

## PUBLICEYE

# Government must work with us, not against us

**Our instinct** 

is to engage

constructively.

government to

But that demands

a willingness from



The crisis in the public sector is being made even worse by the government's failure to engage with or consult Prospect, says **Garry Graham**, the union's new lead for the civil service

TO COIN an old (ironic) Chinese phrase, these are "interesting times" to be taking over responsibility for Prospect members in the civil service. After spending almost two decades dealing with civil service matters, during the past nine years my work has focused mainly on the private sector.

As I return to the civil service, I am struck by how much has changed – in particular the impact of spending cuts since 2010. The civil service is at its smallest since 1939. These shocking figures, revealed in September, garnered little media coverage and even less analysis in terms of the impact on delivering public service policy.

The rhetoric about "the need to fix public finances" – with the public sector portrayed as a homogeneous mass and a drag on economic growth – is ideologically driven rather than evidence-based.

The facts are that the work of our members helps protect, support and enhance what is dear about our way of life – making the UK a safer and better place to live.

But these ideological attacks are set to continue, with further cuts of between 25-40% predicted in non-protected areas across departments and agencies ahead of the Spending Review.

Civil service pay and reward policy is another area of contention. Ministers often hold up private sector employers as paragons

of virtue. No private sector employer I have dealt with would see freezing pay for several years and then capping pay increases at 1% till 2020 as the route to corporate success. Pay in the private sector, particularly for the type of committed professionals Prospect represents, is increasingly buoyant.

The government's policy is unsustainable. It is leading to problems with recruitment and retention and structural problems relating to equal pay. The essential skills needed to form and deliver evidence-based policy are being hollowed out.

Then there's performance management. I am a fan of good performance management. When staff do a good job they should be told and when they need to improve they should be supported and assisted. But forced or "guided" distribution – which has come into and out of fashion in the US – destroys team working and corrodes trust. When I started negotiating performance management systems in the civil service, it was a mantra that staff should have confidence in the system. In many areas that's been turned on its head, allegedly in favour of "supporting managers to make tough decisions". But



there's a big difference between that, and forcing them to make unfair and arbitrary ones.

On 11 November Prospect will bring together reps and practitioners for a seminar focusing on what good performance management should look like and discussing next steps in the campaign for change.

Finally on engagement, I have worked in the civil service under previous Conservative governments and this feels very different.

Witness the end of paying union subs by check off, caps on facility time for representatives and a lack of engagement from the centre. Members also face the severance cap and other potential changes.

The government cites the private sector as inspiration but most private sector employers want good quality engagement with knowledgeable representatives who speak for the workforce. That may not always lead to agreement but generally achieves better organisational outcomes.

Of course we recognise the challenges and budgetary pressures. But we also know that all parties, including the public, benefit when ministers encourage and value dialogue with union representatives. The different paths taken in Scotland and Wales as a result of devolution show there are better ways of doing things in the public sector.

I want to listen, learn and lead, and I look forward to working with your sector executive committee and branches.

engage with us

Next month we are launching "Your World Our Work"

- a campaign to tell the public and politicians what our members do
od across the civil service and wider public sector (story, page 8).

The challenges ahead make it more important than ever to be a Prospect member. It is in our union's DNA not to align to any political party and to engage with politicians from across the political spectrum. Our instinct is to engage constructively rather than seek confrontation. But that demands a willingness from the current government to engage with us.

■ Deputy general secretary Garry Graham is Prospect's new lead for members in the civil service after Leslie Manasseh retired in October.

# Disadvantage caused by performance management is getting worse



DISABLED AND black and minority-ethnic staff in the Ministry of Defence continue to be disadvantaged by performance management – and the position got worse, not better, in 2014-15.

This was despite extensive work on the policies at departmental level, says

Prospect. The union's analysis of MoD's performance management outturn statistics for 2014-15 also revealed:

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but

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- some line managers have a poor understanding of the PM process and are failing to take advice, resulting in disadvantage to staff who have taken long-term sick or maternity leave
- both younger and older staff are disadvantaged for younger people, performance is being confused with experience, while staff over 60 are being penalised because of their experience.

Prospect wrote to the department in October

with a range of ideas to improve the process (see right). Negotiator Steph Marston said: "Given that the Cabinet Office is unlikely to shift its position on relative assessment and forced distributions, Prospect is keen to work with

MoD's performance management team to identify ways to improve future practice.

