decision by the YCA Women's Group to pay for the use of the Vestry Hall for the wedding of a relative of a member of the YCA Management Committee. Internal Audit failed to appreciate that the Women's Group operate autonomously, and that the Management Committee were not privy to the decision.
  - iii the investigation of a matter which was for the Insurance Company and the Police to deal with.
  - iv Presentation of the payment of travel expenses as having been contrived, whereas it is also possible to see the decision less censoriously.
- The failure to place the complaints in the context of the Association's other ongoing activities.

- The failure to involve Mr. Modest and Mr. Pringle in the meeting with the complainants while their review was in progress, with the unfortunate effect of undermining the credibility of their review.
- The failure to clarify the real position concerning the alleged bank mandates. We are not suggesting any attempt on Internal Audit's part to misled, but that a better clarification of the position was required.

The bank mandate<sup>6</sup> (authorisation to sign the Association's cheques) was not forged, as the two people who said that their signatures were forged were never authorised to sign the Association's cheques. We were able to establish that no change of mandate had taken place since the original was deposited with the Bank. It is standard practice to confirm the signatures of those entitled to sign an Association's cheques. It is this confirmation that appears to have been forged. The Panel note Internal Audit's concern and accept that greater transparency was called for.

## **Recommendations**

1. Where the complaint is hybrid, a decision must be made at the first possible opportunity on whether or not to confine the investigation to matters that concern the Council. The investigation, where appropriate, should be a team effort, using all the available expertise, to secure a speedy and satisfactory conclusion.
2. Internal Audit should consult with the City Solicitor to agree on a set of procedures for conducting the investigation of voluntary organisations. The procedures must necessarily balance the ability of Internal Audit to discharge its statutory duties and the ability of voluntary organisations to function autonomously.

3. Any investigation of a voluntary organisation is bound to have a negative effect. However, investigators should take care that the investigation does not of itself damage the capacity of such bodies to carry out their functions effectively, and that good relations between them and the Council are maintained.