



Report of the Assistant Chief Executive (Corporate Governance)

Standards Committee

Date: 13th February 2008

Subject: Standards Board checklist for the new local assessment arrangements

Electoral Wards Affected:

Ward Members consulted
(referred to in report)

Specific Implications For:

Equality and Diversity

Community Cohesion

Narrowing the Gap

Executive Summary

1. The purpose of this report is to advise Members of the Committee of the article recently published by the Standards Board for England offering a 'checklist' for local authorities of things to consider in the run-up to the implementation of the locally managed framework, and to benchmark the position of Leeds City Council in relation to the checklist.
2. The Standards Board for England published the article in December 2007 to assist local authorities with preparing for the implementation of the new local assessment arrangements. However some of the checklist is subject to Communities and Local Government making appropriate orders and regulations.
3. Members of the Committee are asked to note the issues raised in the Standards Board for England checklist and the progress of Leeds City Council in relation to these issues.

1.0 Purpose Of This Report

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2.0 Background Information

- 2.1 The Standards Board for England published the article in December 2007 to assist local authorities with preparing for the implementation of the new local assessment arrangements. However some of the checklist is subject to Communities and Local Government making appropriate orders and regulations.
- 2.2 The consultation exercise on the new orders and regulations is currently underway, and is on this agenda for discussion as a separate item. The regulations may be in place by the 1st April 2008 (depending upon the results on the consultation), and it is presumed that local authorities are expected to undertake their new functions regarding local assessment from Spring 2008.

3.0 Main Issues

Size of standards committee

- 3.1 Standards committees must have a minimum of:
- Three members (two elected members and one independent member).
 - 25% as independent lay members if the committee is more than three people.
 - An independent chair (from April 2008).
 - One parish or town council member if the authority has responsibilities for those councils.
- 3.2 Effective practice - the Standards Board recommends:
- At least six people as a minimum (three elected members and three independent members).
 - Two, or possibly three, parish or town council members if the authority has responsibilities for those councils.
 - Consideration of whether more members are required to ensure cover in the event of conflicts of interest, holidays or sickness.
- 3.3 In Leeds, the Standards Committee is already fulfilling the requirements listed in the above paragraphs. The Standards Committee also took the decision last year to recommend a requirement within the Constitution¹ that the Chair is appointed from the Independent Members on the Committee.

Structure of standards committees

- 3.4 In addition to their role as champion and guardian of the authority's ethical standards, standards committees will now have three separate but distinct roles in relation to complaints about member conduct:

¹ Article 9A, Part 2 of the Constitution.

- Receiving and assessing complaints.
- Reviewing local assessment decisions.
- Conducting hearings following investigation.

3.5 To avoid perceptions of bias or predetermination, members who carry out a local assessment decision should not be involved in a review of the same decision, should one be requested.

3.6 Effective practice – the Standards Board recommends:

- A structure of sub-committees or the standards committee acting as a pool of members to deal with the different roles.
- As a minimum, two separate subcommittees, one for taking initial assessment decisions and one for taking decisions on reviews.
- Subject to regulations, any subcommittee should also have an independent chair.
- A member who was involved in an initial assessment decision, or following referral of a complaint back to the standards committee from the monitoring officer or Standards Board for another assessment decision, can be a member of the committee that hears and determines the complaint. This is because an assessment decision only relates to whether a complaint discloses something that needs to be investigated. It does not require deliberation of whether the conduct did or did not take place and so no conflict of interest will arise in hearing and determining the complaint.

3.7 In Leeds proposals for a system of sub-committees have already been created. As part of these proposals, it is also recommended that each sub-committee is chaired by an independent member. These proposals are contained in the report 'Local Assessment Arrangements' also on this agenda.

Training

3.8 Effective practice – the Standards Board recommends:

- Standards committees are fully trained on the Code of Conduct.
- Standards committees are offered other training to equip them with necessary skills, for example in conducting a hearing.
- Independent chairs and vice-chairs are trained in chairing meetings.
- Any newly-appointed standards committee members receive a comprehensive induction to the role and appropriate training.

3.9 In Leeds, all Standards Committee Members have received training on the new Code of Conduct, either through briefings, the Standards Board DVD or e-learning. Members of the Committee have also had training on conducting hearings from an external facilitator, both in 2006 and 2007. The Standards Committee in Leeds also has a comprehensive training plan for its Members which covers chairing skills and appropriate induction events.

3.10 The Standards Committee will also be considering any training requirements arising from the new local assessment arrangements at the additional meeting in March 2008.