"We have highlighted the fact that top-level budget holder organisations have been slow to take the new policies on board and commit to applying them fairly and robustly.

"These organisations should be engaging with the unions

on performance management to spread good practice and fair treatment."

She urged reps to press for timely and meaningful consultation in the current appraisal year, so that any issues can be addressed before the year-end outcomes.



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#### PROSPECT CALLS FOR CHANGES FROM MOD

PROSPECT has sent three proposals to MOD for improving members' experiences of the process, both as job holders and managers.

#### In-year interventions

Proactive in-year interventions for line managers and job holders would offer the opportunity to correct errors in performance markings and help individuals improve.

Mid-cycle moderation panels have helped other organisations within the civil service to identify potential problems, such as incorrect assessments or misunderstandings about how to operate the policy, before they impact on year-end outcomes.

#### Improve moderation process

The moderation process works to benchmarks for the overall distribution of performance markings – but not for groups of staff with protected characteristics, according to feedback from Prospect reps.

Prospect continues to oppose forced or guided distribution in performance markings. But if such distribution is used, those involved in implementing it must apply it across significant sub-populations such as staff with protected characteristics.

#### More transparent appeal options

Under the present policy, job holders are only able to challenge performance markings changed during moderation via the grievance process. This may act as a barrier to challenging unfair changes to markings and reinforce poor decisions during moderation.

Perceptions that even a wellsubstantiated grievance cannot change the outcome of moderation undermines confidence.

It also increases distrust among staff of a process largely perceived as arbitrary and unaccountable.

Prospect is calling for more transparent and accountable channels for members to contest moderation decisions.

# Prospect • PublicEye — November 2015

### Scheme to boost state pension

THE GOVERNMENT launched a scheme in October to help people who are already over state pension age, or who will reach it by 6 April 2016, to increase their pension payments in retirement by up to £25 a week.

The scheme will:

- help some people who will not qualify for the single-tier pension and may have lost out because of the structure of the legacy additional state pension system
- give people with small amounts of pension savings a secure way of achieving an inflation-proofed income.

It is only open to:

- men born before 6 April 1951 and
- women born before 6 April 1953.

They will be able to top up their additional state pension with a new class of voluntary national insurance contributions, to be known as Class 3A. But the option will be only be available from 12 October 2015 to 5 April 2017.

Individuals can find out how much they need to contribute to top up their additional state pension from **www.gov.uk/state-pension-topup** 

Prospect pensions officer Neil Walsh said: "The terms for purchasing the additional state pension are very attractive in many cases.

"If you have any members in your workplace eligible to participate in this scheme, please tell them about our briefing on the change."

■ See Prospect briefing: https://library.prospect. org.uk//download/2015/00664



## Scottish government seeks fair work practices from contractors

PROSPECT HAS welcomed statutory guidance from the Scottish government on addressing fair work practices, including the living wage, in selecting tenderers and awarding contracts.

The guidance for public bodies covers fair and equal pay, human rights, equalities, working hours, International Labour Organisation conventions and trade union recognition and representation (where possible).

It makes clear that the Scottish government considers payment of the living wage to be a significant indicator of an employer's commitment to fair work practices and one of the clearest ways that an employer can demonstrate that it takes a positive approach to its workforce.

However, failure to pay the living wage would not mean



Edinburgh protesters seek a fairer way at work

that the employer's approach automatically fails to meet fair work standards.

The guidance says: "A contracting authority must consider, before undertaking a procurement exercise, whether it is relevant and

proportionate to include a question on fair work practices, which would be evaluated along with other relevant criteria, while ensuring the appropriate balance between quality and cost of the contract."

### **Equitable Life** compensation

THE government compensation scheme for Equitable Life with-profits policyholders – who lost money due to maladministration in the regulation of the business – will close to new claimants on 31 December 2015.

If you think you might be affected by this, please ring the scheme on 0300 0200 150. You will need to your policy number to hand.

The closure does not affect rights to future payments for those already registered with the Equitable Life Payments Scheme.

■ You can find more information at https://www.gov.uk/guidance/equitable-life-payment-scheme

#### **GOVERNMENT TARGETS TERMINATION TAX PAYMENTS**

A government claiming to be on the side of working people should also be on the side of those unfortunate enough to lose their job through no fault of their own, Prospect has told HMRC and the Treasury.

