

**WEST MIDLANDS FIRE AND RESCUE AUTHORITY**

**Standards Committee**

**11<sup>th</sup> February 2008**

1. **LOCAL GOVERNMENT AND PUBLIC INVOLVEMENT IN  
HEALTH ACT 2007 – ETHICAL STANDARDS**

Report of the Monitoring Officer.

RECOMMENDED

THAT the enactment of the Local Government and Public Involvement in Health Act 2007 be noted, and, in particular, the substantial changes to the ethical standards framework.

2. **PURPOSE OF REPORT**

This report is submitted to inform members of the enactment of the Local Government and Public Involvement in Health Act 2007 and the substantial changes to the ethical standards framework the Act brings.

3. **BACKGROUND**

- 3.1 The Local Government and Public Involvement in Health Act 2007 (LGPIHA 2007) gives effect to the Government's proposals for reform of the local government system in England and for reform of the current arrangements for patient and public involvement in the provision of health and social care services. LGPIHA 2007 received Royal Assent on 30<sup>th</sup> October 2007.
- 3.2 Part 10 of LGPIHA 2007 concerns ethical standards and gives effect to the Government's proposals for the reform of the regime relating to standards of conduct for local government. LGPIHA 2007 amends the Local Government Act 2000 to provide for a revised ethical conduct regime.
- 3.3 The proposals are aimed at devolving most decision-making on the conduct regime for local authority members to local authorities, with a revised, regulatory role provided for the Standards Board. Local standards committees are to make initial assessments of

misconduct allegations and are to review assessments that lead to no action being taken. The Standards Board is given powers to suspend a standards committee's role in making initial assessments of allegations. It can also issue guidance to standards committees and ethical standards officers.

- 3.4 Provision is also made for decisions in respect of local authority posts subject to political restrictions to be undertaken by standards committees rather than, as currently, by the Independent Adjudicator.
- 3.5 Although the precise implementation dates are not known the Government has indicated that it intends for the provisions to be in force by Spring 2008. This will be dependant upon relevant secondary legislation being in place.
- 3.6 The Standards Committee has previously considered various consultation and discussion documents published by the Government. More recently it has received reports on The Local Government White Paper "Strong and Prosperous Communities" which was published and The Local Government and Public Involvement in Health Bill, which was introduced in the House of Commons on 15<sup>th</sup> January 2007. The Standards Committee has given consideration to how the changes will impact on the authority.
- 3.7 Part 10 of LGPIHA 2007 contains the following specific changes relevant to the authority (summarised):
  - (1) The Code of Conduct for Members applies to members when they are acting in their official capacity but the only provisions of the Code which may apply to members outside their official capacity are those which prohibit conduct that would (if engaged in) constitute a criminal offence.
  - (2) Individual local standards committees are to conduct the initial assessment of allegations of misconduct which relate to authorities' members or co-opted members. Standards committees can refer the allegation to the authority's monitoring officer for consideration, refer the allegation to the Standards Board, or decide to take no action in respect of the complaint. If a standards committee decides to take no action over an allegation, it should write to the person who made the allegation informing them of the decision and the

reasons for this. The Standards Board can issue guidance and give directions to a standards committee in relation to exercise of these procedures. Following a decision that no action should be taken regarding an allegation, the person who made the allegation can ask the standards committee to review its decision. The standards committee must then undertake a new assessment of the allegation.

Where a person makes an allegation of misconduct to a standards committee it must take reasonable steps to give a written summary of the allegation to the person who is the subject of the allegation. There are further provisions requiring the subject of the allegation to be kept informed. A standards committee's power to undertake initial assessments of misconduct allegations can be suspended by the Standards Board. Any allegations referred to the Standards Board can result in an investigation by an ethical standards officer, a decision that no action should be taken, or referral back to the relevant local standards committee.

- (3) Authorities have to provide the Standards Board with periodic information on the allegations received, requests to review decisions to take no action and the exercise of functions by the standards committee or the monitoring officer.
- (4) There are miscellaneous amendments relating to:
  - a. requirement to have an independent chairman of a standards committee;
  - b. appointment of sub-committees to carry out functions;
  - c. establishment of joint committees;
  - d. enabling guidance to be issued by Standards Board to ethical standards officers, standards committees or monitoring officers;
  - e. disclosure of information by the ethical standards officer to the monitoring officer or the ombudsman or the standards committee;
  - f. power of monitoring officer to inform any member or

officer of an authority of the outcome of an ethical standards officer's investigation and to provide them a copy of the report where this will help to promote high standards of conduct by members and co-opted members of the authority;

- g. referral back to the standards committee by a monitoring officer;
- h. referral by standards committees to the Adjudication Panel where sanctions available to the committees are considered insufficient;
- i. consultation by the Local Government Ombudsman with the standards committees;
- j. appeals to the High Court against suspension imposed by interim case tribunals to proceed only with consent of the High Court. Similar consent required for appeals against decision.
- k. certain exemptions from the Data Protection Act 1998 to prevent prejudice to the proper discharge of functions.

- (5) The Local Government and Housing Act 1989 provides that a person is disqualified from becoming a member of a local authority if he or she holds a politically restricted post. The granting and supervision of exemptions from the political restriction are to be the responsibility of standards committees rather than the Independent Adjudicator.

3.8 The effective implementation and application of Part 10 of LGPIHA 2007 is dependant upon legislative regulations, secondary legislation and also guidance to be issued by the Secretary of State or the Standards Board. Some of this proposed detail is beginning to emerge e.g. the recently published "Consultation on Orders and Regulations relating to the Conduct of Local Authority Members in England." The Government has said that it intends to have the revised framework in place by Spring 2008.

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**

LGPIHA 2007 has made substantial changes to the ethical standards framework and increased the duties and responsibilities to be discharged at the local level.

6. **FINANCIAL IMPLICATIONS**

Implementation of the provisions will mean increased work for the Monitoring Officer and the Standards Committee and this may in due course require a review of the resources needed to properly service the revised ethical standards framework.

**BACKGROUND PAPERS**

Local Government and Public Involvement In Health Act 2007  
Local Government and Public Involvement In Health Act 2007 –  
Explanatory Notes

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