



*Standards of Conduct in
English Local Government:
The Future*

Race Equality Impact Assessment 3/2006



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October 2006
Department for Communities and Local Government: London

On 5th May 2006 the responsibilities of the Office of the Deputy Prime Minister (ODPM) transferred to the Department for Communities and Local Government (DCLG)

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October 2006

Product Code: 06NRO04082/4

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CHAPTER 1

Introduction & Context

The aim of a race equality impact assessment is to assess how the impact of an organisation's policy in relation to the public duty to promote race equality and within this, to identify whether there is a differential and adverse impact on particular racial groups.

This impact assessment addresses the Office of the Deputy Prime Minister's (ODPM) paper 'Standards of Conduct in English Local Government – The Future' which draws together the Government's current views on the future of the conduct regime and provides a coordinated response to a series of recent recommendations, reviews and consultations relevant to conduct issues in local government. In particular, the paper incorporates the Government's response to:

- Chapter 3 of the 10th report of the Committee on Standards in Public Life (Graham Committee) – Getting the Balance Right – Implementing Standards in Public Life – January 2005; and
- The Role and Effectiveness of the Standards Board for England – Report of the ODPM Select Committee – April 2005.

The paper, 'Standards of Conduct in English Local Government – The Future' also provides a response to:

- Recommendations following consultation on the code of conduct for members – by the Standards Board for England; and
- Review of the Regulatory Framework Governing the Political Activities of Local Government Employees – an ODPM consultation paper – August 2004; and
- A Model Code of Conduct for Local Government Employees – An ODPM consultation paper – August 2004.

However, for the purposes of this exercise, it has been agreed with the policy lead that this Race Equality Impact Assessment will focus on those aspects in the paper 'Standards of Conduct in English Local Government – The Future' which look at the move to a more locally-based decision-making process in respect of the conduct regime for Councillors.

This report covers the following main headings:

- The proposals.
- The basic findings of the race equality impact assessment in relation to the proposals.
- Recommendations.

CHAPTER 2

The Proposals

Specifically the proposals in the paper 'Standards of Conduct in English Local Government – The Future' are aimed at:

- Providing a more locally based decision-making regime, with local ownership of clearer, simpler and more proportionate rules, but;
- Maintaining an ability to identify and deal with serious misconduct in a thorough and consistent way, and;
- Ensuring that the public will continue to have confidence in the local authority members and officers who serve them.

The main features of the proposals are:

- Initial assessment of all misconduct allegations by standards committees, rather than the Standards Board;
- The Standards Board to retain its place at the centre of the conduct regime, but adopting a more strategic role in supporting/guiding/monitoring local authorities, while retaining responsibility for investigating the most serious allegations;
- Improving the capacity and capability of standards committees, including requiring all committees to have independent chairs;
- A clearer, simpler, more proportionate code of conduct for members, including supporting members' advocacy role through some relaxation of rules relating to the ability of dual-hatted members with a prejudicial interest to express their views;
- A new code of conduct for local authority employees;
- Increased pay for political assistants;
- Abolition of the post of Independent Adjudicator and the devolution of this role in making decisions on posts exempted from political restrictions to standards committees.

It should be borne in mind, that some of the above proposals will require primary legislation, for which the next convenient legislative opportunity will be sought, while others can be introduced by secondary legislation in potentially quicker time.

CHAPTER 3

The Race Equality Impact Assessment

A race equality impact assessment is a way of systematically and thoroughly assessing, and consulting on the effects that a proposed policy is likely to have on people, depending on their racial group.

Thus, the main purpose of a race equality impact assessment is to pre-empt the possibility that a proposed policy could affect some racial groups unfavourably.

Section 71 of the Race Relations (Amendment Act) 2000, requires public authorities to have 'due regard' to the need to promote equality of opportunity in all areas and to eliminate all forms of discrimination. Thus, it is not sufficient merely to take equality into account, it must be accorded considerable weight. That is, the need to promote equality of opportunity must be given regard or weight in accordance with the public authority's statutory duty as outlined in Section 71 of the Race Relations (Amendment) Act 2000.

