

LOCAL ASSESSMENT

**Training exercise for standards
committees**

Introduction

The Local Government and Public Involvement in Health Act 2007 has created a change in the Standards Board for England's role. In future, our focus will be on ensuring that members adhere to the Code of Conduct, and that there are adequate arrangements in place at local level for handling cases and preventing misconduct.

One of the main changes to the standards framework is that local authority standards committees will be responsible for receiving complaints about members and deciding whether any action needs to be taken. The Standards Board is planning for its strategic role by preparing local government for taking on this local assessment function.

There is to be a greater focus on training and support. With this in mind, the Standards Board has created a training exercise to help standards committees develop their ability to assess new complaints. The exercise is based on a pilot that the Standards Board ran in 2007 with approximately 50 participating local authorities.

Benefits of the exercise

The benefits of the exercise for standards committees are:

- Training and preparation to ease the transition from a central to a local assessment process.
- Practice at operating the appeal mechanism.
- Helping familiarise members with the operation of the revised Code of Conduct (available to download from our website).

The exercise – your preparation

In this section of the website is a set of 12 cases, A-L, which the Standards Board has already assessed. These cases concern real members and are genuine. They have been anonymised as far as possible. However, in the unlikely event that a committee member recognises a case from the circumstances, we expect that confidentiality will be respected for the integrity of the exercise and the sake of those involved.

The cases have been compiled in consultation with the Standards Board's Referrals Unit.

It would be very difficult to pick a truly representative batch from the thousands of complaints the Standards Board has received. Yet, the chosen sample

aims to provide a spread of the main issues which the Standards Board's referrals officers take into account when assessing a case. In the 12 cases:

- We have provided the raw complaint, as it reached our office, and also the summary prepared by officers as it would appear in the decision notice.
- The allegations come from a range of sources – the public, other members, and officers.
- They cover the main paragraphs of the revised Code of Conduct and may disclose a number of potential breaches of the Code.
- There are complaints which are both rural and urban in nature due to the diverse areas committees cover.
- There are also some complaints concerning parish councils. We appreciate that not all standards committees have responsibility for parish councils. However, the Act envisages new community, neighbourhood and village councils in areas without parishes so far. Coupled with the likely increase in unitary authorities, more and more members will need to gain knowledge of this tier of government.

Your committee's task is to decide which cases should be referred for further action. The committee will need to provide reasons for those which are not referred.

It is expected that the exercise should take no more than half a day or an evening, in other words, a three-hour mock session of your committee.

Appeal cases

In two cases (K and L), we will assume that the decision not to refer the matter for investigation has already been made, and it is set out in the decision notice with the reasons. However, the complainants have asked for these decisions to be reviewed as the law allows, and their letter is enclosed. In these instances, therefore, you are sitting as an appeals committee rather than an assessment committee.

Do not worry about you or officers being hypothetically conflicted out by previous involvement. Simply look at the allegation and summary, and then review the request afresh as if you were dealing with a real appeal. In general the grounds for overturning a decision on appeal are:

- That the original decision is considered to be a flawed judgement because it is unreasonable in law or because the correct procedures were not followed.

- The complainant has provided compelling new information in their review request.

Criteria

At present, the Standards Board's referrals officers take account of agreed criteria when assessing a case. The criteria were developed at national level and reflect the priorities of the Standards Board for England. Your committee is therefore not expected to abide by them, as this is a local assessment, and we anticipate that the ethical regime will evolve locally.

Local priorities may not always be the same as the Standards Board's. For example, the Standards Board may have decided that a case disclosed a potential breach of the Code but was not sufficiently serious within the national context to warrant a publicly-funded investigation. A local standards committee, on the other hand, may decide that they can only determine how true or serious the alleged breach was after investigation.

The old system was also based on the idea of an investigation followed by a sanction if appropriate. The new system allows greater scope for mediation and other remedies. Unlike before, standards committees may now wish to take other action in certain instances where a sanction might have been unlikely or unhelpful. The recommended approach can be summed up in the two key tests which members should apply to new complaints:

- Does this allegation disclose a potential breach of the Code of Conduct?
- If it does disclose a potential breach of the Code, should anything be done about it?

This approach is demonstrated in the flowchart at the end of this document. The flowchart also points to the kind of allegations that standards committees might consider suitable for referral to the Standards Board for England. Please note, this is notwithstanding the Standards Board's stated position that it will not automatically accept every case referred to it. It is impossible to accurately predict the sort of cases in this category, and it would be wrong to prescribe them.

Typically though, we expect that they will be:

- Complaints concerning the leadership of the council or in some cases the opposition.
- Complaints from chief executives and monitoring officers.
- Instances where a large number of key people are conflicted out and there is a risk of successful judicial review.

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There may be other instances where there has been national attention, or where the standards committee feels that the matter turns on an important point of interpretation of the Code.

It is important to underline that where no breach of the Code is disclosed by the allegation, no matter what its source or whoever the subject member, the case falls at the first hurdle. The matter of referral to the monitoring officer or the Standards Board consequently does not arise. Clearly, where no potential breach is disclosed, the matter is at an end, and it is for the committee to provide robust reasons why.

