

REGULATORY APPRAISAL

THE CONDUCT OF MEMBERS (MODEL CODE OF CONDUCT) (AMENDMENT) (WALES) ORDER 2004

Purpose and intended effect on the legislation

The purpose of The Conduct of Members (Model Code of Conduct) (Amendment) (Wales) Order 2004 (“the order”) is to amend the existing Model Code of Conduct to enable all county and county borough councillors to participate in their council’s determination of elected members entitlement to join the Local Government Pension Scheme. The Scheme is being extended to Wales under regulations that come into force on 1 January 2004.

Part III of the Local Government Act 2000 established a new ethical framework for local government in Wales. It allows for the introduction of a Model Code of Conduct that sets out the principles that are to govern the conduct of members and co-opted members of relevant authorities in Wales, including county and county borough councils. It also allows the model code to be subsequently revised.

The effect of the amendment order is to exempt members from having to declare a “personal interest” under the Code of Conduct when they are asked to determine entitlement of pensions for elected members. Such an exemption is necessary as determination of pensions has been made a function of the full council under separate regulations that introduced the Past Service Awards.

The policy intention of the Assembly Government is that all elected members of county and county borough councils in Wales shall, subject to the recommendations of the Independent Remuneration Panel, become entitled to pensions.

Risk Assessment

If the order is not made elected members of principal councils in Wales would have to declare an interest under the current Code of Conduct and not participate in their Council’s decision-making process on entitlement to pensions, unless cleared to do so by the Council’s Standards Committee.

Conceivably all Standards Committees would conclude that councillors should be granted a dispensation to speak and vote on this matter, since it would meet the criterion of over half the membership of the council having an interest in the matter. However, this would create a degree of uncertainty and would cause 22 standards committees to have to meet to consider an identical issue.

Options

The decisions on pensions within the council could have been considered to be a function of the executive or board. It is suggested that this matter, as is the case with councillors' allowances, is more properly the preserve of the full council, thereby removing any possible suggestion of decisions being made along party lines.

It is also suggested that pensions be added to the list of issues that are exempt from declarations of interest under the Code of Conduct. If this were not done, it would be impossible to discuss pension issues at council, as all elected members would need to declare an interest, unless Council Standards Committees granted dispensation. Councillors' allowances are already exempt matters.

Benefits

Approval of the order will ensure that all members will be able to participate in the decision-making process in determining entitlement to pensions.

Costs

This order simply modifies the Model Code of Conduct for county and county borough councillors. As such there are no financial implications for either the National Assembly for Wales, or for local government, arising out of the introduction of this particular order.

Competition assessment

The introduction of this order will not have any impact on other sectors and no competition filter is necessary.

Consultation

The policy intention to introduce pensions for councillors was included in the policy statement "Freedom and Responsibility" in March 2002 and was widely welcomed by local government.

There is a statutory requirement to consult certain specified bodies over any revision to a model code of conduct. Assembly officials have accordingly consulted with the WLGA, the Audit Commission for Wales and the Commission for Local Administration in Wales. No comments were received, which reflects the uncomplicated nature of the order.

The Local Government and Public Services Committee considered the draft order and Regulatory Appraisal on 10 December 2003. They had no comments.

Review

The impact of this policy is predictable. It is not likely to need review in the foreseeable future. It is likely that any difficulties in administering the order would be reported by local authorities.

Summary

This particular order will only impact on local government and there will be no cost arising. The introduction of pensions for councillors is considered a necessary part of the modernisation process. In order to ensure impartiality in the decision-making process, it is important that all councillors participate in the determination of entitlement to pensions.