

Matters for Review

Establishing the local arrangements

Issue	Response	Comments / Recommendations
<p>The Standards Committee does not have the power to sets its Terms of Reference or the processes its adopted. They should be done by full Council - Members were not consulted about them.</p>	<p>The Local Government Act 2000 required each authority to establish a Standards Committee. The recently introduced Standards Committee (England) Regulations 2008 set out the size and composition of that Committee. The new functions in relation to local assessment and review of complaints were imposed on Standards Committees by the Local Government and Public Involvement in Health Act 2007. The Standards Committee (England) Regulations 2008 stipulated that this must be done by a Sub-Committee of the Standards Committee which must be chaired by an Independent Member.</p> <p>The Standards Board also state in their guidance 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 new additions to the Procedure Rules were either taken directly from Regulations or from the Standards Board guidance.</p>	<p>There was no choice regarding the addition to the Standards Committee's Terms of Reference, and each Committee is able to determine the Terms of Reference for its own Sub-Committees. For this reason the legislative changes to the full Committee's terms of reference were approved by delegated decision by the Assistant Chief Executive (Corporate Governance) as per Article 15.2 of the Constitution.</p> <p>With regard to the Standards Committee Procedure Rules, the Council's Constitution provides that amendments to these are approved by the Standards Committee. The specific amendments in relation to this process were agreed on 1st July 2008.</p>

Before the Assessment Sub-Committee meeting

Issue	Response	Comments / Recommendations
<p>Notifying the subject Member that a complaint has been received is unhelpful without a summary of the complaint.</p>	<p>The Standards Board guidance states that the Monitoring Officer has the discretion to take the administrative step of acknowledging receipt of a complaint and telling the subject Member that a complaint has been made about them. This is a locally determined process, which goes beyond the arrangements previously operated by the Standards Board for England and may be changed if necessary. However the Local Government and Public Involvement in Health Act 2007 places a duty on the Council to provide a written summary of the allegation the subject Member only once the Assessment Sub-Committee has met to consider the complaint¹.</p>	<p>Views are sought as to whether subject members should not be contacted at all until the Assessment Sub-Committee have considered the complaint.</p>
<p>What is readily obtainable evidence? Is it information within the public domain or information which the Monitoring Officer has easy access to by other means?</p>	<p>The Standards Board advises that;</p> <p><i>“Where we say that the monitoring officer can gather easily obtainable documents to assist the Assessment Sub-Committee with its decision, we mean that if the monitoring officer is able to get their hands on useful documents without having to carry out a mini-investigation, they can do so. It does not matter whether or not the documents are publicly available - it is more about how readily available they are. Public documents tend to be readily available. The monitoring officer can, however, include documents that they can easily get hold of which are not publicly available”.</i></p>	<p>Clarification has been received on the points requiring clarification.</p>

¹ Although in exceptional circumstances this may be withheld, for example where it is not in the public interest to do so, such as where a persons ability to undertake an investigation might be prejudiced.

Issue	Response	Comments / Recommendations
<p>What papers should be provided to the Review Sub-Committee? Should they include the decision notice of the Assessment Sub-Committee? What is the purpose of the Review meeting?</p>	<p>The Standards Board have previously advised the Monitoring Officer that:</p> <p><i>“An important element of the review stage of the local assessment process is establishing if the Assessment Sub-Committee followed its processes correctly, for example - as stated in the guidance - if there was a failure to follow any published criteria or if there was an error in procedures.</i></p> <p><i>However, the review is also an opportunity to reconsider the complaint if it appears to the Review Sub-Committee that the decision taken at the initial assessment stage was flawed. An example of this is as stated in the guidance, if the Review Sub-Committee believes that not enough emphasis was given to a particular aspect of the complaint. This will be a judgement of the Review Sub-Committee rather than a failure by the Assessment Sub-Committee to follow procedures correctly. An example of a similar scenario could be where the Review Sub-Committee believes that a prejudicial interest could arise in a scenario presented by a complainant, but the Assessment Sub-Committee believed that it could not.</i></p> <p><i>As such scenarios look at the decision making of the Assessment Sub-Committee in addition to its adherence to procedures, the review stage of the process can be seen as a 're-hearing' in this sense as well as a check that initial assessment procedures were administered correctly.</i></p> <p><i>Section 57B(2) of the Local Government Act 2000, as amended, simply states that the person who made the allegation may make a request to the Standards Committee of the relevant authority concerned for that decision to be reviewed. This review may take the form of considering whether the Assessment Sub-Committee undertook its role correctly, but</i></p>	<p>Clarification has been received on the points requiring clarification.</p>

