

WEST MIDLANDS FIRE AND RESCUE AUTHORITY

Standards Committee

10th November 2008

1. STANDARDS COMMITTEE DETERMINATIONS AND SUB-COMMITTEES OF THE STANDARDS COMMITTEE

Report of the Monitoring Officer.

RECOMMENDED that

- 1.1 Members consider and discuss the guidance “Standards Committee Determinations” issued by the Standards Board.
- 1.2 The Standards Committee establish Consideration and Hearing Sub-Committees with membership and terms of reference as set out at Appendix 2.
- 1.3 That where it is not possible to obtain a quorum for a established Sub-Committee, the Monitoring Officer be authorised to select replacement members from the Standards Committee as appropriate.

2. PURPOSE OF REPORT

- 2.1 The Local Government and Public Involvement in Health Act 2007 and the Standards Committee (England) Regulations 2008 transferred further responsibilities to local authority standards committees.
- 2.2 In line with its strategic role the Standards Board issued guidance on the role and make up of standards committees and on local assessment of complaints. This guidance was considered in detail by the Standards Committee at its meeting on 21st July 2008.
- 2.3 The Standards Board has now issued further guidance “Standards Committee Determinations” (Appendix 1). The main purpose of the Standards Committee’s determination hearing is to decide whether a member has breached the Code of Conduct and, if so, to decide if a sanction should be applied and what form the sanction should take. It is necessary to review the terms of reference of the Hearings Sub-Committee in the light of this new guidance.

- 2.4 It is also suggested that where it is not possible to obtain a quorum for an established Sub-Committee the Monitoring Officer be authorised to select replacement members from the Standards Committee as appropriate.

3. **BACKGROUND**

- 3.1 The Local Government and Public Involvement in Health Act 2007 and the Standards Committee (England) Regulations 2008 transferred further responsibilities to local authority standards committees.
- 3.2 In line with its strategic role the Standards Board issued guidance on the role and make up of standards committees and on local assessment of complaints. This guidance was considered in detail by the Standards Committee at its meeting on 21st July 2008.
- 3.3 The Standards Board has now issued further guidance “Standards Committee Determinations” (Appendix 1). The main purpose of the Standards Committee’s determination hearing is to decide whether a member has breached the Code of Conduct and, if so, to decide if a sanction should be applied and what form the sanction should take.
- 3.4 It is suggested that the Standards Committee can appoint a Sub-Committee (the Consideration and Hearing Sub-Committee) to consider the Monitoring Officer’s investigation reports and to hold determination hearings. The meeting to consider the Monitoring Officer’s investigation report (consideration meeting) is separate to the meeting at which the hearing is conducted. If the investigation report contains a finding that there is no failure to comply with the Code of Conduct the Standards Committee Sub-Committee must decide whether to accept that recommendation. If the recommendation is not accepted or where the investigation report finds that there has been a failure to comply with the Code a hearing must take place or the matter referred to the Adjudication Panel for England for determination. The consideration meeting can be used as part of the pre-hearing process.
- 3.5 The Standards Committee has already established Assessment Sub-Committees and Review Sub-Committees under the new legislation. It also re-established a Hearings Sub-Committee as in previous years, but it is necessary to revise the terms of reference of this Sub-Committee in the light of the new guidance to include the consideration of investigation reports, and dealing with

procedures and processes relating to reports and hearings, as well as the hearing and determination of cases. The suggested membership and terms of reference of the Consideration and Hearing Sub-Committees are set out at Appendix 2.

- 3.6 It is stated in the guidance that the hearing is a formal meeting of the authority and is not a court of law. It decides factual evidence on the balance of probabilities. It has to work in a demonstrably fair, unprejudiced and unbiased way. The Guidance does in fact cover many aspects of the pre-hearing, hearing and post-hearing processes to which the Standards Committee, Monitoring Officer and her staff must pay particular attention and ensure compliance. The guidance is also accompanied by the Standards Committee Determination Toolkit (Appendix 3).
- 3.7 It has already become apparent that the Sub-Committees have substantial roles in terms of assessment, review, consideration, pre-hearing processes and hearing and determination. The same members cannot be used in assessment and in review of the same decisions. This, together with other conflicts of interest and pre-involvement of members, potentially limits the members available to form quorate Sub-Committees. It is suggested that in order to better facilitate the convening of quorate Sub-Committees in the time scales suggested in the guidance and adopted by the Standards Committee and in order to discharge business effectively that the Monitoring Officer, in consultation with the Clerk, be authorised to select replacement members from the Standards Committee to serve on Standards Sub-Committees where it is not possible to obtain a quorum for a established Sub-Committee.

4. **EQUALITY IMPACT ASSESSMENT**

In preparing this report an initial Equality Impact Assessment is not required and has not been carried out.

5. **LEGAL IMPLICATIONS**

- 5.1 In addition to the Local Government Act 2000 (as amended by the Local Government and Public Involvement in Health Act 2007) and the Standards Committee (England) Regulations 2008 guidance issued by the Standards Board must be taken into account by the authority. It must be noted that the Standards Board now has a monitoring and regulatory role granted to it by legislation and it is important to implement the ethical framework with due regard to the legislation and guidance. If the Standards Board is not happy

with performance at the local level it does have the power to intervene and take away the additional responsibilities given to the authority.

- 5.2 Regulation 6(2) of the Standards Committee (England) Regulations 2008 states that the Standards Committee can appoint Sub-Committees to discharge functions under Regulations 17 to 20 and that these Sub-Committees must be chaired by an independent member. Regulations 17 to 20 relate to consideration of reports by the Standards Committee following a local investigation or an investigation by an Ethical Standards Officer, hearings by the Standards Committee, findings of the Standards Committee and notification of findings of the Standards Committee.

6. **FINANCIAL IMPLICATIONS**

- 3.1 Compliance with the guidance will require further work by the Standards Committee and Sub-Committees, the Monitoring Officer or her staff and Governance Services. The level of additional resources deployed will depend upon the number of misconduct cases that reach the final stages of hearings and determination. There may be a need in the future to request an increased budget, although this is unlikely given the lack of member complaints received.

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MONITORING OFFICER