



Report of the Assistant Chief Executive (Corporate Governance)

Standards Committee

Date: 1st July 2008

Subject: Process for the receipt, referral and management of allegations of misconduct

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 proposed process for informing the public of the new arrangements for receiving and logging allegations of misconduct against Members.
2. To ensure that members of the public are aware that allegations of misconduct against Members will be received by the Council rather than the Standards Board for England from 8th May 2008, a notice must be published detailing where allegations should be sent and the process for dealing with the allegations.
3. In addition, the Council needs to consider whether to integrate the new process with their existing corporate complaints process, or to set up a separate process for dealing with allegations of misconduct.
4. Members of the Committee are asked to approve the proposed arrangements for advertising the new process, and for receiving and logging allegations of misconduct against Members.

1.0 Purpose Of This Report

- 1.1 The purpose of this report is to advise Members of the Committee of the proposed process for informing the public of the new arrangements for receiving and logging allegations of misconduct against Members.

2.0 Background Information

- 2.1 Once allegations of misconduct are being received by Leeds City Council, arrangements will need to be put in place for how these allegations will be received and processed, and how the public will be made aware of the new arrangements.
- 2.2 The following proposals have been drafted with regard to the Standards Board guidance "Local Assessment of Complaints", the Standards Board Bulletin 37, and the Standards Committee (England) Regulations 2008.
- 2.3 The guidance states that the administrative processes that the authority adopts should be agreed with the Standards Committee as part of the processes and procedures that they must publish. The basic procedure for processing complaints is detailed below for the Committee's information.
- 2.4 These details, alongside further details of the review and notification requirements, will be published in the Standards Committee Procedure Rules, which are proposed in a separate report on this agenda.

3.0 Main Issues

Informing the public of the new arrangements

- 3.1 So that members of the public are aware of the new process for submitting allegations of misconduct, every authority will be required to publish a notice detailing where the complaints should be sent from 8th May 2008, and what the Council's new responsibilities will be.
- 3.2 It is proposed that this is done through the following media:
- Council's website - by updating the existing page of information on how to make complaints about misconduct, and through a Council press release.
 - Placing a notice in the Yorkshire Evening Post, and an article in the Council's own newspaper "About Leeds". Notices in public areas such as local libraries and the Council's information centre.
 - An article in "Governance Matters".
 - Contact Centre Staff will also be able to advise members of the public about the new arrangements.
- 3.3 As the majority of allegations that were received by the Standards Board for England were from members of the public, the public notice needs to be seen by as many people as possible. It was revealed at the Annual Assembly last year, that the steps taken by an authority to publicise the process are something that will be considered by the Audit Commission's Comprehensive Area Assessment key lines of enquiry.
- 3.4 The address and telephone number to which complaints should be sent also needs to be advertised on an ongoing basis, as well as if there are changes to the process.

The information on the Council's website will be available at all times, although it is proposed that another public notice be published in the Yorkshire Evening Post and the Council's newspaper on an annual basis as a reminder.

3.5 The Standards Board for England have updated their website to re direct complainants to their local council, and have produced a guidance leaflet called "Making a Complaint: Complaining about the behaviour of a local authority member". It is proposed that the Council use this document to produce a personalised guidance document which would contain the complaints form, an explanation of the process, a summary of what the Committee can deal with, and where to direct allegations. A copy of this draft leaflet is attached as Appendix 1.

3.6 This leaflet will be an electronic document published on the Council's website. It will not be distributed to libraries and Council offices, but rather will be printed on request or accessed online. It is instead proposed that the article to be published in the Yorkshire Evening Post is circulated to Council buildings and libraries to be displayed as appropriate. This article is attached as Appendix 2.

Receiving and logging allegations

3.7 In their Local Assessment Checklist, the Standards Board for England suggested that there were two main ways in which Councils could choose to handle allegations of Member misconduct.

- Firstly, Councils may choose to integrate the new arrangements into their existing corporate complaints framework. This would mean that when an allegation is received, officers of the authority would need to be able to analyse which of its procedures is the appropriate one and advise the complainant accordingly.
- Secondly, Councils may choose to develop a separate process for Code of Conduct allegations so the process for such allegations is distinct from corporate complaints.

3.8 The Monitoring Officer has proposed that in Leeds a separate process for Code of Conduct matters is developed, to ensure that such allegations are kept distinct from all other corporate complaints. To this end a dedicated telephone line, email address and postal address for people to contact regarding allegations of misconduct have been set up. This will ensure that complainants are able to contact specific officers who are able to advise on Code of Conduct matters.

3.9 However, it is also recognised that some complainants will not know where to direct their complaint, and may complain through the corporate complaints process. In addition, some matters may need to be considered through both complaints processes.

3.10 In order to ensure that allegations do not get misdirected or delayed unnecessarily, it is proposed that the Corporate Governance Team work with the Corporate Complaints Manager to provide advice and guidance on what would constitute a Code of Conduct 'complaint', and where these should be directed. In particular officers will need to be made aware that any complaint which specifies or appears that it is in relation to the Code of Conduct must be passed to the Assessment Sub-Committee for consideration.

