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Your ref:

Dear Mr. Tandoh

“Standards of Conduct in English Local Government : The Future”

I write to let you have this Council's comments on the discussion/consultation paper “Standards of Committee in English Local Government : The Future” that was issued by the Office of the Deputy Prime Minister (ODPM) in December 2005. The views have been formulated for the Council by its Standards Committee.

The discussion paper contains the Government's response to three consultation papers, each of which the Council has already commented upon. I have grouped our comments accordingly.

Members' Code of Conduct - Review

The Government's response to the Standards Board for England's (SBE) review of the Code has been made without delay. The City Council urges the Government, similarly without delay, to make Parliamentary time available to introduce Primary and Secondary legislation to implement the measures contained in the discussion paper. This Council would not want to see an inordinate delay before Parliamentary action is taken.

When it commented upon the SBE's consultation, the City Council made three general comments. Two of these appear to have been addressed. The third may not have been addressed. I repeat it here:-

"The ethical framework that the Members' Code of Conduct represents appears disproportionate in the way it bears upon local government as compared with the ethical frameworks within which other parts of the public sector operate. The standard of conduct of councillors is not so unethical in the City Council's view as to warrant a disproportionate approach".

We have two comments of detail upon the discussion paper. First, the Council notes that the discussion paper places considerable emphasis on an enhanced role for local authority Monitoring Officers and for local authority Standards Committees. The discussion paper talks, at paragraph 16, chapter 2, of the need for Standards Committees and for Monitoring Officers to be "properly supported". It implies or refers at paragraphs 22, 24, 25 and 32 of chapter 2 to sanctions if Standards Committees are not perceived adequately to perform. However, the discussion paper makes no reference to the direct provision of additional resources for local government. Rather, it passes this to the SBE to address. The City Council hopes that the SBE will be adequately resourced to support local standards work and that it will offer adequate training at appropriate levels to enable local authorities to build upon their existing roles as envisaged in the discussion paper.

Second, when we commented to the SBE we said that we were not in favour of a public service interest category in the Code of Conduct. We do not think this would aid clarity in respect of interests, and we feel that it would lead to grey areas at the margins (i.e. whether the matter under consideration truly had a direct impact on a body to which a member had been appointed). The introduction of a public service interest does appear to conflict with codes and guidance relating to member determination of planning applications. If the Code is changed to introduce a public service interest, then planning codes and guidance need also to be changed.

Code of Conduct for Local Government Employees

The discussion paper says that the ODPM is minded to issue a Code setting out the general principles only. The City Council has noted from paragraph 24 of chapter 3 that it is envisaged local authorities would "take ownership of the operation of the principles locally". The Council takes that to mean that local authorities could put flesh on the bones of a Code. Given that we made comments of a detailed nature on the 2004 consultation paper, it is likely that we would want to "flesh out" an officer code of general principles.

With reference to paragraph 25 of chapter 3 of the discussion paper, I am taking it that there will be further consultation on the content of an employee code. This Council would be interested in being consulted.

Political Activities of Local Government Employees

Our comments in 2004 on this consultation paper may be summarised as follows:-

- Political restrictions based upon the nature of the job held was the most appropriate means of defining to which jobs political restrictions should apply
- The current restriction mechanism based on salary is unrefined
- There should be a distinction between officers giving advice and officers providing factual information, with the latter category of officer being exempt from political restriction
- There is no merit in making changes to the independent adjudicator arrangements
- Employees should be required to resign from the authority upon adoption as a political candidate.

The Council wishes further to emphasise two of these points. First, that political restrictions based upon the nature of the job held should be the ultimate test of whether a post should be politically restricted, and that the current restriction mechanism based upon salary is unrefined. The discussion paper says, at paragraph 7 of chapter 3, that the Government will consider amendments to the existing rules to ensure the restriction only applies to the most senior, or the most sensitive, posts. This does seem to imply some element of job categorisation and the removal of certain less highly paid posts from the scope of the political restriction regime.

Second, the abolition of the post of independent adjudicator would, in the City Council's view, lead to inconsistency. However, if the Government does nevertheless decide to abolish the post, there should be an independent appeals mechanism.

I hope these comments are useful. I would be grateful if you could let me know as and when progress is made upon the implementation of the matters contained in the discussion paper.

Yours sincerely,

Contact : **William Reed**
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