

## Agenda Item:5

**Report to:** Standards Committee

**Date:** 29 January 2008

**Report from:** Borough Solicitor

**Title of report:** **CONSULTATION ON PROPOSED SECONDARY  
LEGISLATION AFFECTING STANDARDS  
COMMITTEE**

**Purpose of report:** To seek Members' views on the consultation from the Government on proposed orders and regulations and to recommend to Council to augment the membership of Standards Committee to permit the appointment of sufficient sub-committees.

**Recommendations:** That Members

- consider the proposed responses and confirm or otherwise these for transmission to the Department of Communities and Local Government;
- recommend to Council to augment the membership of Standards Committee to 12;
- authorise the monitoring officer to advertise for a third independent member

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## 1.0 The Local Government and Public Involvement in Health Act 2007

1.1 Members will be aware that one of the significant effects for this Committee of the Local Government and Public Involvement in Health Act 2007 is that the responsibility for the initial assessment of complaints is to be devolved to standards committees of relevant authorities.

1.2 The devolution of this important function is expected to be effective from 1 April 2008. It was hoped that regulations would have been published in time so that I could report to Standards Committee and Committee could make recommendations to Council so that the Committee would be in a position to undertake the various aspects of the roles from 1 April 2008.

1.3 The Government is only now consulting on the proposed regulations bringing these changes into effect and so it is necessary to make interim arrangements in order that the Committee is able to perform its enlarged functions through the appointment of sub-committees.

## 2.0 Consultation On Orders And Regulations

2.1 The Government sees a necessity to make secondary legislation in order to address the following:-

- the operation of standards committees' powers to make initial assessments of misconduct allegations;
- the operation of other functions by standards committees and the Adjudication Panel in issuing penalties and sanctions;
- the operation of the Standards Board's revised strategic role to provide supervision, support and guidance for the regime;
- other matters, such as the rules on the granting of dispensations, the granting of exemptions of posts from political restrictions and the pay of local authority assistants.

2.2 The thoughts of the Government Department are set out in the paper attached as appendix A.

2.3 The usual format is adopted i.e. a number of questions are asked and the suggested responses on behalf of this Committee are set out in Appendix B.

## 3.0 Interim Arrangements and Recommendations To Council

3.1 In order to be in a position where the Committee would be able, through the appointment of sub-committees, to meet its new responsibilities of

- Initial assessment of the complaint;

- Review of a decision not to refer the complaint to the monitoring officer for investigation;
- Hearing of a complaint following completion of an investigation;

it is suggested that the Committee should have sufficient membership to permit the sub-committees to have a different constitution at each stage. Whilst the Government is consulting upon a proposal that the constitution would only have to be different at the initial assessment and review stages, the regulations themselves could provide that it should be different at all stages. It may be possible to undertake one of the stages through a joint committee but it is too early to draw any conclusions on this.

- 3.2 The current constitution of this Committee is 7 members, two of whom are independent members.
- 3.3 As it is possible that the regulations, once made, could require a different constitution at each stage and that under current regulations the membership of each sub-committee would have to include an independent member, possibly as chair, then it is necessary to recruit at least one further independent member.
- 3.4 In any event, regulations currently require that 25% of the membership of standards committee or sub-committees of Standards Committee should be independent.
- 3.5 In order to be in a position to meet the possible requirements of the regulations and to provide for potential conflicts of interest or other reason why a member is unable to take part as a member of a sub-committee on a particular application, it is suggested that the total membership of Standard Committee be augmented to 12, inclusive of 3 independent members.
- 3.6 Subject to Council agreeing the enlargement of the Committee and appointing to it and the appointment of an additional independent member, it is suggested that Committee appoint 3 sub-committees of 3 members, including an independent member. All three sub-committees would be able to exercise all three functions in the process but not in respect of the same complaint. In order to ensure equality of involvement of members at all stages and so development of related skills, rotation of the function of the sub-committees would seem appropriate.
- 3.7 Currently, the level of complaint to the Standards Board is low. However, this may be due to the robust referral system developed by the Standards Board, which may discourage potential complainants from pursuing complaints. Devolution of this function locally might encourage complainants to pursue what might have not seemed worthwhile under the current system.

- 3.8 The current regulations require that independent members are recruited through advertisement in a local newspaper. In order to be able to meet the possible responsibilities under the proposed regulations, it is recommended that we proceed to advertisement immediately.
- 3.9 For information the Council cannot appoint an independent member unless the appointment is
- Approved by a majority of the members of the authority;
  - Advertised in one or more newspapers circulating in the area of the authority;
  - Of a person who has submitted an application to the authority;
  - Of a person who is not a member or officer of that or any other relevant authority;
  - Of a person who has not within the period of 5 years immediately preceding the date of the appointment been a member or officer of the authority;
  - Of a person who is not a relative or close friend of a member or officer of the authority;

Equalities & Community Cohesiveness	
Crime and Fear of Crime (Section 17)	
Risk Management	
Environmental issues	
Economic / Financial implications	
Human Rights Act	
Organisational Consequences	X

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Appendices:

- A – Consultation on Orders and Regulations relating to the conduct of Local Authority Members in England
- B - Proposed responses to questions posed by the Consultation paper