- 3.11 The Standards Board for England have produced a standard complaints form, which can be personalised for each authority, and contains the following information:
- the complainant's name, address and other contact details;
 - whether the complainant is a member of the public, fellow councillor or officer;
 - who their allegation is about and the authority or authorities that the member belongs to;
 - details of the alleged misconduct, including, where possible, dates, witness details and other supporting information;
 - equality monitoring data, if applicable;
 - a warning that the complainant's identity will normally be disclosed to the member the complaint has been made about (unless the case meets certain criteria).

3.12 It is proposed that complainants be encouraged to use this form wherever possible, as otherwise it may be difficult to obtain all the required information and may cause delays in the process by having to contact the complainant for further clarification. However all allegations which are submitted in writing must be accepted. This would include allegations received by fax, email and via an electronic form on the Council's website.

3.13 However in order to comply with relevant equalities legislation, alternative arrangements will need to be put in place for those unable to make a complaint in writing. One possible alternative would be to take down details of the allegation and then produce a written copy for the complainant, or the complainant's advocate, to agree.

Preparation of allegations for the Assessment Sub-Committee

3.14 Prior to an allegation being presented to the Assessment Sub-Committee, officers may gather 'readily obtainable' documents to support the complaint. These documents may include Committee minutes and entries from the Register of Interests. Complainants can also be asked to provide clarification of their complaint.

3.15 However pre-assessment enquiries cannot extend to interviewing any of the parties, as this may prejudice any subsequent investigation that the Assessment Sub-Committee may request.

3.16 When the allegation is received, the Assessment Sub-Committee must clearly explain to the complainant what happens next, including what the deadlines are for making a decision. The Monitoring Officer also has the discretion to tell the subject member that a complaint has been made about them. This notification can say that a complaint has been made, the name of the complainant (unless they have requested anonymity), and the relevant parts of the Code. A summary of the complaint will not be provided until after the meeting.

3.17 If the complainant decides they would like to withdraw the allegation before the Assessment Sub-Committee have considered it, the committee will have to decide whether to agree to withdraw it. The Standards Board for England use a set of criteria for deciding whether to withdraw complaints which include the following:

- Is the public interest in taking some action in relation to the complaint more important than the complainant's wish to withdraw it;

- Could the committee take some action on the matter without the involvement of the complainant; and
- Is there a possibility that the complainant may have been pressured or harassed to withdraw the complaint.

- 3.18 The Assessment Sub-Committee need to consider the matter within an average of 20 days from the date of receipt.
- 3.19 After the Assessment Sub-Committee have considered the allegation, a decision notice must be sent to the relevant parties as soon as possible. The Standards Board recommends that this should be sent out within five days of the decision. This decision notice must be signed by the Chair of the Assessment Sub-Committee.
- 3.20 There may occasionally be circumstances where it may prejudice a case if a Member is informed straight away of an allegation made against them. For example, where there is the real possibility of intimidation of the complainant or witnesses by the subject member or the early disclosure of the complaint may result in evidence being compromised.
- 3.21 In such circumstances the Monitoring Officer would have to make a recommendation on how to treat the case. If the Assessment Sub-Committee agreed, it could provide the summary of the allegation to the subject member after the Investigator has interviewed the complainant and any necessary witnesses.
- 3.22 After the Assessment Sub-Committee has made a decision about the allegation, and the parties have been informed, the Committee must produce a summary of the complaint to be published on the Council's website in a similar manner to minutes. This summary must include a description of the main points considered by the Sub-Committee, the conclusions on the complaints, and the reasons for the conclusion. These summaries will be available for public inspection for six years following the decision.

4.0 Implications For Council Policy And Governance

- 4.1 The Council will need to make arrangements to receive and process allegations about Members locally in order to comply with its new responsibilities under the Local Government and Public Involvement in Health Act 2007.
- 4.2 In addition, how the Council chooses to advertise the new arrangements may well feature in the Audit Commission's Comprehensive Area Assessment in future, and will therefore contribute to the Council's overall score.

5.0 Legal And Resource Implications

- 5.1 There will be resource implications to the local assessment process in general. The Assistant Chief Executive (Corporate Governance) has identified additional budget required for the local filtering role as part of the budget pressures for the 2008/9 budget.

6.0 Conclusions

- 6.1 The Local Government and Public Involvement in Health Act 2007 requires changes to the ways allegations of Member misconduct are dealt with at a local level.

- 6.2 This will require a new procedure to be implemented in order to receive and process allegations of Member misconduct. In addition the new process will need to be advertised to the public.
- 6.3 The broad arrangements for the above need to be approved by the Committee prior to implementation of the new regime.

7.0 Recommendations

- 7.1 Members of the Committee are asked to approve the proposed arrangements for advertising the new complaints process, and for receiving and logging allegations of misconduct against Members.