

COUNCIL OF EUROPE

COMMITTEE OF MINISTERS

RECOMMENDATION No. R (97) 7

OF THE COMMITTEE OF MINISTERS TO MEMBER STATES ON LOCAL PUBLIC SERVICES AND THE RIGHTS OF THEIR USERS

*(Adopted by the Committee of Ministers on 1 April 1997
at the 587th meeting of the Ministers' Deputies)*

The Committee of Ministers, having regard to Article 15.b of the Statute of the Council of Europe,

Considering that the aim of the Council of Europe is to achieve a greater unity between its members for the purpose of safeguarding and realising the ideals and principles which are their common heritage and to foster their economic and social progress;

Considering that local public services shape the local inhabitants' everyday environment and determine, to a large extent, their quality of life;

Considering that local public services are one of the vital dimensions of local self-government, in respect of which they allow for its concrete expression and a measure of its real development;

Considering that they account for an important part of the national economy by virtue of the expenditure they incur, the resources they mobilise and the functions they fulfil;

Considering that these services make a significant contribution to local development and to the spatial organisation of facilities and services within the territory;

Considering that they play a leading role in organising social solidarity by providing essential services to meet public needs;

Considering that in view of the above, as far as possible, the users of these services should enjoy the same rights and safeguards as those afforded by national and regional public services, and in the framework of the relevant legislation should enjoy, where appropriate, protection comparable to that available to the customers of private sector enterprises;

Given the considerable variety of duties performed by local public services and the emergence of new social demands;

Given the contribution that local public services can make to modernising public administration and to promoting technical or social innovation;

Given the scope of the changes currently under way in these services with a view to finding more efficient management methods, in particular because of the need to better control public expenditure;

Given the progress already made in a number of countries in establishing rights and safeguards for users of public services, particularly at the local level, but also the significant inequalities remaining in these areas;

Given that local public services can make a significant contribution to resolving issues of serious concern to member states and their citizens, such as job creation, social solidarity and cohesion, improving democracy, the respect for human rights in practice, or environmental protection;

Given the need to facilitate the integration of local public services into modern economic mechanisms, without however creating obstacles to free competition;

Considering that member states should make modernising the management and operating methods of local public services a priority, while respecting the principles of local self-government, users' rights and the rules of a market economy,

Recommends that the governments of member states:

– take into account the *Guidelines for local public services in Europe*, attached to this recommendation, in framing their policies and legislations, so as to encourage local authorities to develop their public services in order to meet the needs of the community more effectively and to respect users' rights more fully;

– provide or facilitate the provision of relevant information on the different management methods of local public services and on how to improve relations with users, in co-operation with local authorities, their associations and training organisations;

– promote or facilitate, by all appropriate means, studies and innovation in these areas, as well as exchanges of information between local authorities at national and international level, in co-operation with local authorities, their associations and training organisations;

– translate the recommendation and the guidelines into their official language(s) and circulate the texts among local authorities.

Appendix to Recommendation No. R (97) 7

Guidelines for local public services in Europe

I. Local public services and public interest

Public services are one of the most concrete expressions of the self-government of local authorities and a powerful means for them to serve the public interest.

1 • Local public services contribute to the exercise of the powers of local authorities which are responsible for them, in the framework of the relevant national or regional legislation.

The creation and management of local public services follows from the principle of self-government and contributes to the implementation of local authorities' powers. Local authorities, in the framework of the relevant national or regional legislation, are responsible for their services and organise them in such a way as to respond efficiently to the needs of the population living in their territory and to keep pace with trends in social demand and in general policy priorities, the requirements of sound economic management and technological change.

Local authorities' freedom to choose between different legal or financial organisational models for services is greater or lesser, depending on the interests that the state intends to protect (equality, protection of public finances, transparency in delegating services to the private sector, and so forth).

Local public services nevertheless adhere to certain principles particularly necessary in present-day circumstances, which are already widely recognised in the Council of Europe's member states.

2 • Local public services should ensure the principle of equality for users in a complete and practical way and they should respect the principles of non-discrimination and neutrality.

Local services should observe the general principles of public services: equality, neutrality, non-discrimination and continuity, and they are charged with looking after the public interest and ensuring a rational balance between resources and expenditure. In order to do this, they should resort to all forms of intermunicipal co-operation which might allow them to improve their performance.