Local assessment criteria

- 3.11 Guidance will be available from the Standards Board on developing criteria and the types of issues to be considered when assessing complaints. Standards committees will need to develop their own criteria, that reflect local circumstances and priorities, and which are simple, clear, open and ensure fairness.
- 3.12 Monitoring officers will be able to acquire additional factual information which is readily available about allegations before the assessment process begins. This could be from minutes or the register of interests, for example, if such information about a complaint would assist decision-making. It should not include interviews or investigation. A complainant also has a right to appeal if a complaint is rejected, so standards committees will be able to invite complainants to submit further information in support of the complaint at the appeal stage in the process.
- 3.13 In Leeds, the development of Local Assessment Criteria and the receipt, referral and management of allegations of misconduct will be considered at the additional meeting in March 2008, as they are currently subject to the publication of guidance and regulations.

Role of the monitoring officer in the new framework

- 3.14 Effective practice – the Standards Board recommends:
- A pre-meeting with the independent chair.
 - Preparing a summary of the allegation for the standards committee.
 - Highlighting what the potential Code breaches are which underlie an allegation to the standards committee.
 - Allowing case reading time for the monitoring officer and the standards committee.
- 3.15 In Leeds, it is proposed that pre-meetings between the Monitoring Officer and the Chair of the Committee take place as a matter of course, as they currently do before hearings and regular meetings of the Committee. It is also proposed that a covering report be produced for each complaint as was the case in the local filtering pilot exercise, and that agendas are distributed in good time for the Sub-Committee Members to read the complaints and any supporting documentation. Furthermore manuals of guidance could be produced (similar to those used for hearings) for the Sub-Committee Members to refer to during the meeting. All these issues will be considered during the report on Local Assessment Criteria in March 2008.

Completing existing investigations

- 3.16 Many authorities will have outstanding investigations and the Standards Board encourages authorities to clear such investigations – particularly long-standing cases – before the new framework comes into effect.
- 3.17 Any authority experiencing difficulties in completing an investigation should seek advice and support from the Standards Board.
- 3.18 In Leeds, two local investigations are currently underway. The Deputy Monitoring Officer has stated that these investigations should be completed in time for the new framework coming into effect, and therefore will not be contacting the Standards Board for assistance.

Local assessment and the corporate complaints process

3.19 Effective practice – consider:

- How will the public be informed of the new arrangements?
- Who will receive and log an allegation?
- The production of an individual information leaflet for the local assessment process, possibly combined with the corporate complaints process.

3.20 In Leeds it is proposed that the process for the receipt, referral and management of allegations of misconduct is considered in a report, also covering the publication of the new arrangements and the possibility of combining the complaints system with the corporate complaints process, in March 2008.

Future monitoring by the Standards Board

3.21 The Standards Board is consulting a sample of authorities involved in a pilot study on proposals for an online information return system, which will allow authorities to tell us about how local arrangements are working.

3.22 This system is being designed based on what standards committees need locally, and to enable authorities to provide information to the Standards Board as simply as possible.

3.23 Authorities will be able to use the system locally for their own records, to keep standards committees informed of their authority's ethical activities.

3.24 Proposals for the system include quarterly online returns on cases, which will be simple and quick to use, and nil returns if there is no activity to report.

3.25 Leeds City Council is not one of the authorities involved in the pilot study detailed above, and currently has no electronic based system for recording complaints and referrals from the Standards Board for England.

Local assessment guidance

3.26 We will help standards committees by providing guidance in 2008 on all aspects of the local assessment process, subject to the passage of the relevant regulations, with a toolkit to include:

- Template notices for publicising the authority's Code of Conduct complaint process.
- Complaint assessment flowcharts.
- A standard complaint form.
- Template letters for each stage in the process.
- Template referral and non-referral decision notices. Guidance to assist with drafting criteria and for the authority to define its threshold for referral.
- Template terms of reference for assessment and review committees.

3.27 In Leeds the Standards Committee will need to consider the new terms of reference for its assessment and review sub-committees, as well as other Constitution amendments, in April 2008. The Committee will also be considering how to notify the public of the new complaints process at its meeting in March 2008.

4.0 Implications For Council Policy And Governance

- 4.1 The new locally-based ethical conduct regime will allow local authorities to make more proportionate decisions about conduct matters, taking any significant local factors into account.
- 4.2 By extending the Standards Committee's functions, the new arrangements will also allow the Committee to have a greater contribution towards the good governance of the Council.

5.0 Legal And Resource Implications

- 5.1 There are resource implications to the new arrangements described in the report, although these implications have already been anticipated and are being dealt with in the consideration of the Council's budget for 2008/09.

6.0 Conclusions

- 6.1 The Standards Board for England published the article in December 2007 to assist local authorities with preparing for the implementation of the new local assessment arrangements. However some of the checklist is subject to Communities and Local Government making appropriate orders and regulations.
- 6.2 The position of Leeds City Council against the effective practice recommendations of the Standards Board is detailed throughout paragraph 3 above.

7.0 Recommendations

- 7.1 Members of the Committee are asked to note the issues raised in the Standards Board for England checklist and the progress of Leeds City Council in relation to these issues.