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## THE LOCAL GOVERNMENT & PUBLIC INVOLVEMENT IN HEALTH ACT 2007

### 1 SUMMARY

- 1.1 This report summarises advice published recently by the Standards Board for England concerning the Local Government & Public Involvement In Health Act 2007 (the Act) and advises Members of the implications of the legislation for the Standards Committee.

### 2 INTRODUCTION

- 2.1 The Act received royal assent on 30 October 2007 and introduces a number of changes to the standards regime. The Standards Board for England develops its role as strategic regulator while local standards committees have new responsibilities within the ethical framework.

- 2.2 The Act includes important amendments to the Local Government Act 2000, including:-

- (a) The introduction of a locally managed framework of compliance with the Code of Conduct and a new regulatory role for the Standards Board for England. This involves local standards committees making initial assessments of misconduct allegations, and most cases being handled locally. The Standards Board will provide supervision, support and guidance for local authorities. The Standards Board will also aim to ensure some degree of consistency in the application of the Code.

The Standards Board anticipates that the sections introducing the locally managed framework will commence on 1 April 2008 but this seems unlikely given delay in the consultation process.

- (b) The application of the Code to cover conduct in a private capacity, where this has led to a criminal conviction.

This amendment does not take effect immediately as the relevant parts of the Act have not yet come into force and, in the meantime, conduct carried out in a Member's private capacity cannot be subject to the Code.

- (c) A requirement that the Standards Committee has an independent chairman.

### 3 ADVICE FROM THE STANDARDS BOARD

- 3.1 The following has been included as a checklist for authorities in the latest Standards Board Bulletin.

### **Size of standards committees**

3.2 Standards committees must have a minimum of:-

- Three members (two elected members and one independent member)
- 25% as independent lay members if the committee is more than three people
- An independent chairman (from April 2008)
- One parish or town council member if the authority has responsibilities for those councils.

The Standards Board recommends that standards committees have six members as a minimum (three elected and three independent members) together with two, or possibly three, parish or town council members where the authority has responsibility for those councils. Consideration should also be given as to whether more members are required to ensure cover in the event of conflicts of interest, holidays or sickness.

### **Structure of standards committees**

3.3 In addition to their role as champion and guardian of the authority's ethical standards, standards committees will now have three separate but distinct roles in relation to complaints about member conduct:-

- Receiving and assessing complaints.
- Reviewing local assessment decisions.
- Conducting hearings following investigation.

To avoid perceptions of bias or predetermination, members who carry out a local assessment decision should not be involved in a review of the same decision, should one be requested.

The Standards Board recommends a structure of sub-committees or the standards committee acting as a pool, similar to the Council's Licensing Committee, to deal with the different roles, with a minimum of two separate sub-committees. One sub-committee would take initial assessment decisions and the other decisions on reviews. Subject to regulations, the Standards Committee suggests that any sub-committee should also have an independent chairman.

A member involved in an initial assessment decision, or following referral of a complaint back to the standards committee from the monitoring officer or Standards Board for another assessment decision, can be a member of the committee that hears and determines the complaint. This is because an assessment decision only relates to whether a complaint discloses something

that needs to be investigated. It does not require deliberation of whether the conduct did or did not take place and so no conflict of interest will arise in hearing and determining the complaint.

### **Training**

3.4 The Standards Board recommends:-

- Standards committees are fully trained on the Code of Conduct.
- Standards committees are offered other training to equip them with necessary skills, for example in conducting a hearing.
- Independent chairmen and vice-chairmen are trained in chairing meetings.
- Any newly-appointed standards committee members receive a comprehensive induction to the role and appropriate training.

### **Local assessment criteria**

3.5 Guidance will be available from the Standards Board on developing criteria and the types of issues to be considered when assessing complaints.

Standards committees will need to develop their own criteria, that reflect local circumstances and priorities, and which are simple, clear, open and ensure fairness.

Monitoring officers will be able to acquire additional factual information, which is readily available, about allegations before the assessment process begins. This could be from minutes or the register of interests, for example, if such information about a complaint would assist decision-making.

