
STANDARDS COMMITTEE

25 JANUARY 2008

Report of the Interim Head of Civic, Democratic and Legal Services

LOCAL GOVERNMENT AND PUBLIC INVOLVEMENT IN HEALTH ACT 2007

Summary

1. The purpose of this report is to advise the Standards Committee of the provisions of the Local Government and Public Involvement in Health Act 2007 in relation to the ethical framework and the implications for the Standards Committee.

Background

2. The Local Government White Paper "Stronger and Prosperous Communities" proposed changes to the ethical standards regime. These proposals were enacted as Part 10 of the Local Government and Public Involvement in Health Act 2007 which received Royal Assent on 30th October 2007. It is anticipated that the changes will be brought in to effect on 1st April 2008.
3. The 2007 Act will lead to changed roles for the Standards Board for England (SBE), Standards Committees and Monitoring Officers. In future the SBE's role will become strategic in nature. It will continue to produce guidance for local Standards Committees as well as acting as a regulator to ensure there are adequate arrangements in place at local level for handling cases. Only the most sensitive or complex individual complaints will be investigated at national level.
4. Standards Committees and Monitoring Officers will become the hub of the ethical framework. The new local arrangements will include:
 - Receipt of allegations of a breach of the Code of Conduct
 - The initial assessment of allegations (known as the local filter) to determine the appropriate course of action
 - Investigation of allegations
 - Referral to Standards Board where appropriate

- Mediation and other arrangements
- Local determination of the vast majority of complaints and
- Referring serious matters to the SBE for consideration by the Adjudication Panel for England
- Performance monitoring of the ethical framework.

5. **The Provisions of the Act**

Section 183 – Conduct that may be covered by the Code

This section amends the Local Government Act 2000 to provide that the principles which govern the conduct of members and the provisions of the Code of Conduct which they are required to follow are not limited only to members' conduct in their official capacity. It is understood that the Government's intention is that the Code would only apply to criminal activity committed in a private capacity and not other conduct that solely concerns a member's private life. This would reverse the impact of the *Livingstone* judgement .

It is understood that during the passage of the Bill through Parliament, the Minister gave an undertaking that regulations would be made to list "serious criminal offences" which would trigger the application of parts of the Members Code of Conduct to conduct in a private capacity. Less serious offences such as many traffic offences would probably not be covered. Details of the proposed regulations are still awaited.

6. **Section 185 – Assessment of allegations**

This section provides for local Standards Committees of authorities to undertake the role currently exercised by the SBE of conducting the initial assessment of allegations of misconduct which relate to one of their members or a member of a Parish Council within their area. The courses of action open to a Standards Committee when it receives an allegation are;

- Refer the allegation to the Monitoring Officer for investigation or report
- Refer the allegation to the SBE
- Take no action in respect of the complaint

Where a Standards Committee of an authority makes a decision that no action should be taken regarding an allegation, the person who made the allegation will be able to ask the committee to review its decision. This request must be made within 30 days of the date of the notice of the original decision. Following receipt of such a request, the standards Committee must undertake a new assessment of the allegation. In practice the initial assessment and any review will need to be carried out by sub-committees of the Standards Committee consisting of different members.

Where the subject of the allegation is no longer a member of the authority in question but is a member of another authority there is a discretion for the Standards Committee to refer the allegation to the Monitoring Officer of the member's current authority.

Finally the section also makes provision for the SBE to issue guidance and directions to Standards Committees with respect to the exercise of these procedures, including the ability to suspend the committee's powers to carry out initial assessments.

7. Section 186 – Information to be provided to the Standards Board

This section requires Standards Committees to provide the SBE with periodic information on the allegations of misconduct it has received, any requests to review its decisions to take no action in respect of allegations, and the exercise of any functions by the Standards Committee or Monitoring Officer.

8. Section 187 – Standards Committee Chairs

This section provides that Standards Committees must have an independent member as chairman. This of course already the case under York's Constitution. As the Committee will see from another report on the agenda the government are consulting on whether sub committees of Standards Committees should also have independent members as chairmen.

9. Section 188 – Sub-Committees of Standards Committees

This section enables a Standards Committee to appoint one or more sub-committees to undertake any of its functions. In practice there will have to be a sub-committee to carry out assessments, another to undertake reviews and another to carry out hearings as members who have been involved at one stage may not be permitted to be involved in the same case at another stage.

10. Section 189 – Joint Committees of Relevant Authorities

This section empowers the Secretary of State to make regulations under which two or more authorities may establish a joint committee and arrange for functions of their Standards Committees to be exercised by a joint committee. This issue is included in the consultation on draft regulations.