Issue	Response	Comments / Recommendations
	<p><i>also a consideration of the appropriateness of the decision making of that Assessment Sub-Committee.”</i></p> <p>More recently, advice was received from the Standards Board which stated:</p> <p><i>“The role of the review subcommittee is to review the Assessment Sub-Committee's decision that no action should be taken in respect of the allegation. In doing so, the Review Sub-Committee is not merely upholding or not upholding the original assessment subcommittee decision but considering the complaint de novo. Section 57B(4)(a) of the Local Government Act 2000 stipulates that when a request for a review is received, section 57A(2) to (4) again applies to the review. This means that the Review Sub-Committee has all the same decisions available to it as the Assessment Sub-Committee did.”</i></p> <p>The Standards Board also advise that:</p> <p><i>“consideration of a complaint by a Review Sub-Committee is a hearing de novo but it is also helpful to the review panel to see how the initial Assessment Sub-Committee did things and why.”</i></p> <p>Therefore the Standards Board see no harm in letting Review Sub-Committees see the decision notice as long as they understand that they are not bound by it in any way.</p>	
Should only complaints made on the proper form be accepted by the Standards	The form devised by Leeds City Council is addressed to the Chair of the Assessment Sub-Committee so that it is clear that complaints made on the proper form will be considered by the Assessment Sub-Committee.	Views are sought on whether amendments should be made to the complaints form so

Issue	Response	Comments / Recommendations
<p>Committee? Should the form have a box to tick to indicate that the complainant is happy for their complaint to be considered by the Standards Committee?</p>	<p>However this may cause issues where complaints are made on the complaint form that are nothing to do with the Code of Conduct.</p> <p>Complaints made by letter and email are not necessarily addressed to the Standards Committee. Where it is unclear what the complainant requires, a form is sent for them to complete and return along with some guidance about the complaints process. The Standards Board for England advise that:</p> <p><i>“some complainants will not know where to direct their complaint. Officers dealing with incoming complaints will need to be alert to a complaint that a Member may have breached the Code of Conduct. If a written complaint specifies or appears to specify that it is in relation to the Code, then it should be passed to the Assessment Sub-Committee for consideration.”</i></p> <p>Therefore if a complaint is clearly about the Code of Conduct it could be referred to the Assessment Sub-Committee anyway.</p> <p>When a complaint is addressed to the Monitoring Officer, the Monitoring Officer should determine whether the complaint should be directed to the Assessment Sub-Committee or whether another course of action is appropriate. If the complaint is clearly not about Member conduct, then the Monitoring Officer does not have to pass it to the Assessment Sub-Committee.</p>	<p>that complaints are addressed to the Monitoring Officer, rather than the Assessment Sub-Committee. This would allow the Monitoring Officer more opportunities for informal resolution, but may introduce a delay into the process and may mean that complaints are not necessarily considered within 20 working days of being received. The form could contain a box to tick to set out if the complainant wanted the matter to go to Standards Committee or would be willing for the Monitoring Officer to consider a more informal resolution. It would assist if the form set out the remedy which the complainant was seeking.</p> <p>Views are also sought on whether the Standards Committee should only accept complaints made on the proper form, whether they choose to amend the</p>

Issue	Response	Comments / Recommendations
		form or not. One of the disadvantages of this approach would be that the process might appear unnecessarily bureaucratic.
The Sub-Committee Members need to be advised who the subject Members are prior to their attendance being agreed. This will reduce the likelihood of them having a personal / prejudicial interest.	Until now Members have not been made aware of the identity of the subject Member until the papers for the sub-committee meeting were dispatched. Sub-Committee Members could be potentially advised of the subject Members' identity in the meeting invitation, so long as such emails are treated as 'private & confidential'.	Views are sought as to whether sub committee members should be notified of the subject Members' identity when they receive the Sub-Committee meeting invitation.
Is there a process for dealing with hear say complaints? i.e. where the alleged 'victim' themselves has not submitted a complaint.	This issue is not covered by the Standards Board guidance. However the Assessment Sub-Committee are not being asked to make a judgement about whether it might be true, only whether the complaint as set out may constitute a breach of the Code. There are no restrictions in the regulations or guidance as to who can submit complaints about Members.	There are no alternatives open to the Council.