The union was responding to a consultation on simplifying the tax and national insurance treatment of termination payments.

Prospect said it could "see no rationale for any adjustments to the rules around termination payments that would leave workers worse off, or for government intervention that may cause a deterioration in industrial relations".

The union said further consultation on the detail of the government's position was vital, along with an impact assessment.

"Government reforms which will increase revenue to the Treasury under the guise of simplification will be unacceptable to Prospect members," the submission concluded.

- You can download the submission from https://library.prospect.org.uk// download/2015/01285
- The government's consultation is at bit.ly/termination\_payments

# Members urged to lobby MPs on exit cap proposals

THE GOVERNMENT is proceeding with plans to legislate for a cap on exit payments to public sector workers – despite strong arguments raised by Prospect, individual members and other unions when the plans were out for consultation.

With the legislative process already under way, only strong lobbying of MPs is likely to result in any improvements to the proposals.

Ahead of any legislation, the minister for the Cabinet Office is already reviewing exit payments over £95,000 and deciding on a case by case basis whether they can proceed.

The proposal is to cap exit payments at a maximum of £95,000. This will include redundancy payments, payments in lieu of notice and the cost of providing an unreduced pension if made redundant over minimum pension age.

In the curtailed consultation period during August, Prospect argued that:

• Changes to redundancy terms should be negotiated and agreed rather than imposed through legislation.



Neil Walsh:
'Including the cost
of paying unreduced
pensions... means
that people earning
under £28,000 will be
caught'

- In the civil service in particular, the proposals ripped up an agreement made with the previous Conservative minister for the Cabinet Office.
- The proposal affects far more than just the "best paid" public sector workers and therefore goes beyond the government's mandate.
- The government has not made a case to show that the proposals were value for money for taxpayers or reflected terms available in the private sector.
- The consultation process was inadequate.

The consultation generated more than 4,000 responses, yet the government responded on 17 September – just three weeks after the consultation closed. None of the main arguments put forward by Prospect were taken on board and no significant changes were made to the proposal.

#### **Enterprise bill**

Part 8 of the Enterprise bill 2015-16 is intended to give the statutory basis for the government's proposed cap on exit payments. Any cap would be brought into effect by secondary legislation after the bill receives Royal Assent.

The bill was introduced to the House of Lords on 16 September and had its second reading on 12 October.

In the debate on second reading, Baroness Donaghy (Labour) said: "I am concerned about the proposal to cap public sector exit payments. I have a fair amount of

experience in this area and know that the measure will have unintended consequences which make reorganisation more difficult.

"It will mean less flexibility for redundancies and less certainty for staff – particularly those over 50 – and, in the end, might cost the taxpayer more money not less."

Lord Stoneham (Liberal Democrat) said: "I find it strange that we have a public sector employment clause restricting exit payments in a bill on a matter of enterprise.

"I am not sure why it is here. We on this side of the House accept that it is appropriate and reasonable that leaving payments should be limited, appropriate and not excessive.

"There are, of course, examples where they have been excessive but I fear that the government are responding to *Daily Mail* headlines, and it is populism that results in poor government."

The Conservative government does not have a majority in the Lords and it is therefore possible to inflict defeats on its legislative programme there.

However under the Salisbury Convention, the Lords will not generally oppose a measure that was contained in the general election manifesto of the governing party. As a result, it is almost certain that a cap of some form will be legislated for.

However, it is possible to amend the proposal in ways that would benefit members while being consistent with the manifesto pledge.

#### Write to your MP

Prospect is seeking amendments to the bill and consequent secondary legislation. Among other things it wants to see the cost of providing an unreduced pension for those made redundant over pension age removed from calculation of the cap.

Neil Walsh, Prospect's pensions officer, said: "The Conservative party manifesto pledged to restrict exit payments to the 'best paid' public sector workers.

"Including the cost of paying unreduced pensions in the cap means that people earning under £28,000 will be caught by the measure.

"Removing this element from the calculation would be fairer to members, would have a beneficial impact on managing workforce changes and would be more consistent with the mandate the government was given.

"We urge members to support Prospect's lobbying work by writing to their MP about this issue."