11. Section 190 – Standards Board for England: functions

This section provides that the Standards Board may issue guidance to ethical standards officers with respect to the exercise of their functions and enables the SBE to take action to facilitate the functions of Standards Committees or Monitoring Officers.

12. Section 191 – Ethical Standards Officers: investigations and findings

This section amends the description of two of the findings an ethical standards officer can make in particular he can make a finding that "there has been no failure to comply with the code of conduct" rather than "there is no

evidence of any failure...” It also extends section 63 of the Local Government Act to provide for information obtained by an ethical standards officer in the course of an investigation to be disclosed to the monitoring officer to allow him to carry out his duties or to be made to the local Ombudsman or Electoral Commission.

13. Section 192 – Ethical Standards Officers: reports etc

This section provides that a report by an ethical standards officer on the outcome of an investigation can be passed to the relevant standards Committee in order to assist it in carrying out its functions.

14. Section 193 – Disclosure by Monitoring Officers of Ethical Standards Officers’ reports

This section provides for a monitoring officer to inform any member or officer of an authority of the outcome of an ethical standards officer’s investigation into an allegation , and to provide them with a copy of the report or any part of it where this will help to promote high standards of conduct by members and co-opted members of the authority.

15. Section 194 – Matters referred to Monitoring Officers

This section enables regulations to be made to enable a monitoring officer to refer back cases referred to him by a Standards Committee and set out the circumstances in which such a referral back may be made. Regulations may make provision with regard to access to disclosure of information.

16. Section 195 - References to the Adjudication Panel

This section provides for regulations to be issued to deal with situations where a Standards Committee considers the sanctions available to it would be insufficient and refers the case to the Adjudication Panel.

17. Consultation with the Local Government Ombudsman

The Local Government Ombudsman may consult the Standards Committee (as well as the Standards Board) about a case if he believes that the complaint he is considering relates partly to a matter that may be of concern to the committee.

18. Section 202 – Politically restricted posts: grant and supervision of exemptions

The Local Government and Housing Act 1989 provides that a person is disqualified from becoming a member of a local authority if he holds a politically restricted post. This section amends the 1989 Act so that the granting and supervision of exemptions from the political restriction will be the responsibility of the Standards Committee of each local authority rather than that of the Independent Adjudicator as at present.

19. Implications of the Changes for the Standards Committee

The changes contained in the Act will mean changes to the composition and terms of reference of the Standards Committee. York has a small Standards Committee of 6. Given the need to have sub committees of different members conducting the initial assessment and any review of that assessment and allowing for any member who may be conflicted out it will not be possible to operate the arrangements without enlarging the Committee. The sub-committees will need to comprise a minimum of 3 members and may have to be chaired by an Independent member.

The Standards Board are recommending a Standards Committee of between 9 and 12 depending on the number of parishes. As part of the current review of the Constitution a paper is being put to the Group Leaders suggesting that the Committee be increased to 10, with one additional elected member, 2 additional Independent members and an additional Parish representative. It is hoped to report further on this at the meeting.

The Act also gives additional responsibilities to the Committee both in terms of assessing complaints and reviewing those assessments when requested but also in the new area of dealing with exemptions from political restriction under section 202. In future the majority of investigations into complaints will be local ones followed, where necessary by a local hearing.

Consultation

20. Consultation is being carried out with the political group leaders over possible changes to the size of the Standards Committee.

Options

21. The Council must comply with the requirements of the Local Government and Involvement in Health Act 2007. It has a discretion on the size of the Standards Committee as long as it is of sufficient size to discharge its responsibilities. There will also be a discretion as to whether it seeks joint arrangements with another Standards Committee.

Analysis

22. This report summarises the new provisions relating to Standards Committees. A further report on the agenda deals with the consultation on the proposed regulations. The implications for the Standards Committee are also set out in this report together with proposals for increasing the size of the Committee to enable it to discharge its new roles.

Corporate Priorities

23. Compliance with the Local Government Act 2000 contributes to the corporate priority of improving leadership at all levels.

Implications

24. There are no specific financial, HR equalities, crime and disorder, IT, property or other implications arising out of this report. Legal implications are dealt with in the report.

Risk Management

25. The Standards Committee needs to be aware of new legislation affecting its work so that it can be prepared for the changes.

Recommendations

26. The committee is asked to note the contents of this report. Further recommendations may be tabled relating to the future composition of the Committee in order to meet the requirements of the legislation.

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Report Approved *tick* **Date** 14th January 2008

Specialist Implications Officer(s) *List information for all*
None

Wards Affected: *List wards or tick box to indicate all*

All *tick*

For further information please contact the author of the report

Background Papers:

Local Government and Public Involvement in Health Act 2007