

How to make a toothless watchdog – ‘Healthwatch’ censored and emasculated

Just before Christmas the government laid before Parliament the regulations governing the new ‘Healthwatch’ bodies, that will, in April, take over from LINK the role of patients’ watchdog within the NHS. Hidden in these regulations is Provision 36, which effectively disbars ‘Healthwatch’ from **any involvement in matters of Law or policy relating “.. to any matter”**. This provision is breathtaking in its intention and makes a complete mockery of the entire endeavour. It is also deeply chilling if viewed as a precursor to its application to other representational activities.

This restriction goes way beyond the requirement on charities not to engage in party political activities. Because of the importance of this crackdown on dissent, we are reproducing the Provision in its entirety:

“Political activities not to be treated as being carried on for the benefit of the community

36.—(1) For the purposes of section 222(9) of the 2007 Act (social enterprises: activities for the benefit of the community) and regulation 35(1)(b), the following activities are to be treated as not being activities which a person might reasonably consider to be activities carried on for the benefit of the community in England —

(a) the promotion of, or opposition to, changes in —

(i) any law applicable in the United Kingdom or elsewhere; or

(ii) the policy adopted by any governmental or public authority in relation to any matter;

(b) the promotion of, or opposition (including the promotion of changes) to, the policy which any governmental or public authority proposes to adopt in relation to any matter;

(c) activities which can reasonably be regarded as intended or likely to —

(i) provide or affect support (whether financial or otherwise) for a political party or political campaigning organisation; or

(ii) influence voters in relation to any election or referendum.

(2) But activities of the descriptions prescribed in paragraph (1) are to be treated as being activities which a person might reasonably consider to be activities carried on for the benefit of the community in England if —

(a) they can reasonably be regarded as incidental to other activities, which a person might reasonably consider to be activities carried on for the benefit of the community in England; and

(b) those other activities cannot reasonably be regarded as incidental to activities of the descriptions prescribed in paragraph (1).

(3) In this regulation “governmental authority” includes—

(a) any national, regional or local government in the United Kingdom or elsewhere, including any organ or agency of any such government;

(b) the EU(a), or any of its institutions or agencies; and

(c) any organisation which is able to make rules or adopt decisions which are legally binding on any governmental authority falling within paragraph (a) or (b) of this definition; “political campaigning organisation” means any person carrying on, or proposing to carry on Activities —

(a) to promote, or oppose, changes in any law applicable in the United Kingdom or elsewhere, or any policy of a governmental or public authority (unless such activities are incidental to other activities carried on by that person); or

(b) which could reasonably be regarded as intended to affect public support for a political party, or to influence voters in relation to any election or referendum (unless such activities are incidental to other activities carried on by that person); “political party” includes any person standing, or proposing to stand, as a candidate at any election, and any person holding public office following election to that office; “public authority” includes—
(a) a court or tribunal; and
(b) any person certain of whose functions are functions of a public nature;

You can download the complete regulations here -

<http://www.legislation.gov.uk/uksi/2012/3094/contents/made>. And there is some discussion of Provision 36 here - <http://www.healthwatch.org.uk/#/blog/4564850745/Local-Healthwatch-the-new-health-watchdog.-How-loud-will-it-bark/4451117>

In a typical illustration of putting the cart before the horse, tendering exercises have already been underway throughout the country to award local ‘Healthwatch’ contracts – in advance of these regulations being published!! Any organisation with scruples, bidding for or awarded these contracts should surely now withdraw from any involvement?