He added: "We need to review the criteria the minister is adopting in assessing these cases and examine the data on how many are being rejected. If there is any evidence that a cap has been inappropriately applied through the back door we will seek legal advice."

#### Links

- https://library.prospect.org.uk//download/2015/01060
- Lobby or write to your MP http://bit.ly/lobbying\_
  resources
- Enterprise bill: http://services.parliament.uk/ bills/2015-16/enterprise.html





#### CSEP guidance omits need to consult unions

CIVIL Service Employee Policy has missed two key elements in its guidance to employers on voluntary exit schemes, says Prospect.

It has produced guidance for managers on selection methods and criteria for exits, and frequently asked questions on redeployment, redundancy and voluntary exits.

- But it fails to mention:
- the need to consult trade unions about identifying pools for redundancy and the processes that flow from that
- employers' responsibility to undertake equality assessments throughout the process.
   CSEP also failed to consult the unions before issuing the guidance.

# CONCERNS FROM SCOTLAND OVER POLICY

SCOTLAND'S deputy first minister has outlined his government's opposition to proposals to cap public sector redundancy payments.

In a letter to business secretary Sajid Javid, John Swinney MSP expressed concerns that a cap set at £95,000 would not only apply to high earners but potentially across the salary spectrum.

He said the Scottish government's existing approach to public sector pay was "fair, affordable, sustainable and delivers value for money".

Many public sector exits delivered best value on a spendto-save basis and all cases were scrutinised rigorously on value for money grounds.

A range of existing arrangements supported the governance of exit schemes across a diverse range of public bodies, he said, while acknowledging there may still be a need to explore cases on an individual basis to determine their merits.

"I have a concern that a cap set at £95,000 would not only apply to high earners but potentially across the salary spectrum," Swinney wrote.

"Also, in many cases, severance arrangements form part of negotiated terms and conditions of employment and, as such, there should be the opportunity for full and proper consultation with recognised trade unions (or other staff representative groups) and employers.

"I understand that it is proposed that the £95,000 cap will be on the face of the bill, but that Scottish ministers would have the power to vary the cap upwards or downwards."

He stressed that Scottish ministers would "want to ensure they have full flexibility over the powers to set the level of any cap from the outset as well as to vary it. This would be more consistent with the devolution of responsibilities for public sector pay."

■ Download the letter from bit.ly/swinney lett

### Tate Gallery staff break pay shackles

THE TATE Gallery in London has broken through the government's 1% pay cap in an agreement negotiated with Prospect and other unions for 2015.

The offer builds on a new pay structure and pay principles agreed in 2014. The impact on individuals will depend on their circumstances.

Tate secured greater freedoms from the Treasury to set its pay for 2014 negotiations because of the gallery's success in generating its own income and reduced reliance on core government funding.

The 2015 negotiations focused on priorities highlighted in 2014 – to review entry points, target rates and ceilings, and enable staff below the target rate to progress to it.

The offer includes:

- An overall increase of 3% on the paybill. The increases are not applied uniformly and range between 11.7%-1.5% non-consolidated (ie as a lump sum) for eligible staff. Staff at lower ends of the pay ranges will generally receive higher increases; those at the higher ends, or in Bands 1 and 2, are likely to receive lower increases.
- Most entry points, steps, target rates and ceilings are increased by 1.5% or more.
- Everyone will reach the appropriate point on their pay scale up to the target rate, based on length of service.
- The increases apply to staff in post on 1 October 2014. Those who joined after that date will move to the level

of the revised entry point.

- A minimum increase of 1.5% consolidated (ie added to basic pay) for staff not above the ceiling.
- The amount to be shared for increasing salaries in Bands 1 and 2 is 2%, with a minimum increase of 1.5%. Increases will seek to address inconsistencies in internal pay or where pay is significantly below the market rate.
- Staff in Bands 3-6 below the ceiling will receive at least 1.5% consolidated. Most will get more by moving up to the appropriate step on their band, based on their length of service.
- It was not possible to address progression between the target rate and the ceiling this year. This will be discussed in future.
- Overtime rates remain unchanged, but an additional 7.69% will be paid on any sum payable as overtime, short hours or payment for bank holidays.