Members may also consider that there are cases which disclose a clear potential breach of the Code. Your committee need not dwell on these too long, provided there is agreement. The same goes for overturning a decision on appeal. On the other hand, there are a number of borderline cases in your pack which come down to a matter of judgement and justification. As long as the justification is sound, there is really no right or wrong answer in these instances. This is because it will depend on local circumstances. Please also bear in mind that a right of appeal exists against a decision not to refer.

Carrying out the exercise

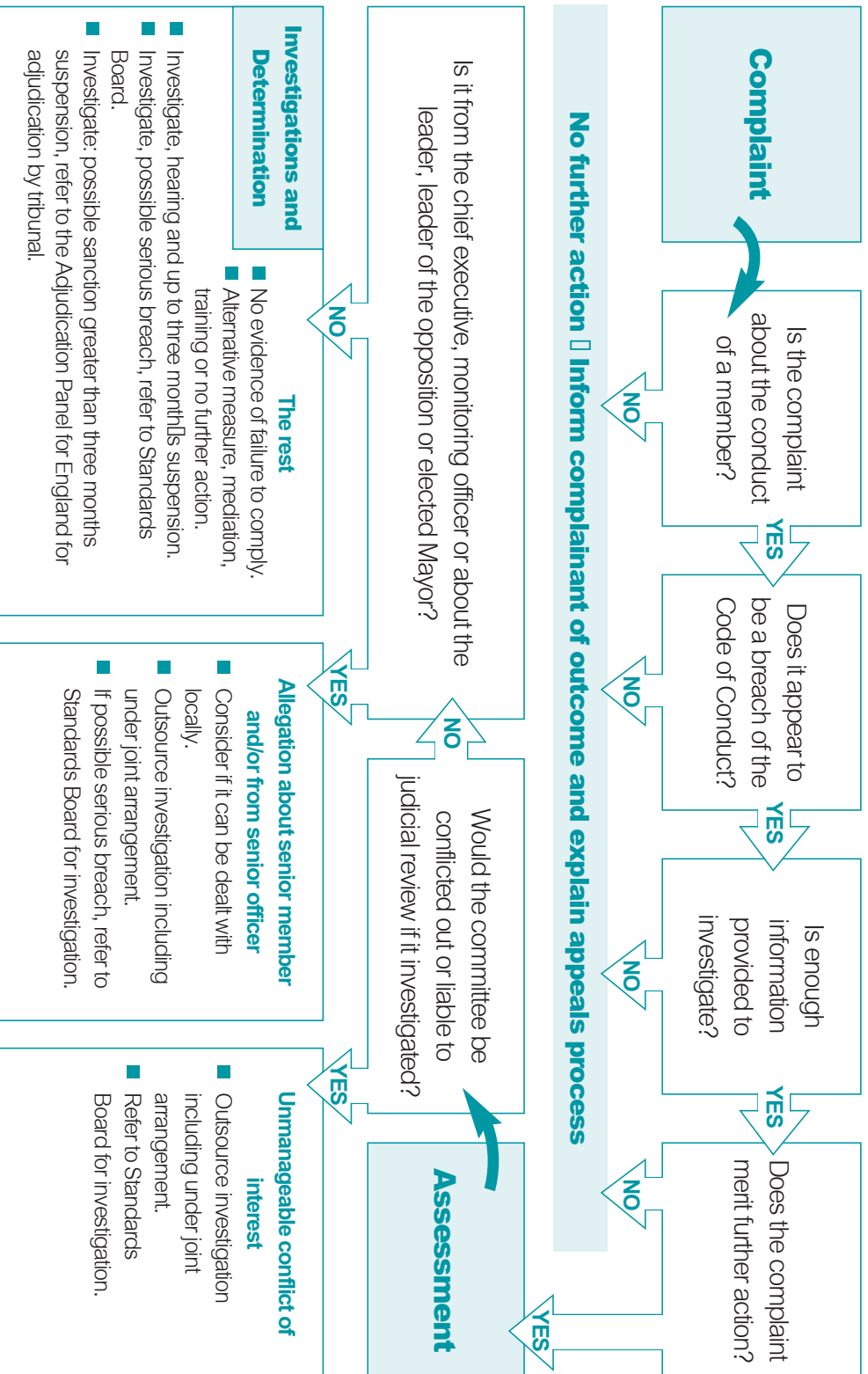
There ought to be a broad set of common expectations for the exercise to succeed:

- A situation as near to reality as possible with your normal rules of committee procedure, such as for seating arrangements.
- The comfortable degree of formality or informality according to custom.
- Your independent chair or chairperson presiding.
- You should follow your customary means of decision making according to the culture of the authority. For example, the chair taking the mood of the meeting, voting by show of hands, or the clerk drafting a resolution for approval.
- The chair, the monitoring officer or the clerk if present should record the decision and the reasons for it. This is essential in the case of decisions not to refer, and will be a legal requirement in future.
- Officer advice may be available, but given sparingly enough for the committee to gain experience from the exercise.
- You will need approximately three hours of time. It is quite acceptable for the session to be on the same day as a scheduled meeting of the standards committee, although it is recommended that the training session be conducted separately from an open meeting. However, if the

committee's regular business is likely to be onerous, this session might better be held another day.

- A good spirit of mature role play and an agreeable atmosphere for learning.

Local assessment complaint handling chart



Contact us

If you have any questions about the exercise please contact our enquiries line on **0845 078 8181** or email enquiries@standardsboard.gov.uk.