

## 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, as this would create difficulties for authorities with small Standards Committees.

*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 apparent assumption in the consultation paper (Chapter 2, paragraph 13) that the obligation to provide the Member complained against with a written summary of the allegation will only normally arise after the decision is made on the initial assessment. This would mean that those Members of a Council serving on the Standards Committee's assessment sub-committee will know the details of the allegation against a colleague before that colleague even knows that an allegation has been made against him or her. The Council believes that (subject to the exceptional circumstances identified in the question) all authorities should have the discretion to tell the Member complained

against about the complaint as soon as possible after the allegation has been received and before the assessment hearing takes place, even if the 'obligation' to disclose will only arise after the initial assessment hearing. The Council urges that the Regulations should not only allow this discretion, but should also encourage all authorities to exercise it.

*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 believes that, in principle, the chairs of all sub-committees discharging the assessment, review and hearing functions should be drawn from the independent Members of the Standards Committee. Provided that a Member who has been involved in the assessment or review stages is not prohibited from taking part in any subsequent determination hearing (the issue raised in Q1 above), this should be practicable.

*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 exploring the potential of joint working arrangements with other authorities, particularly in view of the size of its own Standards Committee. (The Council has a Standards Committee comprising only 6 Members (3 Councillors and 3 independent Members)). 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 with 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.

*Q15 Do you think it is necessary for the Secretary of State to make regulations under the Local Government and Housing Act 1989 to provide for authorities not required to have standards committees to establish committees to undertake functions with regard to the exemption of certain posts from political restrictions, or will the affected authorities make arrangements under section 101 of the Local Government Act 1972 instead? Are you aware of any authorities other than waste authorities which are not required to establish a standards committee under section 53(1) of the 2000 Act, but which are subject to the political restrictions provisions?*

The Council has no view on this issue.

*Q16 Do you agree with our proposal to implement the reformed conduct regime on 1 April 2008 at the earliest?*

Yes, the Council is very keen that the reformed conduct regime should be implemented on 1 April 2008, provided that all the necessary statutory regulations are in place, and all relevant CLG and SBE guidance has been issued sufficiently in advance of that date to allow authorities to make the necessary preparations.