



Report of the Assistant Chief Executive (Corporate Governance)

Standards Committee

Date: 16th December 2008

Subject: LATE ITEM - Review of Local Assessment Procedures

Electoral Wards Affected:

Ward Members consulted
(referred to in report)

Specific Implications For:

Equality and Diversity

Community Cohesion

Narrowing the Gap

Executive Summary

1. This report provides details of the consultation process undertaken as part of the review of the Standards Committee's local assessment procedures; the report invites comments from the Standards Committee to inform a future report which will present amended Standards Committee Procedure Rules for approval.
2. The Standards Committee has no discretion over the majority of the assessment arrangements, but can make decisions relating to the following parts of the process:
 - The administrative processes it chooses to follow;
 - Their local assessment criteria;
 - The criteria for considering requests for confidentiality; and
 - The terms of reference and make-up of the Assessment and Review Sub-Committees.
3. Members of Standards Committee are asked to adopt the amended Assessment Flowchart and Code matrix attached as Appendix 3.
4. Members of the Standards Committee are asked to consider the information in this report and advise the Monitoring Officer whether any of the suggested amendments proposed by the Liberal Democrat and Conservative Groups, those listed in paragraph 3.21, and any which may be subsequently provided to the Committee, should be adopted. Members of the Standards Committee are asked to request a report back to the Standards Committee on the proposed amendments. This report is being presented as a late item because at the time of the agenda dispatch officers were still awaiting some responses from consultees. Any consultation responses which are provided to the Committee subsequently will be circulated separately.

1.0 Purpose Of This Report

- 1.1 This report provides details of the consultation process undertaken as part of the review of the Standards Committee's local assessment procedures; the report invites comments from the Standards Committee to inform a future report which will present amended Standards Committee Procedure Rules for approval.
- 1.2 This report is being presented as a late item because at the time of the agenda dispatch officers were still awaiting some responses from consultees. Any consultation responses which are provided to the Committee subsequently will be circulated separately.

2.0 Background Information

- 2.1 The Standards Committee was established by Full Council as part of the new governance arrangements introduced as part of the Local Government Act 2000. Amendments to the Committee's terms of reference may be made by either Full Council or, where the change is necessary because of a legislative requirement, by the Assistant Chief Executive (Corporate Governance)¹. The Constitution allows the Standards Committee to amend its own procedure rules and also to agree the composition and terms of reference of any sub-committees.
- 2.2 As per provisions in the Council's Constitution, and to reflect the new legislative framework, the Assistant Chief Executive (Corporate Governance) approved amendments to the Standards Committee's terms of reference in relation to the new responsibilities for local assessment and review of allegations of Member misconduct. These were agreed in May 2008.
- 2.3 Similarly, again as per the provisions of the Constitution, the Standards Committee agreed new procedures for the receipt, assessment and review of such allegations at its meeting on 1st July 2008.
- 2.4 Since then, the Assessment Sub-Committee has considered ten complaints against Leeds City Councillors and Parish Councillors, and the Review Sub-Committee has reconsidered two of these complaints.
- 2.5 When the current procedures were agreed by the Standards Committee on 1st July, it was also agreed that the Standards Committee would review these arrangements after three months of operation to ensure that they were fit for purpose (Minute 11).
- 2.6 At the conclusion of each sub-committee meeting, Members have discussed whether there were any 'lessons to learn' from that meeting and have been forwarding any queries or concerns about the arrangements to the Monitoring Officer or Clerk. A table of issues has been collated and is attached as Appendix 1. Where there is scope for amendments to be made to existing processes, this is clearly highlighted in the table.

3.0 Main Issues

- 3.1 The local assessment and review arrangements have been introduced in response to duties placed upon the Council by the Local Government and Public Involvement in Health Act 2007, the Standards Committee (England) Regulations 2008 and the Standards Board for England guidance on the Local Assessment of Complaints.

¹ As per Article 15.2 of the Constitution.

The Standards Board guidance states that “each authority must develop effective procedures to fulfil its legislative requirements” and that “Members and officers involved in the assessment of complaints must take this guidance into account when doing so”. The Standards Committee has no discretion over some parts of the assessment arrangements, but can make decisions relating to the following parts of the process:

- The administrative processes it chooses to follow;
- Their local assessment criteria;
- The criteria for considering requests for confidentiality; and
- The terms of reference and make-up of the Assessment and Review Sub-Committees.

