

LOCAL GOVERNMENT AND HOUSING COMMITTEE

WATERHOUSE REPORT – RESPONSIBILITIES FOR THE IMPLEMENTATION OF THE RECOMMENDATIONS OF THE WATERHOUSE REPORT

Purpose

1. To advise the committee of the respective responsibilities of Ministers for the implementation of the Waterhouse report and action taken within the local government portfolio.

Summary

2 The Assembly's response to the Waterhouse Tribunal of Inquiry identified that responsibilities for action rested with three main bodies; the UK Government, the Welsh Assembly Government and local authorities. Within the responsibilities of the Assembly the majority of the recommendations refer to the work of Social Services, which falls under the remit of the Minister for Health and Social Services. The recommendations in this area are largely being tackled through the Children First Programme and, with the UK Government, work on child protection.

3 Eight out of the 72 recommendations concern the corporate responsibilities of local authorities. These relate specifically to whistle blowing policies and disciplinary procedures and the political and structural arrangements within local authorities for the discharge of social services duties. This paper identifies these recommendations; which of them come under the remit of the Minister for Finance, Local Government and Communities; and what action has been taken to address them.

Background

4 The Chair of the Local Government and Housing Committee wished to check that the recommendations of the Waterhouse report which fell to the Assembly and which went beyond social services responsibilities were being addressed. The Minister for Finance, Local Government and Communities offered to put this paper to the committee.

Waterhouse recommendations on corporate issues

5 Of the 72 recommendations made in the Waterhouse report, 8 touch upon the corporate policies and responsibilities of local government. Of these, the following recommendations are being addressed by the Minister for Health and Social Services:

Recommendation 21

Sets out that in disciplinary procedures regarding an allegation of abuse to a looked after child, the first consideration should be given to the best interests of the child.

Recommendation 58

"Elected members should from time to time be advised about and reminded of their responsibilities to develop policy and to oversee and monitor the discharge by the local authority of its parental obligations towards looked after children".

Recommendation 61

"The willingness of councillors to visit children's homes should be a pre-condition of appointment to the committee responsible for the homes and the importance of fulfilling the duty to visit and to report on visits conscientiously should be emphasised to them".

6. A summary of action taken in respect of these recommendations is at Annex 1.

7 The following recommendations relate to the local government portfolio:

Recommendation 8

"Every local authority should establish and implement conscientiously clear whistle blowing procedures enabling members of staff to make complaints and raise matters of concern affecting the treatment or welfare of looked after children without threats or fears or reprisals in any form".

Action taken

The Code of Conduct for employees (The Code of Conduct (Qualifying Local Government Employees) (Wales) Order 2001 No. 2280) applies to all local government employees, bar teachers and firefighters who have their own codes of conduct., It contains the following provision:

Whistleblowing

9. In the event that a qualifying employee becomes aware of activities which that employee believes to be illegal, improper, unethical or otherwise inconsistent with this Code, the employee should report the matter, acting in accordance with the employee's rights under the Public Interest Disclosure Act 1998, and with the relevant authority's confidential reporting procedure, or any other procedure designed for this purpose.

The Code came into effect on 28th July 2001.

In addition, the Code of Conduct for members and co-opted members (The Conduct of Members (Model Code of Conduct) (Wales) Order 2001 No. 2289) includes the stipulations that members:

must report to the Local Commissioner for Local Administration in Wales and to the authority's monitoring officer any conduct by another member which they believe involves or is likely to involve a failure to comply with the code of conduct; and

must report, whether through the authority's confidential reporting procedure or direct to the proper authority, any conduct by another person which they believe involves or is likely to involve criminal behaviour.

All county councils have now adopted a code of conduct for members. Welsh Assembly Government officials are preparing guidance which will include an explanation that this provision was put in with the recommendations of the Waterhouse report in mind.

Recommendation 9

Consideration should be given to requiring failure by a member of staff to report actual or suspected physical or sexual abuse of a child by another member of staff or other person having contact with the child to be made an explicit disciplinary offence.

Action taken

The code of conduct for employees became part of their terms and conditions of employment from 28th July 2001.

A few local authorities already include failure to report abuse as a disciplinary

offence, others are considering amendments to their procedures and others are seeking further guidance.

Recommendations 57 and 68

Consideration should be given at national level to the need for, and provision of, training and management development for senior managers in local authorities in Wales...giving particular attention to the development of skills in strategic planning, policy implementation and performance appraisal.