Their goal is to ensure genuine and complete equality among users, and this may require differential treatment (rates, assistance, conditions of access, etc.) in appropriate cases, in order to take account of *de facto* differences in the situation of users or candidates for the use of a service.

They respect the principles of neutrality and non-discrimination in respect of users, freedom of opinion and the whole range of public freedoms which they are under a duty to guarantee and promote.

3 • Local public services should guarantee the continuity of essential services for the population within the limits of economic and budgetary constraints.

In keeping with the principle of continuity, they should guarantee the provision of essential services without interruption to the population, within the limits of economic and budgetary constraints.

Permanence and continuity are inherent in many local public services: the supply of drinking water, gas and electricity, fire-fighting, household refuse collection, the provision of district heating systems, education, etc. These principles must be reconciled with the rights of the staff of the service, including those staff employed by a contractor providing a service on behalf of a local authority. It is therefore necessary to regulate the situation of the whole of the public services at national/regional level by means of legislation or agreements between employees and employers.

According priority to the protection of the great majority of the population's interests may lead to the drawing up of a list of the services where a total stoppage, even a temporary one, is unacceptable. In such cases prior notice should be given of unavoidable stoppage of work and/or a minimum service should be provided.

National and regional regulations should be complemented where appropriate by local agreements setting out the arrangements for avoiding the total closure of these services on special occasions, such as holidays, and extended or long weekends, with a view to avoiding the total closure of such services for periods of time which are incompatible with the interests they are meant to protect.

The principle of continuity and the principle of equality coincide when it is necessary to maintain certain public services even in places where the low density of population makes them unprofitable, particularly in rural areas. In those cases, the closing down of a public service should be the result of a decision supported by stated reasons which demonstrate that alternative solutions, such as the regrouping of services, multiple service access desks or use of modern technologies, are not viable.

Local public services should contribute to social cohesion, either by providing solidarity services established by law, thus contributing to the implementation of social aid policies covering the national community as a whole; or by using their own powers to supplement and build upon these policies, according to the needs and resources existing at the local level.

Their concern is to strengthen local community cohesion so as to avoid rips in the social fabric and to maintain solidarity between local communities, thanks to the quality of the services they deliver to the population, and in particular to the disadvantaged categories. They aim at maintaining a harmonious community life by fostering economic progress, without which there can be no sustainable social progress.

4 • Local public services should contribute to sustainable development and to a balanced and rational distribution of available resources throughout the territory of the local authority.

Local public services should keep in mind the interdependence between urban and rural communities, between agricultural and industrial areas, on the one hand, and undeveloped areas which deserve to be protected, on the other. They should reconcile economic requirements with those of environmental protection, with the help, where appropriate, of the regions, the state and of international organisations.

They are distinct economic entities within the meaning of modern economic doctrine, which includes them among the institutional sectors which produce goods and services whose value is taken into account in the national product. They are, however, dependent on multiple and different economic logic.

Some are purely public services, enjoying a legal or *de facto* monopoly (security, police, land-use control, building and maintenance of roads, etc.) mainly financed by taxes or state grants.

Others are in the nature of commercial services, financed principally, or sometimes exclusively, by users' charges and fees. These latter services can, depending on the case, constitute a monopoly (supply of water, gas, electricity, cable television, etc.) or, on the contrary, be subject to different forms of competition, sometimes indirect (education, local transport, health care, swimming pools and sports facilities, etc.).

Both types of local public services should choose, in each case, the management methods and the means of financing which best take into account all the interests concerned, including those of the local authorities, and which offer the best cost-benefit ratio. For these purposes they should take into account the direct and consequential effects of the service's activity, including those bearing upon social solidarity, environmental protection and the proper use of land.

Their system of financing should be one which is the most suited to their particular functions, the requirements of economic rationality and social demands. Depending on the circumstances, which vary with the type of service and the location, a number of financing systems are possible. They include a system of prices ensuring at least a balanced budget, financing by general taxes or by a special earmarked tax (to apply the "polluter pays" principle for example) and subsidies from other authorities or from the state or a combination of these methods – a solution which is often chosen.

5 • Local authorities should continuously improve the quality of their services to respond to changing social demands, the requirements of sound financial management and technological developments.

Local public services contribute to the modernisation of public administration. They are often in the forefront of technical innovation or social experimentation.