The new pay structure has had a positive impact on reducing pay gaps. A further equal pay audit will be held in 2016

Eligibility for progression through the steps to the target rate is currently subject to satisfactory performance. From 1 April 2016, it will also take into account disciplinary warnings issued over the previous year.

The unions are unhappy with this but will argue at the time a warning is given that progression should not be withheld.



#### CIVIL SERVICE ANNUAL MEDIAN EARNINGS CHANGES (%) BY RESPONSIBILITY LEVEL

	SENIOR	GRADES 6/7	SEN/HIGHER	EXECUTIVE	ADMIN/	TOTAL
	CIVIL SERVICE		<b>EXEC OFFICER</b>	OFFICER	ASSISTANT	
2010	1.54	2.47	1.00	2.93	2.24	3.39
2011	0.03	2.29	1.95	0.00	2.64	3.98
2012	-1.23	-0.07	0.61	0.00	2.52	0.59
2013	-0.72	0.69	0.00	1.03	1.02	2.01
2014	4.18	0.58	0.97	1.02	1.01	1.44
2015	1.10	-0.11	0.03	1.01	1.05	1.01

Source: ONS, Civil service statistics 2015



# Big Lottery Fund unions win better holiday deal

PROSPECT AND Unite have negotiated an agreement with the Big Lottery Fund on holiday pay, overtime and on-call payments.

It follows two successful tribunal cases that ruled:

- employees whose pay is commission-based are entitled to holiday pay that includes their commission (Lock v British Gas)
- employers must include overtime when calculating a worker's holiday pay.

Previously under UK law, holiday pay was calculated on an employee's basic salary, meaning those who regularly worked overtime lost out.

In the second case, the employment appeal tribunal said that, in future, employers must base

their holiday pay calculations on workers' normal hours, including overtime.

The key principle is that workers should be no worse off when exercising their right to take leave.

However, the ruling restricted the opportunity to claim backpay and limited the amount employees can claim back if it was within three months of their last day of holiday.

Unions at the Big Lottery Fund have negotiated an agreement that improves on the tribunal rulings:

- current, eligible staff will receive any backpay due from 1 April 2014
- on holiday pay/overtime/on call payments, the human resources team will adjust individuals' pay for the first 20 days' leave each year.

As part of the agreement, unions agreed not to provide legal support for members wanting to make a claim for underpayment of holiday pay due before or at the point the agreement was signed.

Individual members will still be able to pursue a claim in the employment tribunal or any other jurisdiction – but without union support.

The agreement does not preclude employees from claiming backpay in the future if a court or tribunal in the future finds that employees covered by the agreement are entitled to backpay.

In these cases, the unions will be able to offer legal assistance if the employer fails to make the payment specified in the ruling.

### Poll of 82% rejects offer from Insolvency Service

MEMBERS IN the Insolvency Service have rejected their 2014 pay offer and the buy-out of contractual progression.

With 82% of members voting in the ballot, 71% rejected the offer and 29% accepted it.

Prospect has now submitted a claim to the employment tribunal on behalf of members who did not receive increments due on 1 August 2014.

The Insolvency Service is considering several options but says approval will be needed from the Treasury and Department for Business before talks with unions begin.

Prospect believes the options could include:

- paying progression due on 1 August 2014
- writing to individuals seeking agreement for a change to their contract
- re-opening negotiations on a two-year proposal
- surveying staff to inform the process and preferences.

#### CHATHAM HOUSE STAFF ACCEPT 2% RISE

MEMBERS at the Chatham House thinktank have accepted a 2% cost-of-living increase for 2015, payable from

The employer's pay offer is normally influenced by the July RPI figure, which was 1%. Prospect argued that the 2015 increase should be higher than inflation because:

- cost-of-living increases in recent years have fallen short of the same year's July RPI figure
- the cost of living in London continues to soar, with high rents, increased travel fares and higher prices generally
- the increase in staff turnover, particularly in 2014, and the associated recruitment and training costs.

Chatham House's executive and finance committee accepted the arguments on the cost of living in London and that pay could be a factor in the increase in staff turnover.

It also wanted to recognise staff's hard work and contribution to Chatham House's continuing success.

#### PROSPECT CONDEMNS PAYMENTS AGENCY DEAL

PROSPECT has noted, but rejected, the Rural Payments Agency's 2015 pay deal, effective from 1 July.