Administrative Processes

3.2 On 1st July 2008, the Standards Committee agreed the following arrangements:

- To have a separate complaints process for receiving complaints about the Code of Conduct²;
- That complaints should be encouraged to use the proper form, although all written complaints about the Code of Conduct would be accepted;
- That officers should produce a covering report for each complaint, including any ‘readily obtainable’ information which may assist the Assessment Sub-Committee with their decision;
- That the Monitoring Officer would take steps to notify the subject Member that a complaint has been made about them, the name of the complainant (unless they have requested confidentiality), and the paragraphs of the Code of Conduct that are alleged to have been breached; and
- That the Assessment and Review Sub-Committees would produce a decision notice (based on the Standards Board for England template) to advise the complainant and subject Member of their decision, details of any further action and rights of review, and a separate written summary or ‘case summary’ which would contain less information and be made available for the public to inspect on the Council’s website.

3.3 Issues have occurred with all the above processes, with the exception of whether complaints should be received through the corporate complaints system rather than through a separate system. There have been no problems experienced with the current system, and complaints have been referred between the two complaints systems successfully.

3.4 The issues raised by Members and others regarding the new arrangements, together with possible options for the Standards Committee to consider, are summarised in the attached table (Appendix 1).

² Rather than this function to be incorporated into the existing corporate complaints process.

- 3.5 The administrative arrangements adopted by the Standards Committee are not currently reflected in the Standards Committee Procedure Rules. The Standards Committee may wish to consider amending the Procedure Rules so that its administrative arrangements are included. The advantages of amending the Procedure Rules in this way would be increased clarity and transparency in the Committee's operations, although the disadvantages may include that it would be more difficult for the Standards Committee to make amendments to its administrative arrangements at short notice.

Local Assessment Criteria

- 3.6 According to the Regulations and the Standards Board guidance, each standards committee needs to develop criteria against which it can assess new complaints and decide what action to take. These assessment criteria should reflect local circumstances and priorities and be simple, clear and open.
- 3.7 The Standards Committee considered the proposals set out in the Standards Board guidance and agreed on 1st July 2008 to adopt the local assessment criteria attached at Appendix 2. No specific issues have been raised about the local assessment criteria to date, although, as per the Constitution, the Standards Committee could consider whether there is anything they wish to amend or add as a result of the cases considered so far.
- 3.8 The Standards Committee have also decided to use an Assessment Flowchart to assist them with considering the three initial questions and applying their assessment criteria. This flowchart is a local creation, but is based on the Standards Board guidance, and is provided within each agenda for Assessment and Review Sub-Committee meetings. Some Members have experienced difficulties with the current flowchart, specifically, how to reach a conclusion on the third initial test, which asks Members of the Assessment Sub-Committee to decide whether the alleged behaviour would be a breach of the Members' Code of Conduct.
- 3.9 In order to assist Members with this stage of the process, an additional flowchart has been produced which considers each paragraph of the Code of Conduct separately. The revised Assessment Flowchart and the new Code matrix is attached as Appendix 3. Members of the Standards Committee are asked to consider whether to adopt this new version of the Assessment Flowchart.

Criteria for considering requests for confidentiality

- 3.10 In their guidance, the Standards Board advise that standards committees should develop criteria by which the Assessment Sub-Committee will consider requests for confidentiality (where the complainant has identified themselves in the complaint). It is proposed that these criteria are as follows:
- The complainant has reasonable grounds for believing that they will be at risk of physical harm if their identity is disclosed.
 - The complainant is an officer who works closely with the subject member and they are afraid of suffering a disadvantage to their employment or of losing their job if their identity is disclosed (this should be covered by the authority's whistle blowing policy).
 - The complainant suffers from a serious health condition and there are medical risks associated with their identity being disclosed (in such circumstances,

Standards Committees may wish to request medical evidence of the complainant's condition).