They should adapt to the changing needs of the population and adopt new technologies when they promote progress and help to improve user satisfaction.

They contribute to development trends by frequently offering opportunities for experimental activities favoured by their diversity, flexibility and the decision-making capacity of their managers. Thus, it is often at local level that the first experiments in new methods of public management are carried out. They can even show the way forward for larger national services. An example of this is the promotion of quality management through the granting of certificates to local public services which keep guaranteed standards.

Their managers should be mindful of the lessons to be drawn from the experiences of other authorities, including those abroad. They are thus encouraged to participate in exchanges of information at national and international level in order to improve the practices of local public management.

They should employ techniques which lend themselves to change and improvement: sewage and waste treatment, transport, and so forth. They thus naturally serve as a testing or adjusting (setting) ground and it is within these types of service that new technology will gradually spread as local authorities renew their infrastructure.

Local authorities participate in numerous pilot projects for the launching of new techniques, even in fields where they do not have a dominant interest. They play a leading role in the demonstration of energy conservation and pollution control policies.

However, innovation is not just a matter of technology. It may just as easily be expressed in new social practices in the fields of welfare, health, security, prevention of drug addiction, training, citizen participation in public decision making, cultural or sports activities, etc. There have been many examples of local authorities which have impressed upon their services a dynamic of change and a will to adapt.

There are cases, however, when local public services cannot satisfy all the different demands. Citizens' aspirations and demographic changes often come into conflict with the pressure to save costs.

While not all authorities can move forward at the same pace, it is essential that the spirit of enterprise be given free play wherever possible and that successful projects can then be disseminated. By giving some sense of security to those who draw upon its results, experimentation is one of the great factors of change in public administration.

II. More freedom for users

By the very nature of the services they provide to users, many local public services contribute effectively to the reinforcement of freedom, which is a common goal of democratic societies. They contribute again to this objective by organising in the best possible way their relations with users.

From the obligation to provide publicity to the right to information

6 • Local public services should organise communication with users ensuring all interested parties appropriate information about their rights and the services which they may obtain, as well as about the applicable rules.

In our modern communication societies, where information plays a role of growing importance, the information supplied to users of local public services should serve various purposes, namely to offer all interested parties adequate details of their rights and of the services of which they can make use, and be a means of enhancing the quality of the service by intensifying the relations between it and the society it serves.

That publicity be given to acts and deliberations of local, regional or national public authorities is one of the fundamental principles upon which European legal systems are based and is usually a precondition for the enforceability of administrative decisions.

However, the methods by which publicity is normally achieved are not always satisfactory, from the viewpoint of both the smooth running of the services and users' rights. A particular effort ought to be made to prevent the language used from being too specialised and hence incomprehensible to part of the population, as well as in respect of the methods chosen and the accessibility of this basic information.

But it seems desirable to go beyond this by asking public services to define and carry out a genuine information policy, going hand in hand with users' rights to information.

The obligation to provide general and comprehensive information applies not only to rules of law, but to the full range of information concerning the organisation and operation of services (nature of services, prices, quality, times). This information has to be made generally available by various means, depending on the nature of the service and the characteristics of the population group concerned.

Public authorities should therefore ensure that information is made available in an effective manner. Although justified on grounds of equity, such information is also essential to the smooth running of public services, which requires all concerned – staff and users alike – to be fully aware of the applicable rules.

The duty to provide information is in fact a corollary of the principle of equality of treatment. The increasing complexity of the rules makes them more and more difficult for an ever-growing number of people to understand. Discrimination resulting from the inability of a large number of people to acquire an appropriate knowledge of what is available from public services will continue unless the latter constantly strives to provide users with appropriate information, in form and in substance.

Information and communications sciences, as well as the experience acquired by local authorities over a good many years, have now made it possible to select the most appropriate media for a particular situation: billposting, specialised reception service, local press, municipal newsletter, radio, television, information systems, telephone, and so forth.

Each service selects the techniques it uses according to its particular nature and its target audience.

Before all important projects, such as the introduction or closure of a public service or facility, users should receive detailed preliminary information. They should then be given an opportunity to state their point of view to the public authorities responsible.

Offering users a choice

7 • Local authorities should organise their public services in order to allow users, whenever it is appropriate, to choose between various services or even various suppliers.