Action taken

The policy statement "Freedom and Responsibility in Local Government", currently out to consultation, gives an undertaking that the Welsh Assembly Government will pursue with the Welsh Local Government Association the strengthening of both strategic and practical support for the training and development of leaders, managers and staff. This includes exploring the scope for a public sector learning network in Wales and taking account of emerging proposals for a Public Sector Skills Council which would advise on training needs across the public sector. The Wales Programme for Improvement places emphasis on investment in the development of skills and capacity and the establishment of robust performance management.

Recommendation 59

It should be the explicit duty of the Director of Social Services to inform elected members of all matters of concern touching upon children's services, including reports upon them; to provide information on comparative spending; and to submit an annual report to the Social Services Committee on the department's performance in relation to children's services

Action taken

The Local Government Act 2000 removed the requirement for local authorities operating executive arrangements to have a social services committee, in order to enable the split of responsibilities between executive members and overview and scrutiny committees. The situation is different for those councils operating alternative arrangements. The politically balanced board or a sub committee of the board will continue to act as a social services committee.

Regardless of whether councils operate executive or alternative arrangements, each authority will have either an executive member or a Board member who has

responsibility for children's services. There will also be an overview and scrutiny committee which will hold that member to account, although the responsibilities of both the executive/Board member and the committee may go wider than children's services or social services.

The Assembly guidance on this states

8.9 Member responsibilities for social services will remain crucial under the new arrangements. All social services functions .. will be the responsibility of the executive and they must ensure that social services gets the leadership and clarity of direction it needs.

8.10 With these changes to management structures for social services it will be all the more important for a council's constitution and the scheme of delegation within the executive to make clear who is responsible for social services functions and how, through overview and scrutiny committee, they will be held to account. It is essential that local people have confidence in their social services and those who run them.

8.11 Services for looked after children require a particular commitment from senior officers and elected members in local authorities. Councils should pay particular attention to the *Waterhouse Report* when considering how they will deal with the matter of responsibility for these services. It is particularly important at a time of significant change in the management structures that the roles and duties of officers and of elected members in respect of looked after children are not overlooked. New constitutions must provide robust arrangements for the fulfilment of those roles and duties. The constitution should make it clear what role the individual members, the executive and the overview and scrutiny committees have in dealing with this matter and how reports dealing with looked after children will be handled.

Councils are currently in the process of finalising their new constitutions in preparation for the implementation of new political management structures in May. Officials will confirm with councils that their constitutions include systems which properly reflect the recommendations of the Waterhouse report.

Contact point: Kate Cassidy

Local Government Modernisation Division

Annex 1

Recommendation 21

Sets out that in disciplinary procedures regarding an allegation of abuse to a looked after child, the first consideration should be given to the best interests of the child.

The "Practice Guide to Investigate Allegations of Abuse against a professional or Carer in relation to Children Looked After", was published by the Assembly in February 2000. This stresses that "the primary needs of children who are the responsibility of the local authority are their protection and welfare" and that where allegations are made the "immediate priority is to ensure the protection and safety of children".

This practice Guide is to be reviewed and revised during 2002.

Recommendation 58

"Elected members should from time to time be advised about and reminded of their responsibilities to develop policy and to oversee and monitor the discharge by the local authority of its parental obligations towards looked after children".

The aim of the Children First programme is to improve the management and delivery of social services for children. Elected members corporately have a responsibility to develop policy and oversee and monitor the discharge by the local authority of its parental obligation towards looked after children. Elected members should satisfy themselves that local services are managed appropriately and that sufficient resources have been made available to provide for the welfare and satisfactory development of children in need and looked after by their local authority. Children First sets objectives and targets against which they can measure this and Policy Agreement targets include one on the stability of placements of looked after children

and another on educational attainment of children in need.

Recommendation 61

"The willingness of councillors to visit children's homes should be a pre-condition of appointment to the committee responsible for the homes and the importance of fulfilling the duty to visit and to report on visits conscientiously should be emphasised to them".

Regulation 22 of the Children's Homes Regulations 1991 requires monthly visits to all homes by those responsible or by their representative. Reports of such visits should be seen by the responsible authority without amendment or deletion. Current Regulations do not require elected members to visit children's homes, nor do new regulations made under the provisions of the Care Standards Act 2000 which come into force from April this year. However, practice differs. In some authorities elected members carry out visits. In others it is an officer of the local authority who will visit under delegated authority. What matters, whoever visits, is that local authorities ensure the proper discharge of their duties.