- 3.11 The Standards Committee agreed to adopt the above criteria at their meeting on 1st July 2008. The Standards Committee also agreed that complaints made completely anonymously would only be referred for investigation or other action if they were exceptionally serious.
- 3.12 Again, there have been no specific issues raised regarding these criteria, although the Standards Committee could consider whether there is anything they wish to amend or add as a result of the cases considered so far.

Role and make-up of the Assessment and Review Sub-Committees

- 3.13 All Council Committees have the authority to set the Terms of Reference for their sub-committees. The Standards Committee agreed the terms of reference for the Assessment and Review Sub-Committees on 1st July 2008. The Terms of Reference for each of the sub-committees are attached as Appendix 4.
- 3.14 The Standards Committee (England) Regulations 2008 state that the Standards Committee must establish a sub-committee which is responsible for assessing complaints that a Member may have breached the Code of Conduct. They also state that the Standards Committee must establish a separate sub-committee which is responsible for conducting reviews of these decisions. Therefore the Standards Committee has little discretion over the functions of its sub-committees.
- 3.15 However the Standards Committee did choose to also enable the Assessment Sub-Committee rather than the full Standards Committee to consider final reports submitted by investigators and decide whether they agree with the conclusion of the report and who should conduct any subsequent hearing. This was to ensure that there were less delays in the process now that final reports must be considered by the Standards Committee before entering the pre-hearing process. The Standards Committee may wish to consider whether they wish the terms of reference for the Assessment Sub-Committee to include this function.
- 3.16 In addition, the regulations also prescribe that the sub-committee must be made up of no less than three Members, that the Chair should be an Independent Member, and that a Parish Member should be present when complaints about Parish Councillors are being discussed. Therefore the Standards Committee also has little discretion over the make-up of their sub-committees.
- 3.17 On 1st July 2008, the Standards Committee agreed the following sub-committee membership (for both the Assessment and Review Sub-Committees):
- One Independent Member (Chairperson);
 - Two Leeds City Council Members³; and
 - One Parish or Town Council Member (the Parish or Town Council Member only need attend if the matter involves a Parish or Town Councillor).
- 3.18 Members of the Standards Committee could consider whether they wish to make any amendments to the above membership, within the limits set by the regulations (listed in paragraph 3.16).

³ Only one Leeds City Council Member needs to be present if the Parish or Town Council Member is also present, in order for the sub-committee to be quorate.

Consultation Process

- 3.19 Group Whips have been consulted on the review. Initial comments from Group Whips indicated that in their view there has been little elected Member buy-in for the new arrangements. To address this the Group Whips have commented that the General Purposes Committee should be the Committee which make recommendations to Full Council on the adoption of Standards Committee Procedure Rules.
- 3.20 More detailed feedback on the local assessment process has been received from the Liberal Democrat and Conservative Groups. These responses are attached as Appendices 6 and 7. Some of these comments relate to matters over which the Standards Committee has no discretion as the processes are prescribed by regulations and some of the responses accord with the Standards Committee's current practices.
- 3.21 The Corporate Governance Team have contacted all those complainants and subject Members who have been involved in the process so far to ask them whether there are any elements of the process which they feel can be improved. Any information from the questionnaires which have been received has been collated and is attached as Appendix 5. Officers decided to request this feedback in the form of a questionnaire in order to avoid inviting further complaints. As a result of the feedback received, the Standards Committee may wish to:
- Note that all Members who responded to the consultation answered that they would prefer to know that a complaint had been made about them before the Assessment Sub-Committee has met to consider the complaint;
 - Consider proposing revisions to the correspondence templates to provide more clarity on the processes used and the next stage (if applicable);
 - Consider creating a specific form for complainant's to use when requesting a review of a decision;
 - Consider adding more detail to the decision notices and making them easier to understand;
 - Note that all Members who responded to the consultation felt that the case summaries should not be published on the Council's website, one of the complainant's felt that the summary should be published and the other was not bothered; and
 - Consider how to address the perception of the role of the Monitoring Officer, and provide clarity in the roles of officers in the local assessment process.

4.0 Implications For Council Policy And Governance

- 4.1 It is important for complainants to feel confident that complaints about Member conduct are taken seriously and are dealt with appropriately, and it is equally as important that subject Members feel that the process is fair to all parties. Therefore it is important for the good governance of the Council that the Standards Committee are confident that their procedures are fit for purpose and are operating effectively.

