



Report of the Assistant Chief Executive (Corporate Governance)

Standards Committee

Date: 17th February 2009

Subject: **Administrative Processes underpinning the 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. At their meeting on 16th December 2008 Members of the Standards Committee did agree to a series of amendments to the administrative processes which underpin the local assessment arrangements. This report updates Members of the Standards Committee on the implementation of those changes, and also provides some further options for the Committee to consider. This report does not consider any changes to the Standards Committee Procedure Rules.
2. Members of the Standards Committee are asked to:
 - Note the amendments agreed at their meeting on 16th December 2008;
 - Consider the responses to the additional suggestions for amendment made at the meeting on 16th December 2008;
 - Consider whether to produce formal minutes of the Assessment and Review Sub-Committee meetings to be published on the Council's website and referred to full Standards Committee and Council meetings; and
 - Agree to conduct another review of the local assessment process in September 2009.

1.0 Purpose Of This Report

- 1.1 The purpose of this report is to update Members of the Standards Committee on the implementation of those changes agreed at the Standards Committee meeting on 16th December 2008, and also to provide some further options for the Committee to consider. This report does not consider any changes to the Standards Committee Procedure Rules.

2.0 Background Information

- 2.1 The Standards Committee received a report on 16th December 2008 which outlined the consultation process used for the three monthly review of procedures, the options open to the Standards Committee, and recommended a series of amendments as a result of comments made by Standards Committee Members since July 2008.
- 2.2 The Standards Committee decided not to make any amendments to the local assessment criteria, the criteria for considering requests for confidentiality, or the terms of reference and make-up of the Assessment and Review Sub-Committees.
- 2.3 However, the Standards Committee did agree a series of amendments to the administrative processes which underpin the local assessment arrangements. This report updates Members of the Standards Committee on the implementation of those changes, and also provides some further options for the Committee to consider.

3.0 Main Issues

Progress of amendments agreed on 16th December 2008

- 3.1 Members agreed to adopt the amended assessment flowchart and Code matrix, and the Assessment Sub-Committee Guidance Notes have been updated accordingly. Members of the Standards Committee who have their own copies of the guidance notes have been emailed the updated documents.
- 3.2 Members also agreed to amend the complaints form so that it is addressed to the Monitoring Officer and copied to the Chair of the Assessment Sub-Committee. The amended form has been published on the Council's website. The online form is already sent to officers and any received will be forwarded to the Monitoring Officer for consideration prior to logging a formal complaint.
- 3.3 Members agreed that they would like to be advised of the subject Members' identity prior to agreeing to attend the Sub-Committee meeting. As Members also agreed to arrange Sub-Committee meetings up to six months in advance, this will not always be practically possible, as officers will not become aware of the subject Members' identity until up to four weeks prior to the meeting. Instead Members who have agreed to attend the relevant meeting will be made aware of the subject Members' identity as soon as the complaint or review request is received. Officers are in the process of devising a schedule of meetings up until June 2009, and the meetings for the next municipal year will appear in the Council's diary as full Standards Committee meetings do.
- 3.4 Members of the Standards Committee agreed that the case summaries of the Assessment and Review Sub-Committee decisions should no longer be published on the Council's website. All case summaries have now been removed from the Council's website, and instead paper copies have been placed in a file which will be

made available for public inspection should anyone request to view it. A screenshot of how each Assessment and Review Sub-Committee meeting will appear on the Council's website from now on is attached as Appendix 1.

- 3.5 Members agreed that a copy of the final copy of the decision notice should be sent to each of the Assessment or Review Sub-Committee Members after it has been approved by the Chair so that they can see which amendments have been incorporated after the circulation of the draft. Officers have already undertaken this step with the most recent set of decision notices and will continue to do so.
- 3.6 Members agreed that the covering letters which are sent to the parties with the decision notice should contain timescales for the completion of any investigation (if applicable). The letters will be amended to include the Standards Board for England's recommended time limit of six months¹, along with appropriate caveats stating that this timescale may be extended due to issues such as availability of witnesses or the complexity of the case. However, the Standards Committee should also be aware that officers are in the process of drafting a protocol to be used when commissioning investigations, which will include requirements on the investigator to create a detailed investigations plan with an estimated completion date. Investigators will also be required to report back to the Monitoring Officer, or her nominee, when certain key points in the investigation are reached so that their progress towards the estimated completion date can be monitored.
- 3.7 The Standards Committee decided not to amend their Procedure Rules to include the administrative arrangements which are carried out prior to the Assessment Sub-Committee meeting. Instead Members decided that the administrative arrangements should be made available to all Members via other means. Officers are in the process of drafting a set of guidance notes to be made available to each political group within the Council. These will be based on the officer procedure which is included within the Democratic Services Handbook of Procedures, and will include model letters and forms for Members' reference so that they are aware what to expect should they become the subject of a complaint.

