
STANDARDS OF CONDUCT IN ENGLISH LOCAL GOVERNMENT: THE FUTURE

1 SUMMARY

- 1.1 This report advises Members of the government's response to consultation on the future of the conduct regime for local government in England in respect of Members and officers, and on the political restrictions regime.

2 INTRODUCTION

- 2.1 The Office of the Deputy Prime Minister (ODPM) has published the government's current views on the future of the conduct regime for local government in England. A copy of the full document has been placed in the Members' library and is also available from the ODPM website. The paper "sets out the Government's thinking on the general direction of travel for the development of the conduct regime for local government" and welcomes any comments.
- 2.2 In particular the paper provides a coordinated response to a series of recent recommendations, reviews and consultations relevant to conduct issues in local government. It is based on the need to maintain existing high standards of conduct for local authority members and employees, to define effectively what standards of conduct are expected for Members and officers, and for such rules to be fair and clear; for an effective means of taking action when breaches of the rules occur and to ensure measures are in place to guarantee public confidence in the appropriateness of the ethical regime.
- 2.3 The government's vision is for the different elements of the conduct regime to be integrated and work effectively together. It is believed that local ownership can best be achieved by a move to a more locally based decision-making process, with equity and independence being ensured by the retention of a central, strategic and investigatory role for the Standards Board for England and improvements to the operation and effectiveness of Standards Committees by simplifying and clarifying the code of conduct for Members and making more systematic the conduct regime relating to local authority employees and by the introduction of a code of conduct for employees.
- 2.4 The ODPM has also re-issued a circular letter from the Independent Adjudicator on issues concerning political restrictions on certain officers. These are reported in paragraph 3.5.

3 DISCUSSION AND SUGGESTED COMMENT

- 3.1 The ODPM discussion paper provides a response to the tenth report of the Committee on Standards in Public Life, the recommendations from the ODPM Select Committee's report on 'The Role and Effectiveness of the Standards Board for England' and recommendations by the Standards Board for England following their consultation on 'the Code of Conduct for Members'.

The document also provides a response to the two consultations conducted in 2004 on the 'review of regulatory framework governing the political activities of local government employees' and a 'model code of conduct for local government employees'. Each of these papers has been considered by this committee at various meetings over the last two years.

3.2 The following bullet points represent the main points arising from the discussion paper with officer comments in italics.

3.3 Relating to Members:-

- that the initial assessment of all misconduct allegations is to be undertaken by Standards Committees, rather than the Standards Board;
- *The Council welcomes and agrees with the proposal that Standards Committees should make the initial assessment of misconduct allegations, rather than the Standards Board;*
- that local Standards Committees be responsible for investigating and determining most cases;
- *The Council agrees that local Standards Committees should be responsible for investigating and determining most cases.*
- that the Standards Board should adopt a more strategic, advisory and monitoring role but retain responsibility for investigating the most serious misconduct allegations;
- *The Council agrees that the Standards Board should adopt a more strategic, advisory and monitoring role while retaining the responsibility for investigation of the most serious cases. However, how the seriousness of a case is decided needs to be clarified. Also, advancement beyond the Standards Committee should rely on either an appeal mechanism or a power for local Standards Committees to refer cases up to the Standards Board.*
- that there be improvements to the operation and composition of local Standards Committees, with independent chairmen and committees to include independent members with a balance of experience;
- *Noted*

- that a clearer, simpler code of conduct be introduced including changes to the rules relating to personal and prejudicial interests;
- *Some aspects of the present Code are unduly onerous. Clarification and simplification is to be welcome.*

3.4 Relating to officers:

- that a code of conduct for local government employees be issued;
- *Noted*
- that the current principle that senior and sensitive posts should be politically restricted should be retained, but to ensure that only the most senior and sensitive posts are covered;
- *Agreed. The extent to which officers give regular advice to Members should be the determining factor in defining the restriction rather than salary threshold.*
- that the post of the Independent Adjudicator should be discontinued and that authorities' Standards Committees should make decisions on posts exempt from restrictions;
- *Agreed*
- that the current rate of pay for political assistants should be raised by statutory instrument and to provide for future increases to be permanently linked to local government pay scales;
- *Agreed.*

3.5 Circular letter from the Independent Adjudicator on politically restricted posts:-

- to clarify the role of the Independent Adjudicator and to reiterate that their role is to determine applications for exemption from political restriction from employees in politically restricted posts;
- *Noted*
- to explain that the ultimate test for political restriction is the nature of the post's duties rather than the test of a salary threshold;
- *Agreed*

- to explain that the test of giving advice to members must be one where advice is given to the full council or one of the authority's constituent bodies, such as a formal committee;
- *Noted*
- to make clear that the test of giving of advice needs to be a regular rather than an occasional activity and to take note of the type of advice, including whether this entailed speaking to a report and giving recommendation;
- *Noted*
- to set out that the Independent Adjudicator will not make determinations on those making applications for posts but will make determinations for those currently employed or who are in receipt of a job offer;
- *Noted*
- to state that exemption is not transferable and that post holders should apply again for exemption if they transfer to another authority or another post;
- *Noted*

4 RESOURCE IMPLICATIONS

- 4.1 It is likely that the proposals for local investigation and determination of all but the most serious breaches of the Code will impact on officer time and require more frequent meetings of the Standards Committee. This issue should be kept under review by this Committee.

5 LEGAL IMPLICATIONS

- 5.1 In considering allegations of breach of the Code, the Standards Committee will act in a quasi-judicial capacity.

6 PARISH IMPLICATIONS

- 6.1 The proposed changes to the Code of Conduct for Members and operation of the Standards Board for England will affect all Parish Councils.

7 RECOMMENDATION

- 7.1 It is proposed that the Committee **RESOLVES** to agree the comments made in this report subject to Members' views arising out of the meeting.

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Background Papers:-

None

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