In conducting an Impact Assessment, there are certain methods and procedures that must be considered;

- Assessing how the proposed policies are likely to affect people from relevant groups; this should include collecting and analysing relevant data;
- Consulting people who are likely to be affected by the proposals; and
- Reviewing and revising the proposals in light of the assessment and consultation.

To assess the impact of any proposed policy, it is important to have as much knowledge as possible about how the proposed policy will affect people. How this is assessed will depend on the nature of the policy itself but will include some of the following:

- Demographic data and other statistics;
- Available research findings;
- Survey data;
- Equality monitoring data;
- Specially commissioned research.

As outlined above, this impact assessment focuses on those aspects in relation to the move to a more locally-based decision-making process in respect of the conduct regime for Councillors.

For the purposes of this exercise, given the limited time provided, discussions took place with:

- (i) The Policy Lead.
- (ii) The Head of Policy and Guidance of the Standards Board for England.
- (iii) The Assistant Secretary to the Committee on Standards in Public Life.

Limited research was also undertaken in relation to demographic details of Black Asian and Minority Ethnic (BAME) Councillors. However, given the time provided for the completion of the exercise it has not been possible to consult with people who are likely to be affected by the proposals.

CHAPTER 4

The Findings

Specific areas were explored in relation to adverse impact arising from the proposals and the findings are outlined as follows:

4.1 A STATED AIM WITHIN THE PROPOSALS OF PROMOTING RACE EQUALITY

There isn't a specific objective on race equality, but the focus in the proposals is for a better and proportionate system. Therefore, one benefit and a key outcome of the proposals for local ownership of the conduct regime could be greater consideration of local concerns and sensitivities.

4.2 ELEMENTS OF THE PROPOSALS WHICH WILL BE DELIVERED THROUGH PARTNERSHIPS

ODPM has overall responsibility for the legislative framework but the proposed new system will be operated in partnership between the Standards Board and local authorities. The Standards Board will provide support and guidance to local authorities to implement the changes. The proposals also provide for the Standards Board to have a more strategic role, therefore carrying out fewer investigations and focusing on capacity building locally. It is proposed that there should be joint and corporate working between local authorities to help build knowledge, capacity and best practice. This will involve local authorities getting together to carry out joint decisions and carrying out local recruitment of members.

4.3 ASPECTS OF THE PROPOSALS THAT COULD CONTRIBUTE TO INEQUALITY

The move from a central based to a more local based conduct regime system could give rise to the potential for inconsistency in decision-making and ultimately inequality. Currently, all decisions are made centrally by the Standards Board. However, the proposal for the Standards Board to remain as a central source of guidance should mitigate any potential inequality as there would be the opportunity for the Standards Board to intervene where inconsistency and poor performance arises locally.

4.4 SPECIFIC MEASURES WITHIN THE PROPOSALS TO MEET SPECIAL NEEDS & TO PROMOTE EQUAL OPPORTUNITIES OR GOOD RELATIONS BETWEEN GROUPS

There are no specific measures within the proposals in respect of addressing special needs and the promotion of equal opportunities and good relations between groups.

However, retaining the Standards Board as the central guarantee of standards would ensure measures would be undertaken to address concerns about inequality in the new regime. Feedback from the Standards Board indicates that these concerns will be built into the guidance and support that they will provide to local authorities.

4.5 CONSULTATION UNDERTAKEN IN RESPECT OF THE PROPOSALS

Principal authorities and parishes were consulted as were local authority representative bodies, e.g., Local Government Association/National Association of Local Councils. This was by way of a standard circulation to the Parish Clerks of parish councils and CEOs of district and county councils.

4.6 AWARENESS OF EXTERNAL ESTABLISHED GOOD PRACTICE GUIDELINES OR REQUIREMENTS ON EQUALITY OF OPPORTUNITY OR RACE EQUALITY APPLICABLE TO THE PROPOSALS

This includes the Standards Board's current policy on ensuring services are accessible to minority groups, specifically:

- (i) Making available translations of complaints leaflets and many publications in a range of community languages;
- (ii) The provision of translators or interpreters during investigations; and
- (iii) The provision of options for telephone, written and in-person interviews and submissions during policy development and the investigation process to enable equal participation.

Although not explicitly stated within the proposals, there is implicit reference that in the move to a more local based conduct regime, the Standards Board will provide guidance to local authorities in all the above respects.