Other suggestions for improvement

- 3.8 Members of the Standards Committee also made several other suggestions for improvement to their processes at their meeting on 16th December 2008. These were:
- The subject Member should be told the nature of the complaint when they are informed that a complaint has been made;
 - The Council should have resources available in order to assist anyone who had difficulties in completing the complaints form;
 - Minutes of the Assessment and Review Sub-Committee meetings should be prepared; and
 - Parish and Town Council Members of the Standards Committee should receive training on the role of a City Councillor.

¹ "Local Investigations and Other Action" by the Standards Board for England.

Providing a summary of the allegation

- 3.9 The Standards Board for England guidance states that a written summary of the allegation can only be provided to the subject Member once the Assessment Sub-Committee has met to consider the complaint. However, the Monitoring Officer is able to advise the subject Member that a complaint has been made, the name of the complainant (unless they have requested confidentiality), the relevant paragraphs of the Code of Conduct that may have been breached, and the date of the meeting if known. This is because Section 57C(2) of the Local Government Act 2000, as amended, states that only the Standards Committee has the power to give a written summary of the allegation to a subject Member.
- 3.10 Members who have been subject to a complaint in Leeds since May 2008 were asked whether they preferred to know that a complaint has been made about them, despite not being told the substance of the allegation. All Members who responded to the consultation stated that they preferred to know that a complaint had been made, even though they could not know what the allegation was. However the further comments provided highlighted that Members would wish to know the substance of the allegation as soon as possible.
- 3.11 In order to try and resolve this issue, the Chair of the Standards Committee will write to Mr John Healey MP (the Minister for Local Government) on behalf of the Standards Committee in order to bring this issue to his attention. As previously stated, altering this policy will require an amendment to legislation and is therefore not within the Council's or the Standards Board for England's power to grant.

Resources to assist complainants facing difficulties completing their form

- 3.12 The Leeds City Council's "How to complain about the behaviour of a Councillor" leaflet already states that the Council can make reasonable adjustments (in line with the Disability Discrimination Act 2000) to assist a complainant if they have a disability that prevents them from making their complaint in writing. The Council can also assist complainants if English is not their first language. Complainants are advised that if they need any support in completing the form, they should let officers know as soon as possible.
- 3.13 So far officers have only been called on to assist one complainant. This person had difficulty completing the form due to learning difficulties, therefore officers met the complainant to talk through his complaint and complete the form with him.
- 3.14 Although there are not resources within the Corporate Governance Team to assist complainants for whom English is not their first language, or who are blind or partially sighted, there would be assistance available from other sections of the Council. Therefore if this situation arose, officers would seek the assistance of those other departments.
- 3.15 Officers within the Corporate Governance Team are also regularly called upon to correspond with potential complainants about the complaints process and the Code of Conduct.

Producing minutes of the Assessment and Review Sub-Committee meetings

- 3.16 As outlined at the Standards Committee meeting in December 2008, there are two formal records of the decisions made by the Sub-Committees. These are:

- The decision notice – which is sent to the parties and the Parish Clerk (if applicable); and
- The case summary – which is made available for public inspection for six years after the sub-committee meeting (but not published).

For ease of reference officers have created sample versions of these documents (not based on real cases). These are attached as Appendices 2 and 3.

- 3.17 At the last Standards Committee meeting, a Member was concerned that without formal minutes of the Sub-Committee meetings (in addition to the documents listed above), there would be no formal way of recording their meetings and attendance. However, the attendance of Members at Sub-Committee meetings is recorded, both through the case summary, and publicly through the Council's website (see the attached screen shot at Appendix 4).
- 3.18 As outlined at the last Standards Committee meeting, Calderdale Council do produce minutes of their Sub-Committee meetings, but as they are published on the Council's website they contain no details of the cases and are completely anonymous. An example is attached as Appendix 5. It would be possible for the Standards Committee in Leeds to take a similar approach and these records may also serve as reminders to the general public that case summaries are available for public inspection should they wish to request access to them. These minutes could also then be considered at full Standards Committee meetings and Full Council meetings as part of the book of minutes, and may alleviate a concern raised by the Conservative Group response to the consultation (highlighted in the previous Committee report in December)².

