

STANDARDS COMMITTEE

29 JULY 2009

STANDARDS COMMITTEE REGULATIONS 2009

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Summary

To update the Committee following the implementation of the Standards Committee (Further Provisions) (England) Regulations 2009.

1. Budget and Policy Framework

- 1.1 The decision shall be made within the Council's policy and budget framework.

2. Background

- 2.1 The Standards Committee (Further Provisions) (England) Regulations 2009 came into force on 15 June 2009, to supplement the current local assessment regime. The 2009 Regulations revokes the Relevant Authorities (Standards Committees) (Dispensations) Regulations 2000.

- 2.2 The Regulations enable the Standards Board for England to suspend the functions of a local Standards Committee, where the:

- Standards Committee is considered to have failed to have regard to guidance issued by the Standards Board;
- Standards Committee has failed to comply with a direction issued by the Standards Board;
- Standards Committee or Monitoring Officer has failed to carry out functions in relation to conduct of members within a reasonable time or in a reasonable manner; or
- Authority or its Standards Committee has invited the Standards Board to give a direction.

- 2.3 The Standards Board is able to revoke a direction where the circumstances at 2.2 no longer apply. Prior to issuing such a direction, the Standards Board must give notice of its intention to do so, in accordance with the Regulations. The direction must be in writing and state the reasons for the issue.

- 2.4 Prior to the issue of a direction, the Standards Committee is entitled to make representations (no later than 28 days after the notice), which the Standards Board must take into account.

- 2.5 For the duration of the direction, all initial allegations to the Council are made direct to the Standards Board. The Standards Board has the power to suspend the Council's Standards Committee, which is done by issuing a direction that another Authority's Standards Committee investigates the allegations.

Joint Standards Committee

- 2.6 The Regulations allow for two or more Authorities to establish a joint Standards Committee. This Joint Standards Committee can perform any of the standards committee functions under Part 3 of the Local Government Act 2000 or any regulations made under that Act and supervisions from exemptions of from political restrictions under the Local Government and Housing Act 1989.
- 2.7 The authorities may decide which functions it wishes to exercise by a joint standards committee and terms of reference can be agreed and sent to the Standards Board.
- 2.8 Where a Joint Standards Committee is established, it shall be responsible for exercising the functions. The Standards Committee of any of the individual authorities is not to exercise any of those functions.
- 2.9 The 2009 Regulations permit Authorities to decide which functions they wish to be exercised by a joint Standards Committee and require terms of reference to be agreed and sent to the Standards Board specifying which functions are to be exercised by the joint Standards Committee.
- 2.10 The 2009 Regulations also specify that when considering an allegation, a member from the Authority concerned (or a parish member from within the area of the Authority) must be present at the joint Standards Committee.
- 2.11 The 2009 Regulations also enable the Authorities to specify the numbers of members to serve on the joint Standards Committee and the creation of sub-committees. The expenses incurred by a joint Standards Committee are required to be shared amongst the participating authorities concerned in proportions that they may agree or in the absence of agreement by a single arbiter agreed by the Authorities.

Dispensations

- 2.12 The Local Government Act 2000 requires Members and Co-opted Members of an Authority to register their interests in a "Register of interests", which is to be maintained by the Monitoring Officer.
- 2.13 Members who had a prejudicial interest in a matter for discussion could apply to the Standards Committee to seek a dispensation to allow that member to speak and vote on the matter at meetings.
- 2.14 The 2009 Regulations set out the circumstances in which Standards Committees may now grant dispensations to Members and Co-opted

Members who would otherwise be prohibited from engaging in the business of the Authority (including Town and Parish Councils).

- 2.15 Provided that a Member or Co-opted member acts in accordance with a dispensation granted to them, their participation in the business of the Authority that would otherwise be prohibited by the mandatory provisions in the Members Code of Conduct is not treated as a failure to comply with the Members Code of Conduct.
- 2.16 The Standards Committee may grant a dispensation to a Member in the following circumstances:
 - (a) Where the transaction of business of the authority would, but for the grant of any other dispensation in relation to that business, on each occasion on which the dispensation would apply, otherwise be impeded by, or as a result of, the mandatory provisions in the Members Code of Conduct because-
 - (i) The number of members of the authority prohibited from voting on the business of the authority at a meeting exceeds 50% of those members that, but for the granting of any dispensations relating to that business, would otherwise be entitled to vote on that business; or
 - (ii) The number of members prohibited from voting on the business of the authority at a meeting would, but for the granting of any dispensations relating to that business, upset the political balance of that meeting to such an extent as to prejudice the outcome of voting in that meeting; and
 - (b) The member has submitted to the Standards Committee a written request explaining why a dispensation is desirable.
- 2.17 The Standards Committee must conclude that the above criteria are met, and it is appropriate to grant a dispensation.
- 2.18 Where a dispensation is granted, the Member can only rely upon it for a period of 4 years from the date on which it was granted.
- 2.19 The 2009 Regulations provide that dispensations cannot be granted to allowing a member of an overview and scrutiny committee to participate in the scrutiny of a decision in which the member was involved or to allow an individual member of the executive of an authority to exercise executive functions solely.
- 2.20 The 2009 Regulations require the Standards Committee must ensure that it:
 - (i) Keep a written record of the existence, duration and nature of any dispensations granted; and
 - (ii) Keeps the record of Dispensations with the Members' Registers of Interests.

3. Advice and analysis

- 3.1 It is advised that the Standards Committee recommend that the Monitoring Officer write to all members informing them of the new regulations.

4. Risk Management

- 4.1 The risk to the Council in not taking note of the Regulations will mean it is failing to comply with its statutory duties.

5. Consultation

- 5.1 None, but if the Council seeks to set up a Joint Standards Committee, it must do so in accordance with the 2009 Regulations.

6. Financial and legal implications

- 6.1 The legal implications are set out within the report.

7. Recommendations

- 7.1 It is recommended that the Standards Committee recommend that the Monitoring Officer undertake to oversee compliance with the 2009 Regulations and update Members accordingly.

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