



Ryedale District Council

REPORT TO: Standards Committee

DATE: 22 NOVEMBER 2007

REPORTING OFFICER: Council Solicitor
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SUBJECT: Local Government & Public Involvement in Health Act 2007

1.0 PURPOSE OF REPORT

To summarise the main provisions in Part 10 of the Local Government and Public Involvement in Health Act 2007 sofar as it relates to the work of the Standards Committee.

2.0 RECOMMENDATIONS

Members of the Committee are asked to note the report .

3.0 BACKGROUND INFORMATION

The Local Government and Public Involvement in Health Act 2007 Act received Royal Assent on 30 October 2007 and it is expected that the provisions relating to the Ethical Framework will come into force in April 2008.

4.0 INTRODUCTION

4.1 The Local Government White Paper "Stronger and Prosperous Communities" proposed changes to the ethical standards regime. These proposals were translated into Part 10 of the Local Government and Public Involvement in Health Bill 2006, which received Royal Assent on 30 October 2007 to become the Local Government and Public Involvement in Health Act 2007 (the 2007 Act).

- 4.2 The 2007 Act will lead to changed roles for the Standards Board for England (SBE), Monitoring Officers and Standards Committees. In the future, the SBE's focus will be strategic; on producing strategy and guidance for local authorities and ensuring there are adequate arrangements in place at a local level for handling cases and preventing misconduct. Only sensitive or complex individual complaints will still be handled at national level.
- 4.3 Monitoring Officers and Standards Committees 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;
 - mediation and other arrangements;
 - referral to the Standards Board where appropriate;
 - the 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.

5.0 REPORT

This part of the report seeks to summarise the main provisions of Part 10 of the 2007 Act. Much of this part of the 2007 Act amends Part III of the Local Government Act 2000 relating to ethical standards.

Part 10: Specific Provisions

Section 183 - Conduct that may be covered by code

This section amends the Local Government Act 2000 to provide that the principles which govern the conduct of members and co-opted members of relevant authorities 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, however, 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 the conduct of Members in a private capacity. Less serious offences such as a parking offence would probably not be covered by this provision. Further details will be reported to Members when this information is available.

Section 185 - Assessment of allegations

This provides for individual local standards committees of authorities to undertake the role currently exercised by the Standards Board for England of conducting the initial assessment of allegations of misconduct which relate to one of their members or co-opted members. It sets out the courses of action open to a standards committee where such an allegation is received.

- refer the allegation to the authority's monitoring officer for consideration,
- to refer the allegation to the Standards Board or
- to 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. The request for review must be made in writing 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. It also provides that a standards committee has discretion, where the subject of the allegation is no longer a member or co-opted member of the authority in question and has moved to another relevant authority, to refer the allegation to the monitoring officer of the member's current local authority. The section also makes provision for the Standards Board for England to issue guidance and give directions to standards committees with respect to the exercise of these procedures, including the ability to suspend the committee's power to carry out initial assessments of allegations.

Section 186 - Information to be provided to Standards Board by relevant authority

This section requires standards committees to provide the Standards Board with periodic information on the allegations of misconduct it has received, any requests received to review its decisions to take no action in respect of allegations, and the exercise of any functions by the standards committee or the monitoring officer. The authority must comply with the request for information by such date as the Standards Board may specify.

Section 187 - Standards Committee Chairs

This provides that standards committees must have an independent member as chairman.

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.

Section 189 - Joint committees of relevant authorities in England

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 otherwise exercisable by their standards committees to be exercisable by the joint committee. Draft regulations have not been published to date.

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 Board to take action to facilitate the functions of standards committees or monitoring officers.

Section 191 - Ethical standards officers: investigations and findings

This section amends the description of two of the findings an ethical standards officer can make and provides that his access to documents will not be limited, as now, to documents relating to a relevant authority.

It also extends section 63 of the Local Government Act 2000 to provide that information obtained by an ethical standards officer in the course of an investigation may be disclosed where the disclosure is made to allow the monitoring officer to carry out his duties or it is made to the Commissioner for Local Administration or to the Electoral Commission for the purpose of their functions.

An order making power is also provided for the Secretary of State to allow for such disclosures to be made to other people.

Section 192 - Ethical standards officers: reports etc

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

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 also 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.

Section 194 - Matters referred to monitoring officers

This section provides for regulations 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.

Section 195 - References to Adjudication Panel for action in respect of misconduct

This section provides for regulations to be issued in respect of the referral by a standards committee of a case to the Adjudication Panel where it considers the sanction available to it would be insufficient. The Adjudication Panel member's will then decide what sanction, if any, should be imposed against the person.

Section 196 - Consultation with the Local Government Ombudsmen

This section extends to standards committees the provisions of the Local Government Act 2000 to provide that 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.

Section 200 - Exemption from Data Protection Act 1998

This section provides that under section 31(1) of the Data Protection Act 1998 personal data processed by a monitoring officer or an ethical standards officer for the purpose of discharging any function under Part 3 of the Local Government Act 2000 are exempt from the information provisions of the Act to the extent to which the application of those provisions to the data would be likely to prejudice the proper discharge of that function.

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 in England, rather than that of the Independent Adjudicator.

6.0 FINANCIAL IMPLICATIONS

Consideration will need to be given to the potential resources implications in relation to the local filter procedure. A fully investigated allegation will require consideration by a sub-committee to determine if it requires investigation, a review process, investigation and finally a local determination hearing before a further subcommittee. Care will also need to be taken to avoid conflicts of interest by officers or members undertaking more than one role in this quasi-judicial process.

7.0 RISK ASSESSMENT

There is a need for regulations and guidance to be issued as soon as possible to assist the Committee in preparing to undertake local filtering from April 2008. If insufficient time is allowed to absorb the impact of the regulations before local filtering commences there is a risk of successful challenge on procedural grounds.

8.0 CONCLUSION

The Committee will be actively involved in the introduction of the new Act and this report seeks to provide background information of the new legal provisions.

Background Papers:

None

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