Training for Parish and Town Council Members of the Standards Committee

- 3.19 At the meeting in December, some Members of the Standards Committee suggested that as the Parish and Town Council Members of the Standards Committee were regularly considering complaints about Leeds City Council Members, it would be helpful for them to have a fuller understanding of the role of a City Councillor.
- 3.20 All external Members of the Standards Committee are already required by the Standards Committee Training Plan to attend several different types of Committee meetings in order to observe and gain an understanding of Council business and political context. However the training plan has been reviewed to incorporate the suggestion that external Members of the Committee may also wish to "shadow" the City Councillors on the Standards Committee during their ward surgeries so they can understand all aspects of the City Councillors' role. The training plan is dealt with in a separate item on this agenda.

Issues raised since December 2008

- 3.21 Since December one further issue has been raised with the local assessment process. Specifically, how to deal with persistent or vexatious complainants.
- 3.22 The Standards Board guidance, "Local Assessment of Complaints", provides advice on how to deal with persistent complainants. The Standards Board advise that a small number of people may abuse the complaints process, and that Council's may

² "Minutes of all Standard Committee and Sub Committee Meetings should be taken so there is a true, accurate and reviewable record of decision making. This happens with every other committee of council."

wish to develop a policy to deal with this. For example, by bringing the local assessment process within the scope of any existing authority policies on vexatious or persistent complaints, or take action to limit the person's contact with the Council. For instance, by making the person deal with one named officer or refusing email or telephone contact with them.

- 3.23 However, the Standards Committee are not able to refuse to consider new complaints made by that person, unless the Standards Committee has already dealt with the same complaint by the same person and the Monitoring Officer does not believe there is any new evidence.
- 3.24 They also advise that although a person may make frequent allegations about Members which may not have any substance, they must still be considered as they may contain a complaint that requires some action to be taken. Even where a person is prevented from making certain contact with Council, they cannot be prevented from submitting a complaint. Therefore there do not appear to be any alternatives to considering each new complaint from any persistent or vexatious complainants. However, an enquiry has been sent to the Standards Board's policy team to request that this area is considered in further detail. The response to this enquiry will be shared with the Standards Committee as soon as possible.
- 3.25 The options for restricting contact with certain complainants can be explored by the Monitoring Officer in conjunction with relevant officers within Legal, Licensing and Registration and Customer Services on a case by case basis, although this will not prevent the Standards Committee from having to meet to consider each new complaint.

Further reviews of the local assessment process

- 3.26 Members of each Sub-Committee will still be asked to discuss any 'lessons to learn' at the end of each meeting and officers will continue to log these issues for future discussion. Members of the Standards Committee are also welcome to provide comments on the local assessment arrangements at any time.
- 3.27 It is proposed that a further review is conducted in September 2009 to assess the success of the amendments that have been made to the administrative arrangements, and to follow the training day with the external facilitator.

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 the administrative arrangements underpinning local assessment are fit for purpose and are operating effectively.

5.0 Legal And Resource Implications

- 5.1 The legal implications are dealt with in the main body of this report. There may resource implications associated with the additional training referred to in the report, but these are dealt with in a separate report on the Committee's Training Plan included within this agenda.

6.0 Conclusions

- 6.1 The Standards Committee received a report on 16th December 2008 which outlined the consultation process used for the three monthly review of procedures, the options open to the Standards Committee, and recommended a series of amendments as a result of comments made by Standards Committee Members since July 2008. The Standards Committee decided not to make any amendments to the local assessment criteria, the criteria for considering requests for confidentiality, or the terms of reference and make-up of the Assessment and Review Sub-Committees.
- 6.2 However, the Standards Committee did agree a series of amendments to the administrative processes used as part of local assessment. This report updates Members of the Standards Committee on the implementation of those changes, and also provides some further options for the Committee to consider.
- 6.3 It is proposed that a further review is conducted in September 2009 to assess the success of the amendments that have been made to the administrative arrangements, and to follow the training day with the external facilitator. In order to inform this review, Members of each Sub-Committee will still be asked to discuss any 'lessons to learn' at the end of each meeting and officers will continue to log these issues for future discussion. Members of the Standards Committee are also welcome to provide comments on the local assessment arrangements at any time.

7.0 Recommendations

- 7.1 Members of the Standards Committee are asked to:
- Note the amendments agreed at their meeting on 16th December 2008;
 - Consider the responses to the additional suggestions for amendment made at the meeting on 16th December 2008;
 - Consider whether to produce formal minutes of the Assessment and Review Sub-Committee meetings to be published on the Council's website and referred to full Standards Committee and Council meetings; and
 - Agree to conduct another review of the local assessment process in September 2009.

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, "LATE ITEM - Review of Local Assessment Procedures", 16th December 2008

Standards Committee Minutes, 16th December 2008

Calderdale Council website: <http://www.calderdale.gov.uk>