4.7 EVIDENCE OF ADVERSE IMPACT

There is the potential if more decisions are made locally for inconsistency to arise. Nevertheless, the proposals do not specifically address the potential racial impact of inconsistency. However, retaining the Standards Board as the central guarantee of standards should ensure that measures would be undertaken to address concerns about inequality in the new regime.

4.8 STATISTICAL DATA ON IMPACT ON DIFFERENT RACIAL GROUPS

There is no statistical data on the impact of the proposals on different racial groups.

4.9 DATA FROM CONSULTATION WITH OR OTHER FEEDBACK FROM DIFFERENT RACIAL GROUPS

There has been no consultation undertaken with Councillors from different racial groups.

4.10 OPPORTUNITIES TO PROMOTE RACE EQUALITY

In the current central based conduct regime, the Standards Board has demonstrated that there are a number of practical measures they have taken to promote race equality, i.e.:

- (i) Making available translations of complaints leaflets and many publications in a range of community languages;
- (ii) The provision of translators or interpreters during investigations; and
- (iii) The provision of options for telephone, written and in-person interviews and submissions during policy development and the investigation process to enable equal participation.

The main change to the current central based conduct regime outlined in the proposal is for a more locally based decision-making process in respect of the initial assessment of allegations. The Standards Board will continue to carry out allegations of serious misconduct before the new system comes into effect. However, when the new system does come into effect a capacity building exercise, including guidance and support from the Standards Board on how minority groups should be treated, will be undertaken to enable local authorities to carry out their new role effectively. The Standards Board has 3.5 years of dealing with allegations and there is implicit reference in the proposals that the Standards Board will transfer expertise and knowledge to local authorities.

4.11 COMPARATIVE IMPACT

There has been no specific assessment of potential impact on racial groups. However, Ministers have decided that devolved government is the order of the day and the right style of government. Criticisms in respect of the current central based decision-making process centre on lack of sensitivity to local concerns. Explicit reference in the proposals evince that the move to a more locally based decision-making process is intended to address these concerns.

CHAPTER 5

Recommendations

- This impact assessment has identified the potential for adverse impact in relation to the proposals for a more locally based decision-making process in respect of the conduct regime.
- There has been no specific consideration on the implications of the proposals for racial groups resulting in inadequate data from which to assess the extent of differential impact.
- The paper ‘Standards of Conduct in English Local Government – The Future’ refers to consultation with and views of Government departments, The Standards Board and key stakeholders. There is however, no mention of consultation with BAME (Black Asian Minority Ethnic) groups in particular.
- In the ‘National Census Of Local Authority Councillors In England 2004’ (Employers Organisation for Local Government, 2004), replies were received from 353 out of 388 local authorities in England (91%) and from 10,483 Councillors (53.3%). The survey showed that 96.5% of all Members were white and that 3.5% of Councillors came from a BAME background. This compares with 8.4% of the adult BAME population in England. (Employers organisation for Local Government, 2004.)
- Given the low representation of BAME Councillors compared to white Councillors, as shown above, it is important to target BAME Councillors to find out how the new arrangements would impact on them.
- Consultation with BAME Councillors could be undertaken either as questionnaires or circulars for comment, but with ethnic monitoring details attached using the full Census (CRE) classifications. In this type of consultation, the questionnaires are generally sent to all Councillors in the local authorities. They can also be sent to a representative sample. This is more difficult however, as the sample size must be large enough to be representative, which means that the characteristics of the local authorities need to be considered carefully.
- The LGA (Local Government Association), IDeA (Improvement and Development Agency) and the Employers’ Organisation for Local Government could assist in consultation exercises of this kind.
- More in-depth consultation could take the form of representative focus groups. It is important to note that London Councils and the large Metropolitan Councils have the greatest numbers of BAME Members. Assistance could be sought from the LGA, IDeA and Employers’ Organisation for Local Government, in setting

these up on a regional basis. This process should then provide a more informed basis for the consideration of potential adverse impact in the proposals for a more locally-based decision-making process in respect of the conduct regime.

- Consideration also needs to be given to a monitoring and evaluation mechanism once the new regime is in place, in terms of adverse impact and efficacy of practice and it is recommended that this is also factored into the proposals.