

NORTH YORKSHIRE COUNTY COUNCIL

STANDARDS COMMITTEE

14 January 2008

Checklist re Local Framework

0.0 PURPOSE OF REPORT

- 1.1 To brief Members on the Standards Board's checklist for local authorities regarding the implementation of the locally managed framework.

2.0 BACKGROUND

2.1 The Local Government and Public Involvement in Health Act 2007 became law on 30 October 2007. The Act amends certain parts of the Local Government Act 2000 which will, in the near future, have an effect on the ethical framework, in the following ways:

- local receipt and filtering of complaints by Standards Committees;
- local investigation and determination of complaints by Standards Committees;
- the granting of dispensations by Standards Committees (rather than an independent adjudicator) for staff to engage in political activities (a new role for Standards Committees);
- the application of the Code to cover some conduct by Members in a private capacity;
- the Standards Board becoming a "light touch" regulator;

More detail about these changes is included in another report to the Committee.

2.2 The parts of the Act which will bring about these changes are not yet in force. At this stage, it is anticipated they will be brought into force in April 2008 and, in some cases, regulations may be required.

2.3 In its latest Bulletin (Number 36) the Standards Board has printed an article offering a 'checklist' for local authorities of things to consider in the run-up to the implementation of the locally managed framework, as set out above.

3.0 CHECKLIST

Size of standards committees

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);

3.2 In terms of effective practice, the Standards Board now recommends:

- at least six people as a minimum (three elected Members and three independent Members);
- consideration of whether more Members are required to ensure cover in the event of conflicts of interest, holidays or sickness.

Obviously this Committee as currently constituted fulfils this recommended minimum however Members are requested to consider whether the size of the Committee should be increased. Members may feel, however, that this is an issue best addressed once the changes have been implemented and the practical impact assessed.

Structure of standards committees

3.3 The article states that 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:

- receiving and assessing complaints;
- reviewing local assessment decisions;
- conducting hearings following investigation.

3.4 To avoid perceptions of bias or predetermination, Members who carry out a local assessment decision should not be involved in any review of the same decision.

3.5 In terms of effective practice, the Standards Board now 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 sub-committees, one for taking initial assessment decisions and one for taking decisions on reviews;
- subject to regulations, any sub-committee 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.

Training

3.6 In terms of effective practice, the Standards Board now 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.

Most of these aspects are already covered in the Committee's Ethics Training Plan. Members may feel that training on the chairing of meetings might usefully be incorporated within any training on standards committee panel hearings prior to, for example, a local determination hearing, as provided for in the Training Plan.

Local assessment criteria

3.7 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.

3.8 The Board aims to issue 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.

3.9 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.

3.10 A complainant 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.

3.11 The Standards Board is suggesting that standards committees consider:

- how the public will 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.

Members of this Committee may wish to consider such publicity aspects in conjunction with the Committee's Communications Strategy Action Plan and in light of the Citizen's Panel Questionnaire full report which indicates further work is required to promote the work and role of the Committee. Any further discussions regarding procedures may be more informed once the Standards Board's Guidance and toolkit are available.

3.12 The Standards Board's website has been updated to feature a new section on local assessment of complaints. Developments in relation to the local framework will be published under the section's "Latest news" page. Members will be kept informed of developments in relation to this area.

Role of the Monitoring Officer

3.13 The article goes on to consider the role of the Monitoring Officer in the new local ethical framework and recommends the following as effective practice:

- 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.

Completing existing investigations

3.14 The Standards Board is encouraging authorities to clear any outstanding investigations before the new framework comes into effect. At the time of writing this report there are no such outstanding investigations in relation to Members of the County Council.

Monitoring

3.15 The Standards Board will monitor local arrangements to enable authorities to feed back on how they are working. The Board is currently consulting a sample of authorities involved in a pilot study on proposals for an online information return system.

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

3.17 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.

Conclusion

3.18 Through publication of this Checklist in the latest Bulletin, the Standards Board is suggesting that standards committees apply their minds early to any necessary changes in composition and working practices and procedures. Members are requested to give some initial consideration to these issues, however deliberations may be better informed once the changes are embedded locally and the Standards Board's Guidance and toolkit on the local framework are available.

4.0 RECOMMENDATIONS

- 3.1 That Members note the developments in the ethical regime and consider whether any steps need to be taken in relation to the issues raised in this report.

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Background Documents:
Standards Board Bulletin 36

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19 December 2007