



AGENDA ITEM: 8

STANDARDS COMMITTEE

8 SEPTEMBER 2009

**THE STANDARDS COMMITTEE (FURTHER PROVISIONS)
(ENGLAND) REGULATIONS**

**RICHARD G LONG,
DIRECTOR OF LEGAL AND DEMOCRATIC SERVICES**

PURPOSE OF REPORT

1. To update Members on the Standards Committee (Further Provisions) (England) Regulations 2009, which came into, force on the 15 June 2009.

BACKGROUND

2. Members are aware that from 8 May 2008 the procedure for assessment of complaints that Members may have breached the Code of Conduct was passed to Standards Committees rather than being referred to the Standards Board for England. The above regulations now make further provisions to this local assessment. In addition, the regulations permit local authorities to form Joint Standards Committees and also clarifies the role of Standards Committees in relation to the granting dispensations. A copy of the regulations is enclosed at Appendix 1.

Suspension of Initial Assessment Functions

3. The regulations now give power to the Standards Board for England (SBE) to suspend a Standards Committee's initial assessment functions into a breach of the Member Code of Conduct.
4. The circumstances in which they are permitted to do this are as follows:
 - (a) Where the Standards Committee has failed to have regard to guidance issued by the Standards Board;
 - (b) Where the Standards Committee has failed to carry out directions issued by the Standards Board;

(c) Where the Standards Committee has failed to carry out within a reasonable time or in a reasonable manner, the initial assessment of a complaint;

(d) The Monitoring Officer has failed to carry out within a reasonable time or in a reasonable manner, the initial assessment functions;

(e) The Authority invites the Standard Board to suspend initial assessment functions.

5. When the Standards Board intends to suspend the Authority's initial assessment functions it will notify the Authority, giving their reasons for doing so and asking for observations. If such a direction is made the Authority must publish details of it in a local newspaper and any other publication which the Standards Board thinks is appropriate.
6. Once the reason for the direction ceases to exist the Standards Board will revoke the direction.

Joint Standards Committees

7. The regulations state that two or more authorities may now establish a Joint Standards Committee (JSC) to exercise joint standards functions. The Joint Standards Committee will be able to deal with all or any of the functions of a Standards Committee but there can be no concurrent functions. All of the authorities, which together establish a JSC must agree the terms of reference of the Joint Standards Committee and must send a statement that sets out the terms of reference to the Standards Board for England.
8. The terms of reference must:
 - (a) identify the functions which are to be discharged by the JSC.
 - (b) make provision for the administrative arrangements of the JSC.
 - (c) specify, for each authority involved in the establishment of the JSC which committee is the Standards Committee to which written allegations of breach of the Member Code of Conduct may be sent.
 - (d) specify the number of Members to be appointed to the JSC by the authorities establishing that committee and make provision for the terms of office of those Members.
 - (e) make provision for the appointment of Members, by the JSC to sub-committees of that committee.
 - (f) specify what provision is made for the payment of allowances to Members of the JSC.
 - (g) make provision for the procedure for an authority to withdraw from the

JSC upon service of notice.

9. Finances are to be shared by agreement between the authorities involved and in default of agreement will be decided by an arbitrator appointed by them. The Standards Board has produced guidance on Joint Standards Committees (Appendix 2), which includes a draft constitution or terms of reference incorporating a template for information required by the regulations. Servicing of any joint committee will involve staff resources from both legal and governance from whichever authority takes the lead.

Dispensations

10. Existing rules under the 2002 regulations on dispensations provide for a Standards Committee to grant a dispensation in instances when more than 50% of the Members who would be able to vote are prevented from doing so by the Code of Conduct. A new provision in the 2009 regulations clarifies that an elected member or co-opted member can also seek a dispensation where the political balance of the meeting would be upset sufficiently to prejudice the outcome of the voting of the issue. The new rules state that dispensations may be granted
 - Where more than 50% of the Members who would, but for the granting of any dispensations in relation to that business, be entitled to vote at a meeting are prohibited from voting; or
 - Where the number of Members are prohibited from voting at a meeting would, but for the granting of any dispensations in relation to that business, upset the political balance of the meeting to the extent that the outcome of voting would be prejudiced.
11. Requests for dispensations must be submitted in writing to the Standards Committee explaining why it is desirable. The dispensation will only be granted in respect of business arising in a period of four years following the grant of the dispensation.
12. A dispensation cannot be granted to allow a member of an overview and scrutiny committee to participate in the scrutiny of a decision of another committee in which he/she was involved or to allow an individual member of the executive to exercise executive functions solely. All dispensations must be recorded in the Register of Members' Interests. Appendix 3 to this report contains guidance issued by the Standards Board for England.

Financial Implications

13. As outlined in the report, expenses incurred in establishing and servicing of a Joint Standards Committee are to be defrayed by the authorities establishing any joint committee in such proportions as they agree.

RECOMMENDATIONS

14. Members are asked to note the report.

15. That the Monitoring Officer informs all Members of the requirements and procedures relating to dispensations.

BACKGROUND PAPERS

Standards Committee (Further Provisions) (England)
Regulations 2009

AUTHOR

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