The offer includes:

- basic pay awards of 1% for Box 1 and Box 2 performers, 0.5% for Box 3 performers
- moving from a stepped pay progression system to open pay ranges
- a new pay progression mechanism
   those below the midpoint of their
   pay range receive a fully consolidated

basic award, those between midpoint and maxima receive a 50% consolidated award

- increases to AO, Grade 7 and Grade 6 minima
- non-consolidated increases on the maxima: 1% for Box 1 or 2; 0.5% for Box 3
- non-consolidated performance pay awards for Box 1 performers: £1,500 (AO-HEO); £1,750 (SEO) and £2,000 (Grades 6-7)
- facility to introduce unspecified temporary emergency demand payments
- increases for ex-Rural Development Team staff in line with the 2015 core Department for Environment, Food and Rural Affairs pay offer.

Prospect negotiator Rose Willis said: "Offers with a maximum value of 1% on the paybill are unrealistic, unfair and we cannot recommend that members accept them."

#### Switch to direct debit to protect your rights

THE government's Trade Union bill aims to tie up unions in red tape and make it harder to look after members.

One way is by abolishing checkoff in the public sector and other bodies that receive public funding.

Prospect is urging all members who pay their union subscriptions by check-off - where they are



deducted from your salary by your employer - to switch now to direct debit

That way your relationship with Prospect will remain independent of employer or government interference. Don't wait until it's too late!

You can:

- **■** switch online
- at www.prospect.org.uk/dd
- phone our membership team on 01932 577 007
- download our direct debit leaflet from https://library.prospect.org. uk//download/2015/01301 and email it to: membership@prospect. org.uk or post it to FREEPOST PROSPECT MEMBERSHIP
- See our animated video at https://vimeo.com/140823215

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### Your world, our work - making the case for public services

PROSPECT HAS identified three campaign priorities for the next two years - public services, employment rights and the debate over EU membership.

The union's national executive committee endorsed the themes in October.

The public services campaign - Your world, our work – will highlight the important work of Prospect members and why these services need

The government's spending review on 25 November will announce the next round of austerity cuts.

Prospect fears that many services in "unprotected" departments will struggle to survive

Deputy general secretary Sue Ferns said: "Many of the services our members provide are highly-valued and popular and our campaign aims to show why their work is in the public interest.

"We want to highlight the real stories that lie behind the cold numbers in Osborne's spending review."

To get off to a good start, we need your help to find case studies showing:

- how your work serves the public interest
- one or two examples of how people benefit from these services - locally, nationally or internationally
- what would happen if this service was no longer delivered by the public sector.

The case studies can be short notes on your organisation's achievements or individual

#### PROSPECT'S ONGOING **CAMPAIGNS**

- challenging the proposed £95,000 cap on redundancy pay
- training and resources on performance management
- helping members challenge appraisal markings that are not fair or reasonable
- training and briefings on pay-related issues
- pressing for an independent review of specialist pay
- challenging the Treasury to adopt a more flexible approach to pay policy and extending the pay pilots
- using parliamentary select committees to highlight the impact of pay restraint
- working with employers to find additional ways to fund specialists' pay
- campaigning with the TUC and other unions to challenge the government's public sector pay policy.

stories showing the public value of your members' work. They will be used as part of a social media campaign #yourworldourwork.

Prospect plans to:

- run a campaigns and communications training session for reps in the New Year
- produce a branch campaign toolkit by May 2016
- organise a seminar to engage key external stakeholders.



#### TELL US YOUR STORY FOR A CHANCE TO WIN £500

PROSPECT has launched a 600word story competition with the theme "My work in the public interest".

Whether it is to protect our rivers and seas, inspect workplaces, ensure vehicles are roadworthy (above), restore energy supplies or to look after our security, Prospect members work in all our interests.

Your piece should:

- describe your work
- explain why it is in the public interest
- highlight the consequences if the work didn't get done.

The competition is open to all members and the closing date is Friday 6 November.

Please send your entries via email to competitions@ prospect.org.uk or by post to Marie McGrath, Prospect, New

Prospect House, 8 Leake Street, London SE1 7NN.

Prospect's presidential team will judge the entries.

Results will be announced in the next issue of *Profile* (due out 9 December).

You can read the competition terms and conditions at: bit.ly/story\_comp\_rules



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