Local public services often enjoy a monopoly, and it is this, more than their public status, that probably explains certain difficulties they meet in their relations with users. When the offer of public services is diversified, users have the means to indicate their preferences. This is an incentive for giving greater consideration to their needs and may result in economic or social progress.

In consequence, it is advisable for local authorities to organise their public services of a commercial or industrial nature giving users the choice between various services, or even between different suppliers, whenever the nature of the service in question makes this possible and appropriate. The law should avoid laying down exclusive rules, except in a limited number of cases which are clearly justified.

8 • Local public services should subscribe to the development of users' rights and protection in the framework of the relevant legislation.

In the exercise of their mandates, local elected representatives must ensure an adequate level of protection.

In addition, in the case of services of a commercial or industrial nature (water, transport, waste, energy, among others), the "most advantageous provision principle" could be adopted by local authorities, meaning that, in similar situations and circumstances, users of public services should enjoy guarantees no weaker than those given to the customers of private companies. The user of a public service should be able to rely on consumer legislation as a whole, except in cases where the specific needs of public services, the characteristics of a certain service or an explicit provision of the law exclude such a possibility.

III. More consideration for users

Developments in public law have led to ever greater official recognition of citizens' personality and rights. These developments must continue, for the benefit of the users of public services – not always the same group as that covered by the more general term "citizens" – who must enjoy similar consideration, since they are the ultimate *raison d'être* of each service.

Administrative simplification

9 • In general, the establishment of uniform and clear rules, valid for all local public services, as well as the use of administrative and legal language which is comprehensible for users, should be encouraged.

The increasing complexity of the management of modern societies is a constant which has to be both accepted and overcome. In this sense, it would seem sensible to comply with a few very modest rules of conduct.

Administrative and legal language, despite the need for accuracy, should be conceived as a means of facilitating relations within society. It should therefore be adapted to modern culture, with a view to being comprehensible to the greatest possible number.

As far as possible, emphasis should be placed on making rules clear, consistent and applicable to the entire range of local public services, so that all users are able to understand, comply with and rely on them.

10 • Relations between local public services and their users should be organised in such a way as to minimise inconvenience and cost borne by users.

Local public services should be careful to avoid superfluous, useless or excessively costly procedures and should require of users or local residents only what is strictly necessary for the exercise of their functions.

Relations with users, within the limits of the resources available, should be so organised that the inconvenience and cost arising from them, particularly in terms of waiting or travelling time, are minimised. This may be achieved through good organisation of communications: telephone, information systems, fax, video-conference, etc.

Motivating and training the staff of public services

11 • The staff of local public services should be specially trained in their tasks and made aware of the rights of the users.

For users, the public service is first and foremost comprised of staff with whom they have direct contacts and who provide or refuse the services they request. It is therefore essential that the staff of these services be trained in these tasks and be fully aware of their assignments and the rights of the users for whom they are providing a service. In particular, staff should be provided with increased personal responsibility.

The organisation of office space, the choice of opening hours, the identification of staff, the personalisation of contacts, including written contacts, are all part of the means implemented within public services to achieve these aims.

Dealing with users' complaints

12 • Complaints procedures should be straightforward, easy for citizens to become acquainted with and use, and organised so as to allow prompt processing.

Users' complaints show where public services are not functioning properly, and should be regarded by managers as presenting opportunities to improve service organisation and customer relations.

The processing of complaints is a normal function in any enterprise, and it must be conceived and organised accordingly. The processing of complaints should have the double objective of finding a rapid solution to the problems raised and where the complaint is well founded, remedying the causes of problems.

Procedures for making complaints and processing procedures should be brought to the general attention of users.

The practical conditions in which complaints are dealt with inevitably vary widely, depending on the size of the service, the nature of its activities, its attachment to a small or large community or to an industrial grouping (water, gas, transport, electricity), etc.

There could be a specialised service, generally placed under the immediate responsibility of an elected representative, an organ representing users, or an elected commission. In any such case, its staff must be particularly well trained and concerned to ensure its efficiency.

Following the experience of several European countries, the appointment of an ombudsman (or a mediator) is to be encouraged, wherever this is justified by the importance of the services provided and where it fits within the local legal tradition. A number of local authorities have already appointed a member of their elected council, or another person, to carry out such functions either in respect of all of their public services or in respect of those which by their nature give rise to problems in their relations with users.