5.0 Legal And Resource Implications

5.1 There are no resource implications to the information in this report. Any legal issues are highlighted within the report itself.

6.0 Conclusions

6.1 The current arrangements are taken from the Standards Committee (England) Regulations 2008 and the Standards Board for England guidance on the Local Assessment of Complaints. The Standards Committee has no discretion over some parts of the assessment arrangements, but can make decisions relating to the following parts of the process:

- The administrative processes it chooses to follow;
- Their local assessment criteria;
- The criteria for considering requests for confidentiality; and
- The terms of reference and make-up of the Assessment and Review Sub-Committees.

6.2 The issues raised by Members regarding the administrative processes and any alternative options for the Standards Committee to consider, are summarised in the attached table (Appendix 1).

6.3 The Corporate Governance Team have contacted all those complainants and subject Members who have been involved in the process so far to ask them whether there are any elements of the process which they feel can be improved.

6.4 In order to ensure that this consultation process does not invite further complaints about the previous decisions made by the Assessment or Review Sub-Committees, a questionnaire has been devised for this purpose. The results from the returned questionnaires are detailed in Appendix 5.

6.5 Having received feedback from Standards Committee it is the Monitoring Officer's intention to prepare a future report which will present amended Standards Committee Procedure Rules for approval.

7.0 Recommendations

7.1 Members of Standards Committee are asked to adopt the amended Assessment Flowchart and Code matrix attached as Appendix 3.

7.2 Members of the Standards Committee are asked to consider the information in this report and advise the Monitoring Officer of:

- Any of the possible amendments highlighted in Appendix 1 (listed below) which should be incorporated into the future report presenting revised Standards Committee Procedure Rules for approval;
 - whether subject Members should not be contacted at all until the Assessment Sub-Committee have considered the complaint;

- whether amendments should be made to the complaints form so that complaints are addressed to the Monitoring Officer, rather than the Assessment Sub-Committee;
 - whether the Standards Committee should only accept complaints made on the proper form, whether they choose to amend the form or not;
 - whether Sub-Committee Members should be notified of the subject Members' identity when they receive the Sub-Committee meeting invitation;
 - whether the Sub-Committee Members would prefer meetings to be scheduled every four weeks for the next six months;
 - whether it would be reasonable for all guidance from officers to be removed from the covering report;
 - 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;
 - whether to record decisions which are made by a majority in decision notices, and the reasoning for the minority view should also be recorded;
 - whether the written summary should be the only record of the Assessment and Review Sub-Committee decision (with the consequential impact being the use of a decision notice be discontinued);
 - whether the written summary of the Assessment or Review Sub-Committee's findings should continue to be published on the Council's web site.
 - whether they would like to receive a copy of the final decision notice after it has been approved by the Chair;
 - whether covering letters (which would be needed if decision notices were no longer used) should include timescales for completion of investigation; and
 - whether all case summaries should be made anonymous.
- whether the Standards Committee Procedure Rules should include the administrative arrangements adopted by the Standards Committee;
 - any amendments to the local assessment criteria (attached as Appendix 2);
 - any amendments to the criteria for considering requests for confidentiality;
 - any amendments to the terms of reference of the Assessment Sub-Committee;
 - any amendments to the membership of the Assessment and Review Sub-Committees, within the limits set by the regulations; and

- whether any of the suggested amendments proposed by the Liberal Democrat and Conservative Groups, those listed in paragraph 3.21, and any which may be subsequently provided to the Committee, should be adopted.

7.3 Members of the Standards Committee are asked to request a report back to the Standards Committee on the proposed amendments.

Background documents

Standards Committee (England) Regulations 2008

“Local Assessment of Complaints” by the Standards Board for England, available at:
<http://www.standardsboard.gov.uk/Localassessment/Guidanceandtoolkit/#d.en.16399>

Report of the Assistant Chief Executive (Corporate Governance) to the Standards Committee, “Final proposals for the local assessment arrangements”, 1st July 2008

Report of the Assistant Chief Executive (Corporate Governance) to the Standards Committee, “Process for the receipt, referral and management of allegations of misconduct”, 1st July 2008

Standards Committee Minutes, 1st July 2008

Various Council websites as listed in Appendix 1