During the Assessment or Review Sub-Committee meeting

Issue	Response	Comments / Recommendations
<p>The Assessment Sub-Committee should not be given any guidance by officers as to whether or not the allegations could, if proven, be a breach.</p>	<p>In the covering report, officers only advise on which parts of the Code of Conduct could apply to the alleged conduct, and provide advice on these paragraphs. It is part of the role of the legal advisor to the Committee to provide advice on the Code of Conduct. The covering report only repeats guidance available from elsewhere and draws no conclusions about whether the alleged conduct would amount to a breach of the Code.</p>	<p>Views are sought as to whether it would be reasonable for all guidance from officers to be removed from the covering report.</p>
<p>A subject member needs to be able to see the report that went to the Assessment Sub-Committee in order that they can see full details of the complaint rather than receive a précis as set out in the decision notice and any guidance given by officers.</p>	<p>The papers presented to the Sub-Committee are not covered by the Access to Information provisions. Instead Regulation 8 of the Standards Committee (England) Regulations 2008 state that their business will be conducted in closed meetings, and that they are not subject to the rules regarding notice of meetings, circulation of agendas or documents and public access to meetings.</p> <p>The summary in the report is likely to be the same as the précis in the decision notice. In addition, the Sub-Committee receive a copy of the original complaint alongside the covering report.</p> <p>The Standards Board for England's guidance suggest that authorities may wish to produce a covering report and suggest content for this. Leeds City Council has chosen to follow this guidance although the style and format of the report is local .</p> <p>The Information Commissioner has agreed that this information does not need to be provided to the subject Member.</p>	<p>Views are sought as to whether it would be reasonable for there not to be a covering report for each complaint. If this were to be the case the Assessment Sub-Committee would need to make their decision based on the complainant's letter only.</p>

Issue	Response	Comments / Recommendations
Can other paragraphs of the Code of Conduct be drawn into the investigation later on, or do they need to be specified by the Sub-Committee at the start?	The Standards Board guidance on investigations suggests that the investigator considers the complaint that has been provided by the complainant, and that they do not have to rely on the complainant's interpretation on what parts of the Code have been breached. However, if during the course of the investigation, the investigator uncovers evidence of conduct which extends beyond the scope of the investigation that has been referred to them, they are advised to notify the party that they need to submit a separate complaint to the Assessment Sub-Committee. Alternatively, if the investigation has been referred to them by an Ethical Standards Officer, they can refer it back to them if more breaches of the Code are uncovered.	There are no alternatives open to the Council.

After the Assessment or Review Sub-Committee meeting

Issue	Response	Comments / Recommendations
<p>If the decision of the Sub-Committee is a majority decision, should this be recorded? Also should the minority view be recorded as part of the decision notice and case summary?</p>	<p>The only area of the Council where a minority view is reported is at Scrutiny Boards where a person can attach a minority report to the approved report. This does not happen in quasi-judicial meetings. The Standards Committee (England) Regulations 2008 require that the Assessment Sub-Committee produce a written summary of the proceedings, which must record the main points considered, its conclusion on the allegation and the reasons for that conclusion. The Standards Board for England have confirmed that they did not ever record if the decision was made by a majority and would not recommend that Leeds City Council did either, as the decision notice is supposed to be a record of the Sub-Committee's decision as a whole, and so regardless of whether the decision was made unanimously or by a majority, the Sub-Committee's decision would be the same. They also felt that it might be confusing for the parties involved.</p>	<p>Views are sought as to whether to record decisions which are made by majority in decision notices, and the reasoning for the minority view should also be recorded. However this would go against current practice within the Council and Standards Board advice.</p>
<p>Is both a decision notice and a case summary required? Can there just be one document?</p>	<p>The Council has a duty under section 57C(2) of the Local Government and Public Involvement in Health Act 2007 to provide a "written summary" of the allegation to the subject Member.</p> <p>In addition Regulation 8(5) of the Standards Committee (England) Regulations 2008 (the Regulations) requires that a written summary of an assessment decision is produced, which must include the main points considered, the conclusion of the complaint and the reasons for the conclusion. This must be provided to the member who is the subject of the complaint and additionally the summary must be made available for inspection by members of the public at the Council's offices for 6 years and be given to any relevant parish council.</p>	<p>Views are sought as to whether:</p> <ul style="list-style-type: none"> • the Written Summary should be the only record of the Assessment or Review Sub-Committee decision (with the consequential impact being the use of a decision notice be discontinued); and • whether the Written