IV. Modern and better managed local public services

Where local public services are concerned, citizens have available to them many channels of local democracy through which they can voice their demands and make their criticisms known: elections to local councils and authorities, the right to petition and to complain, attendance at the meetings of deliberative assemblies, participation in referendums, in some cases popular initiatives, and so on.

Users, adopting the same kind of attitude as they do to private companies, are also keener to be able to influence the providers of public services; an extension of supervisory and evaluation mechanisms may satisfy this expectation.

Improving users' means of exercising influence

13 • Users of local public services should be recognised and served as such.

Users' prime concern is for the quality of the service received and its possible cost-efficiency. They wish their opinions to be heard and taken into consideration as users, not only as voters or citizens. Similarly, they want to be able to have a direct influence on the provider of public services in order to obtain better services, as in the private sector.

From the information given to them, the alternatives they are offered and the evaluation procedures followed, users should be able to influence, through the course of action they adopt, the provision and distribution of public services to a greater degree than they could through the agency of delegates or through the proliferation of institutions and procedures established specifically for that purpose.

Users' participation in management of local public services

14 • In the framework of the relevant legislation, local authorities should encourage the participation of users or their representatives in the management of local public services by means which are in conformity with the nature of the service and the circumstances.

The participation of users in the management of local public services is not an alternative to representative democracy but a means of bringing citizens closer to the local authority.

The suitability of users' involvement in public service management must be carefully weighed; their participation should be encouraged when their interests can be better taken into account, without, however, fostering corporatism or excessively complicating management mechanisms.

Formal participation in the decision-making process can be usefully introduced, especially in what are clearly "community" services, such as social, cultural and educational services, for example, through: *ad hoc* joint committees, representatives of residents on council committees or on the boards of directors, annual meetings between representatives of services and their users, with an agenda drawn up by mutual consent, etc.

15 • Local authorities should foster voluntary services, patronage and other initiatives which, in conjunction with or in addition to their public services, may contribute to satisfying the collective needs of the population.

In several countries, citizens grouped together in associations or mutual benefit societies take the direct control of certain community functions, such as crèches, canteens, school bus services, libraries, etc. At the same time, voluntary activities and patronage are finding new applications: the environment, services for the elderly, health, helping children with difficulties at school.

Local authorities must not regard such initiatives as competition to be curbed, but should instead help them to flourish. In fact they very often represent a significant resource in kind, which cannot be found in the local budget, and constitute a remarkable demonstration of community spirit and solidarity.

Far from trying to discourage individuals or groups who tend to intervene in these fields so as to supplement or enhance their activities, the authorities should refer to the principle of subsidiarity and consider that local residents are naturally qualified to deal directly with matters affecting them.

Supervision and evaluation

16 • Each major local public service should be subject to a periodic evaluation concerning its efficiency and quality, and the results made public.

Users do not have the means to monitor each and every local service. The latter are, after all, subject to specialised or general supervision exercised by many bodies: the local council, national authorities, courts or inspectorates. Political and administrative supervision should concentrate on target-setting and result-evaluation, whilst leaving sufficient freedom of action and responsibility for managers of local public services. This supervision should be aimed not only at preventing or penalising irregularities, but also at improving the quality of the service provided, by stressing the coherence between the objectives defined and the results obtained.

By virtue of their technical competence, these bodies have to be regarded as offering guarantees and giving valuable help to users in the face of the inadequacies of public services. The findings of their investigations should be communicated to the political assembly responsible for the service concerned and could be the subject of appropriate information to users.

All important services should be subject to a periodic evaluation of user satisfaction, measured in terms of a few simple indicators (number of subscribers or subscription cancellations, rates of usage, prices, receipts, number of disputed claims, etc). The findings could be discussed in a public forum.

17 • Local public services should be endowed with an accounting system which allows for adequate cost assessment, ensures transparency and the proper balancing of finances, and reinforces the responsibility of managers.

Local public services should be endowed with an accounting system which facilitates the evaluation of costs, ensures transparency of finances and supports the responsibility of managers and the interests of correctly informed citizens and users.

The manager of a local public service should know precisely his/her costs and resources to use them in the best way and thus increase its economic performance. A rational economic approach will allow an increase in the real performance of the service to the benefit of the public interest.