



REVIEW OF THE REGULATORY FRAMEWORK GOVERNING THE POLITICAL ACTIVITIES OF LOCAL GOVERNMENT EMPLOYEES

Introduction

SOLACE welcomes the opportunity to respond to the government's proposals to review the framework governing the political activities of local government employees. The system is in clear need of reform and in this paper we set out some principles which we believe should inform the government's review.

We believe that officers – particularly senior officers – are paid for their judgement not their obedience and that political independence is central to the ability to give good and clear advice.

On reading the consultation paper, it is striking how much the current framework has dated. The world has changed significantly since the regulations were drawn up and it seems to SOLACE that the issues which they were designed to address in 1989, are no longer the same fifteen years later in 2004.

It is our concern that the proposals in the consultation paper seek only to change the current framework around the margins. It does not go back to first principles and it does not adequately take into account the changed environment.

From 1989 to 2004

The framework governing the political activities of local government employees is largely provided by the Local Government and Housing Act 1989. While the objectives of the current framework are a matter for historical interpretation, we believe the restrictions are too crude and inconsistent and deserve a more thorough review than the current one suggests it will contemplate. The main reason for this is that political restrictions were drawn up in a time of relative organisational simplicity where the local council had a more direct role as an employer. Now the governance of local areas is led by the democratically elected council, but services are provided and commissioned often by other organisations across different sectors

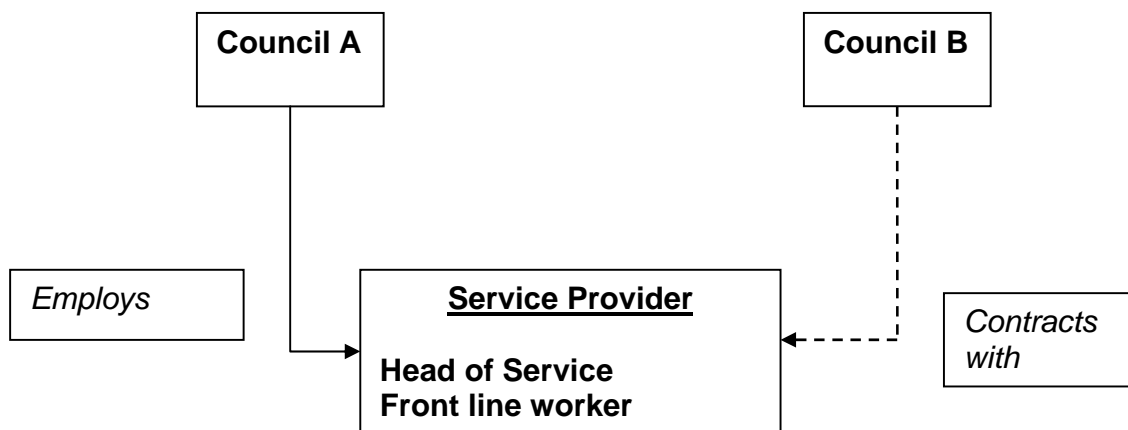
According to the Employers' Organisation, local government in England employs 10% fewer people than it did in 1989. In 1989 local authorities directly employed people across a range of services e.g. housing, leisure, Further Education, youth work, DLOs and DSOs that have been replaced by other organisational forms. Local authorities now have joint ventures for ex-CCT contracts, there are ALMOs for housing and trusts for leisure. Some services such as Connexions have been



removed from local government altogether and many councils have arrangements where they now jointly employ staff.

Our main argument is that the current framework is inconsistent. Take, for example the following cases.

- A chief executive of a housing trust is unrestricted and may stand for election on any authority where a housing manager employed by a local authority cannot stand in any council.
- A teacher, who sits on the board of governors of their school, is able to stand for election in a local authority other than their own.
- A manager of an in-house DLO would fall under the restrictions, while a manager providing the same service in an-outsourced or joint venture company would not.
- A directly employed cleaner would be restricted, the owner of cleaning company providing services to an authority would not.



The above diagram shows the relationship between a service provider and two different councils. Under this relationship, the Head of Service could stand for election in neither council while the front line worker could stand for election in council B.



Now imagine that the service provider is outsourced and the Head of Service becomes the Director of a private company. Now both employees could stand for election on either council. All that has changed is a direct relationship of employment, not the interests that either employee has in the relationship with either council.

Towards a more reasonable and proportionate framework

These cases represent widespread practice across the country and our argument is that the crude and inconsistent framework governing restrictions is disproportionate and unreasonable. It ignores possible conflicts of interest with those not employed by the authority while appearing overly harsh on those who are. In our view the ODPM's proposals address the latter point by seeking to raise the spinal point at which employees become automatically restricted, but it's incremental approach does nothing to address the changes in governance and service delivery patterns that have evolved over the last 15 years.

If this is accepted, then there are two broad courses of action available. The first is to extend the restrictions to cover all people who deliver services to a council. We believe that this is too draconian a course of action to be considered. The other is to recognise that the current framework is unfair and to adopt a more reasonable approach which is able to discriminate more fairly between cases.

We believe that the current political restrictions should continue to apply to the Chief Executive and to all chief and statutory officers. In certain circumstance it might also apply to deputy chief officers and certain heads of service.

In each case we believe it is for the chief executive (as head of paid service), after taking advice from the monitoring officer and head of HR/personnel to determine the appropriate restrictions in each case. We also believe that this, based on the principle of self-determination, is the appropriate arrangement to replace the current role of the Independent Adjudicator.

However, in our view, for the rest of the local government workforce the way to ensure political neutrality among local government employees is through the contract of employment. It is therefore a question of management and it is the manager's duty to monitor the professional conduct of their staff. Where professional conduct was being affected by political allegiance, this would be a matter of managerial review and the normal disciplinary process as appropriate.

This is similar to the approach taken in Wales where the Welsh code of conduct [ref. Welsh Statutory Instrument 2001 No. 2280 (W.170)] for local government employees enshrines the concept of political neutrality in contract.



Political assistants

SOLACE believes that it is right that local authorities should be able to provide support for their largest political groups via the role of political assistant. We believe that the pay rate of political assistants should no longer be set by statutory instrument and that authorities should be able to set their own pay rates through an internal mechanism agreed by the council. The point of accountability therefore would be to the local electorate. We believe that the local authority should be able to provide one political assistant for each of the three main groups, subject to a de minimus of 15%.

We believe that some more thought has to be given to their contracts of employment to define more clearly their relations with council officers, particularly where political assistants may be employed on higher salaries than at present.

26 November 2004
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