Issue	Response	Comments / Recommendations
	<p>In Leeds a Written Summary is produced which complies with both the provisions of the Act and with the requirements of the Regulations. In addition to the provisions the Written Summary is also published on the Council's web site.</p> <p>To supplement the statutory requirements the Standards Board for England also suggest (in their toolkit for undertaking local assessments) that decision notices are used to notify the subject member and complainant of the decision of the Assessment Sub-Committee. The document also provides details which are relevant to the parties.</p> <p>A review of the Core Cities shows that these authorities do not publish their case summaries on their websites. Newcastle City Council do mention the fact that written summaries of decisions are available for public inspection for six years, but direct the public to the Council offices to view these. A review of other West Yorkshire authorities shows that Calderdale publishes minutes from the Assessment Sub-Committee meetings which are anonymous, but are not the written summary as they do not summarise the complaint, the main points considered, the conclusions and the reasons for the conclusions. Kirklees, Bradford, and Wakefield Councils do not appear to have published any written summaries on their websites.</p> <p>It may be of note that Scarborough District Council, who were the first Council to publish details of the complaints process and have an online form etc., do publish their decisions on their website, which name the subject Member and provide a full summary of the complaint and the decision on the complaint.</p>	<p>Summary of the Assessment or Review Sub-Committees findings should continue to be published on the council's web site.</p>

Issue	Response	Comments / Recommendations
<p>The decision notices are too detailed and give the impression that the Assessment Sub-Committee have decided that there is a breach.</p>	<p>The decision notices are based on the Standards Board toolkit, and Leeds City Council has discretion over their style and content, but they must contain (according to Regulation 8 of the Standards Committee (England) Regulations 2008):</p> <ul style="list-style-type: none"> • The main points considered; • The conclusions on the complaint; and • The reasons for the conclusions. <p>The decision notices clearly state that the Assessment Sub-Committee have reached 'no findings of fact'. The conduct is always referred to as 'alleged conduct' and the words 'if proven' are used to highlight that the Assessment Sub-Committee do not know whether the alleged conduct actually occurred.</p>	<p>See above.</p>
<p>The Assessment Sub-Committee should not in the decision notice set out consideration of each specific allegation separately but rather should just say whether or not they consider there is a breach overall.</p>	<p>The decision notices must set out the above, which may include different conclusions on different elements of each complaint. The Assessment Sub-Committee have the discretion to reach more than one conclusion and decision on separate areas of the allegation.</p>	<p>There are no alternatives open to the Council.</p>
<p>The letter accompanying the decision notice does not say what the next steps are or a timescale within which it is to be carried out.</p>	<p>The letter to the parties also has the decision notice attached, which sets out what the next steps are, for example, investigation, and an appendix provides details of the Standards Board for England guidance on timescales for completion. However the covering letter could be amended to say when the allegation will be forwarded to an investigator, although the timescales for investigation will depend on a number of factors for</p>	<p>Views are sought as to whether covering letters (which would be needed if decision notices were no longer used) should include timescales for completion of</p>

Issue	Response	Comments / Recommendations
	example, the availability of witnesses etc.	investigation.
There is a concern that a complainant could make a decision notice public.	According to the Standards Board for England, it is not possible for authorities to prevent complainants from publishing a decision notice. If a decision notice contained personal information or information which was classified as exempt, a warning would be inserted onto the decision notice stating this.	There are no alternatives open to the Council.
Service delivery of the insurers under the scheme is poor.	This is not part of the Standards Committee's procedures, and so cannot be dealt with by the Standards Committee.	This issue is being dealt with by the Monitoring Officer and the Council's Insurance Manager and will appear as a separate item on the Member Management Committee agenda..
Should the case summaries be anonymised?	Current guidance from the Standards Board suggests that the case summaries can contain the names of the subject Members and complainants. The Standards Board have advised that there is nothing to prevent authorities naming complainants within case summaries, unless they have requested (and have been granted) anonymity.	Views are sought as to whether all case summaries should be made anonymous.
What is the process if the decision notice provokes further correspondence from the complainants? Will this correspondence be included in any subsequent investigation?	In this case the Monitoring Officer would forward any correspondence to the investigator making it clear that this was not considered as part of the initial assessment decision. According to the Standards Board's advice for investigators, it is up to them what evidence they wish to include in their report and present to the Standards Committee during any hearing. If the complainant's letter raised a new complaint about the subject	There are no alternatives open to the Council.

Issue	Response	Comments / Recommendations
	Member they would have to be advised how to make a separate complaint about the issue.	