

## Kent County Council

### Comments on CLG Consultation Paper on Regulations to Implement Changes in the Standards Regime arising from the Local Government and Public Involvement in Health Act 2007

*Q1 Does our proposal to prohibit a member who has been involved in a decision on the assessment of an allegation from reviewing any subsequent request to review that decision to take no action (but for such a member not to be prohibited necessarily from taking part in any subsequent determination hearing), provide an appropriate balance between the need to avoid conflicts of interest and ensure a proportionate approach? Would a requirement to perform the functions of initial assessment, review of a decision to take no action, and subsequent hearing, by sub-committees be workable?*

The Council supports the proposal to prohibit a Member who has been involved in a decision on the initial assessment of an allegation from reviewing a decision to take no action. However, the Council is anxious that involvement in the assessment or review stages should not prevent a member from taking part in any subsequent determination hearing. This would allow authorities with small Standards Committees to organise themselves so that, while sub-committees of the Standards Committee could deal with the assessment and review stages, the full Standards Committee could deal with determination hearings.

*Q2. Where an allegation is made to more than one standards committee, is it appropriate for decisions on which standards committee should deal with it to be a matter for agreement between standards committees? Do you agree that it is neither necessary nor desirable to provide for any adjudication role for the Standards Board?*

Yes, the Council agrees with both these assertions.

*Q3. Are you content with our proposal that the timescale for making initial decisions should be a matter for guidance by the Standards Board, rather than for the imposition of a statutory time limit?*

Yes, the Council agrees with this proposal.

*Q4. Do you agree that the sort of circumstances we have identified would justify a standards committee being relieved of the obligation to provide a summary of the allegation at the time the initial assessment is made? Are there any other circumstances which you think would also justify the withholding of information? Do you agree that in a case where the summary has been withheld the obligation to provide it should arise at the point where the monitoring officer or ethical standards officer is of the view that a sufficient investigation has been undertaken?*

Yes, the Council agrees with the two proposals made in this question. However, the Council is concerned at the proposal that the obligation to provide the Member complained against with a written summary of the allegation will only arise after the decision is made on the initial assessment. The Council believes that the obligation should arise as soon as possible after the allegation has been received and certainly before the assessment hearing takes place. Otherwise, some Members of a Council (those who serve on the Standards Committee's

assessment sub-committee) will know the details of an allegation against one of their colleagues well before that colleague even knows that an allegation has been made against him or her.

#### *Paragraphs 18-19 – References to Monitoring Officers*

The Council notes that CLG proposes to provide in the Regulations that when a Standards Committee refers a case to a Monitoring Officer it may also direct the Monitoring Officer that the matter should be dealt with otherwise than by investigation. Whilst the Council supports this proposal it is anxious that the Regulations should make clear that a formal decision must still be taken on the original allegation so that the complainant and the Member complained about know where they stand.

*Q5. Do you agree that circumstances should be prescribed, as we have proposed, in which the monitoring officer will refer a case back to the standards committee?*

Yes, the Council agrees with this proposal.

*Q6. Are you in favour of an increase in the maximum sanction the standards committee can impose? If so, are you content that the maximum sanction should increase from three months to six months suspension or partial suspension from office?*

Yes, the Council agrees with both these proposals.

*Q7. Do you have any views on the practicability of requiring that the chairs of all sub-committees discharging the assessment, review and hearing functions should be independent, which is likely to mean that there would need to be at least three independent chairs for each standards committee? Would it be consistent with robust decision-making if one or more of the sub-committee chairs were not independent?*

The Council has a Standards Committee comprising only 6 Members (3 Councillors and 3 independent Members). This size of Standards Committee is not untypical. This means that it would be impractical to require all sub-committees discharging the assessment, review and hearing functions to be chaired by independent Members. Please see also our answer to question 1 on how many sub-committees would be required. The Regulations should require only that determination hearings, whether dealt with by a sub-committee or by the full Standards Committee, should be chaired by an independent Member.

*Q8. Do you agree with our proposal that the initial assessment of misconduct allegations and any review of a standards committee's decision to take no action should be exempt from the rules on access to information?*

Yes, the Council strongly supports this proposal.

*Q9. Have we identified appropriate criteria for the Standards Board to consider when making decisions to suspend a standards committee's powers to make initial assessments? Are there any other relevant criteria which the Board ought to take into account?*

Yes, the Council agrees that paragraph 35 sets out appropriate criteria for the Standards Board to consider when making decisions to suspend the Standards Committee's powers to make initial assessments.

*Q10. Would the imposition of a charging regime, to allow the Standards Board and local authorities to recover the costs incurred by them, be effective in principle in supporting the operation of the new locally-based ethical regime? If so, should the level of fees be left for the Board or authorities to set; or should it be prescribed by the Secretary of State or set at a level that does no more than recover costs?*

The Council's view is that the Standards Board and other local authorities should be able to recover their costs (but not to charge any higher amount) for carrying out the assessment function on behalf of an authority whose Standards Committee has had its assessment function suspended.

*Q11. Would you be interested in pursuing joint arrangements with other authorities? Do you have experience of joint working with other authorities and suggestions as to how it can be made to work effectively in practice? Do you think there is a need to limit the geographical area to be covered by a particular joint agreement and, if so, how should such a limitation be expressed? Do you agree that if a matter relating to a parish council is discussed by a joint committee, the requirement for a parish representative to be present should be satisfied if a representative from any parish in the joint committee's area attends?*

The Council would be interested in pursuing joint working arrangements with other authorities, particularly in view of the size of its own Standards Committee. The Council does not believe that there is a need to limit the geographical area to be covered by a particular joint agreement.

*Q12. Are you content that the range of sanctions available to case tribunals of the Adjudication Panel should be expanded, so the sanctions they can impose reflect those already available to standards committees?*

Yes, the Council agrees with this proposal.

*Q13. Do you agree with our proposals for an ethical standards officer to be able to withdraw references to the Adjudication Panel in the circumstances described? Are there any other situations in which it might be appropriate for an ethical standards officer to withdraw a reference or an interim reference?*

Yes, the Council agrees with the proposals for an ethical standards officer to be able to withdraw references to the Adjudication Panel in the circumstances described in paragraph 54.

*Q14. Have you made decisions under the existing dispensation regulations, or have you felt inhibited from doing so? Do the concerns we have indicated on the current effect of these rules adequately reflect your views, or are there any further concerns you have on the way they operate? Are you content with our proposals to provide that dispensations may be granted in respect of a committee or the full council if the effect otherwise would be that a political party either lost a majority which it had previously held, or gained a majority it did not previously hold?*

The Council has never had to consider making a decision under the existing dispensation regulations but it supports the proposals for amendment set out in paragraph 62.