

# Update on New Provisions in the Local Government and Public Involvement in Health Act 2007

## Report of the Clerk

For further information about this report please contact Sue Kembrey, Clerk and Monitoring Officer, on 01952 383200 or Matthew Cumberbatch, Group Solicitor, on 01952 383255.

## 1 Purpose of Report

This report updates the Committee with regard to the latest developments in ethical standards matters, which will be brought about by the implementation of the Local Government and Public Involvement in Health Act 2007.

## 2 Recommendations

The Standards Committee is asked to:

- a) Note the contents of the report; and
- b) Provide any comments and suggestions in respect of the proposed changes to the structure of the Committee as a result of the implementation of the new legislation

## 3 Background

The implementation of the provisions in the Local Government and Public Involvement in Health Act 2007 ('the Act') will significantly change the role of the Standards Committee. This is principally with regard to the introduction of the local assessment of complaints alleging breaches of the Members' Code of Conduct. A number of new procedures will need to be put in place to ensure compliance with the new responsibilities brought about by the Act. The Standards Board for England has started to identify some of the issues, which need to be addressed, however the final structure of the new process has yet to be finalised.



## 4 Implications of the Act

The Local Government and Public Involvement in Health Act was enacted in October 2007 and officers expect that many of the provisions in the Act will be in place by spring 2008. This will have a significant effect upon the workload of the Standards Committee. The complaints alleging breach of the Members' Code of Conduct will, under the new provisions, be made to the Standards Committee instead of the Standards Board for England. A sub-committee of the Standards Committee will be required to make an initial decision as to whether or not to refer the allegation for an investigation, which in most cases will be investigated locally and determined by this Committee. There will also be a provision for the Committee to review a decision relating to the initial referral. Whilst in a few cases allegations will be referred to the Standards Board for England for investigation, the Board's role will remain one of a strategic regulator.

In order to implement the terms of the new legislation, a number of regulations and orders will need to be made. At present, these have not yet been finalised, which will mean there will be only a short period of time between the release of the new regulations and the implementation of the new system in a few months time.

The Standards Board for England has prepared a checklist of matters to be taken into consideration at this point. At the time of preparing this report the issues raised are addressed below:

### **Size of Standards Committee**

The Board is recommending at least 6 people as a minimum on the Standards Committee (being 3 elected Members and 3 Independent Members) and that consideration is given as to whether more Members are required to ensure cover in the event of conflicts of interests, holidays or sickness.

Once the appointment of the two additional Independent Members to the Committee has been completed, it will comply with the recommended practice in this area.

### **Structure of Standards Committee**

The Board suggests that there is a structure of sub-committees or that the Standards Committee acts as a pool of Members to deal with different roles. As a minimum, there should be two separate sub-committees, one for taking initial assessment decisions and one for taking decisions on reviews. The structure of the sub-committees would include ensuring that there is an independent chair on each occasion that a sub-committee is convened.

The Board suggests that a Member, who has been involved in an initial assessment decision or a referral of a complaint back to the Standards Committee from the Monitoring Officer following an initial decision, can then sit and hear a determination of the same complaint afterwards.



Whilst this is noted as a Standards Board recommendation for effective practice, it is suggested that it would be better to ensure (where possible) that there are different sub-committee Members for each determination of an individual matter in order to prevent any allegation of the hearing being unfair.

### **Training for Standards Committees**

The Board suggests that Standards Committees are fully trained on the Code of Conduct, including training on conducting a hearing. They also suggest independent chairs and vice-chairs are trained in chairing meetings and that any newly appointed Standards Committee Members receive a comprehensive induction to the role with appropriate training.

It is suggested that this training be provided close to the time when the new system is due to be implemented.

### **Local Assessment Criteria**

The Standards Board confirms that it is developing guidance on this issue. It suggests that, when allegations are received, Monitoring Officers should acquire additional factual information, which is readily available to assist with decision making, but not include any interviews or investigations when the initial referral is being considered. Further regulations and guidance are awaited on this topic.

### **Role of the Monitoring Officer in the new framework**

The Board is suggesting that there is a pre-meeting between the Monitoring Officer and the independent Chair prior to meetings and that the Monitoring Officer prepares a summary of the allegations for the Standards Committee, highlighting potential breaches in the Code. In addition the Board suggests allowing case reading time for the Monitoring Officer and the Standards Committee.

### **Completing existing investigations**

Authorities are encouraged to conclude all outstanding investigations before the new framework comes into effect. At the time of preparing this report the Committee has no outstanding local investigations.

### **Local Assessment and the Corporate Complaints Process**

The Board suggests that consideration is given to how the public will be informed of the new arrangements for making complaints and how we will receive and log an allegation. It also suggests producing leaflets, outlining the local assessment process, which could possibly be combined with the corporate complaints process.



Further guidance is awaited from the Board, which is planning to provide a toolkit, once the regulations have been put in place, to assist fully with the procedure for processing allegations.

Updates will be provided to the Committee at future meetings. In the meantime, because of the timescales involved, the Monitoring Officer will be implementing the regulations by way of amendment to the Committee's structure in accordance with the delegation to do so, granted by the Fire Authority at its meeting on 19 December 2007.

## **5 Financial Implications**

The main financial resource issues arising from the change in role of the Standards Committee are the costs associated with the sub-committee meetings to consider complaints, an expected increase in local investigations/determinations and additional training for Committee Members.

Funding in respect of training for Standards Committee Members will be provided within existing resources set aside for Member training. It is not possible currently to predict the additional costs in respect of the other resource issues detailed above. These will need to be identified once officers have an indication as to how many cases are likely to arise.

## **6 Legal Comment**

The legal comment is contained within the main body of this report.

## **7 Equality Impact Assessment**

Officers have considered the Service's Brigade Order on Equality Impact Assessments (Personnel 5 Part 2) and have decided that there are no discriminatory practices or differential impacts upon specific groups arising from this report. An Initial Equality Impact Assessment has not, therefore, been completed.

## **8 Appendices**

There are no appendices attached to this report.

## **9 Background Papers**

Standards Board for England Bulletin – December 2007



Implications of all of the following have been considered and, where they are significant (i.e. marked with an asterisk), the implications are detailed within the report itself.

Balanced Score Card		Integrated Risk Management Planning	
Business Continuity Planning		Legal	*
Capacity		Member Involvement	*
Civil Contingencies Act		National Framework	
Comprehensive Performance Assessment		Operational Assurance	
Efficiency Savings		Retained	
Environmental		Risk and Insurance	
Financial	*	Staff	
Fire Control/Fire Link		Strategic Planning	
Information Communications and Technology		West Midlands Regional Management Board	
Freedom of Information / Data Protection / Environmental Information		Equality Impact Assessment	*