It should not include interviews or investigation at this stage.

A complainant has a right to appeal if a complaint is rejected, so standards committees will be able to invite complainants to submit further information in support of the complaint at the appeal stage in the process.

### **Role of the monitoring officer in the new framework**

3.6 The Standards Board recommends that the Monitoring Officer has pre-meetings with the independent chairman, prepares a summary of the allegation for the standards committee, highlights what the potential Code breaches are that underlie an allegation to the standards committee and that case reading time is allowed for the monitoring officer and the standards committee members.

**Completing existing investigations**

- 3.7 Authorities may have outstanding investigations and the Standards Board encourages authorities to clear such investigations – particularly long-standing cases before the new framework comes into effect.

Any authority experiencing difficulties in completing an investigation is advised to seek advice and support from the Standards Board.

**Local assessment and the corporate complaints process**

- 3.8 Standards Committees should assess
- How the public will be informed of the new arrangements?
  - Who will receive and log an allegation?
  - The production of an individual information leaflet explaining the local assessment process, possibly combined with the corporate complaints procedure.

**Future monitoring by the Standards Board**

- 3.9 The Standards Board is consulting a sample of authorities involved in a pilot study on proposals for an online information return system, which will allow authorities to tell them about how local arrangements are working.

This system is being designed based on what standards committees need locally, and to enable authorities to provide information to the Standards Board as simply as possible.

Authorities will be able to use the system locally for their own records, to keep standards committees informed of their authority's ethical activities.

Proposals for the system include quarterly online returns on cases, which will be simple and quick to use, and nil returns if there is no activity to report.

**Local assessment guidance**

- 3.10 The Standards Board will provide formal guidance later in 2008 on all aspects of the local assessment process, subject to the passage of the relevant regulations, with a toolkit to include:-
- Template notices for publicising the authority's Code of Conduct complaint process.
  - Complaint assessment flowcharts.
  - A standard complaint form.

- Template letters for each stage in the process.
- Template referral and non-referral decision notices.
- Guidance to assist with drafting criteria and for the authority to define its threshold for referral.
- Template terms of reference for assessment and review committees.

#### **4 ADDITIONAL RESPONSIBILITIES UNDER THE ACT**

- 4.1 Restrictions on political activities by certain local government staff were introduced under the Local Government and Housing Act 1989, which provided for the appointment of an independent adjudicator to grant dispensations for staff to engage in certain political activities. Under the Act the role of independent adjudicator will be abolished and the duties transferred to local authority standards committees.

These duties are:-

- To consider applications from local authority employees for exemption from political restriction in respect of their posts.
- Where appropriate, to issue directions requiring a local authority to include a post in the list of politically restricted posts it maintains.
- To give general advice, following consultation with appropriate parties, on the application of criteria for designation of a politically restricted post.

The timing of this transfer of functions from the independent adjudicator is a government matter, but the Standards Board has urged authorities to ensure that their standards committees are made aware of the change.

The Department of Communities and Local Government is expected to issue guidance on this matter in due course.

#### **5 RISK IMPLICATIONS**

- 5.1 The Council needs to be aware of the requirements and timeframe for the Act to ensure its timely and appropriate implementation.

#### **6 RESOURCE IMPLICATIONS**

- 6.1 None at present but additional resources may be necessary to undertake local investigation and determinations depending on the frequency and complexity of complaints. It may also be necessary to increase the pool of independent members to deal with cases in a timely fashion.

**7 LEGAL IMPLICATIONS**

7.1 The Council has a statutory duty to comply with the Act.

**8 PARISH IMPLICATIONS**

8.1 Members of Parish and Town Councils are subject to the National Code of Conduct.

**9 RECOMMENDATION**

9.1 It is proposed that the Committee **RESOLVES**

- (1) To note this report and
- (2) To consider the implications of the Local Government and Public Involvement in Health Act 2007 further following the outcome of the Secretary of State's consultation exercise and introduction of statutory regulations.

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**Background Papers:-**

None

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