

STANDARDS COMMITTEE

THE STANDARDS COMMITTEE (FURTHER PROVISIONS) (ENGLAND) REGULATIONS 2009 18th June 2009

Report of the Monitoring Officer

PURPOSE OF REPORT

To inform the Committee of new Regulations taking effect from the 15th June 2009.

This report is public

RECOMMENDATIONS

(1) That the report be noted

1.0 Introduction

1.1 New Regulations were made on the 18th May 2009, coming into force on the 15th June 2009. The Regulations cover three areas: they enable the Standards Board for England (Standards Board) to suspend a local authority standards committee's power to undertake the initial assessment on allegations of misconduct, make provision for two or more local authorities to establish a joint standards committee, and replace the existing provisions relating to dispensations.

1.2 A copy of the Regulations is attached to this report.

2.0 Details of the Regulations

Suspension of Standards Committee's assessment powers

2.1 The Local Government Act 2000, as amended by the Local Government and Public Involvement in Health Act 2007, established the Standards Board as a strategic regulator. The Standards Board monitors the performance of authorities in operating the conduct regime by requiring authorities to complete quarterly online returns in relation to the cases they handle, and an annual return.

2.2 The legislation provides the Standards Board with the power to remove a standards committee's function to assess complaints of breach of the Code of Conduct. The Regulations set out how these powers will be exercised, and in particular empower the Standards Board to direct that a local authority's standards committee's initial assessment functions are suspended where:

- the standards committee has failed to comply with the Standards Board's guidance on the conduct regime;
 - the standards committee has failed to comply with a direction given by the Standards Board;
 - the standards committee or the monitoring officer has failed to carry out functions in relation to the conduct of members in a timely or appropriate manner; or
 - the authority or the standards committee has invited the Standards Board to give a direction.
- 2.3 The Standards Board's decision on whether to suspend a standards committee's initial assessment functions will be taken on a case by case basis, and informed by information gathered by the Standards Board about the performance of standards committees and the authority's monitoring officer. If the Standards Board is satisfied that any of the circumstances above apply, it may suspend the initial assessment function of that authority. Before a direction is given, the Standards Board must give notice to the authority of its intention to give such a direction, and a copy of the notice must be sent to the chairman of the standards committee and the monitoring officer.
- 2.4 Where a direction is in place, either the Standards Board, or, with its consent, the standards committee of another authority, will undertake the initial assessment functions on behalf of the standards committee which is the subject of the suspension. The Regulations make detailed provision for the Standards Board or the other authority to deal with an allegation itself or to refer it to the monitoring officer of the "suspended" standards committee for investigation or other action. This is done by adapting the provisions of the Standards Committee (England) Regulations 2008 to meet the relevant scenario.

Joint Standards Committees

- 2.5 The Regulations make provision for two or more relevant authorities to establish a joint standards committee to exercise their functions under the devolved conduct regime.
- 2.6 The Regulations provide that such a joint standards committee may exercise any, or all, of the functions of dealing with Code of Conduct complaints, or the function of the granting and supervision of exemptions from political restrictions imposed under the Local Government and Housing Act 1989. This provides flexibility for authorities to decide which functions they wish to be exercised by a joint standards committee, based on their own needs and circumstances. This may involve discharging only the initial assessment functions jointly, or all of the standards committee's functions.
- 2.7 The Regulations set out requirements for the terms of reference of joint standards committees.
- 2.8 Guidance on joint committees is to be issued by the Standards Board but is not available at the time of writing this report. It will be circulated to members if it is available before the meeting.
- 2.9 When the question of joint committees has been considered by this Committee as part of various consultation exercises in the past, the view has always been taken that a joint committee would not be desirable as it would detract from the principle of the local assessment of complaints. There has been no indication that any of the neighbouring councils would be interested in forming a joint committee.

Dispensations

- 2.10 The Regulations revoke the previous Dispensation Regulations, and replace them with new provisions to clarify the rules which apply to standards committees when granting dispensations to local authority members. If a member acts in accordance with a dispensation, any participation in business prohibited by the mandatory provisions of the Code of Conduct will not constitute a failure to comply with the Code.
- 2.11 The circumstances where a standards committee may grant a dispensation to a member or co-opted member are:
- 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 that 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.
- 2.12 A request for a dispensation must be submitted in writing to the standards committee. As previously, a dispensation can only be granted in respect of business arising in the period of four years following the grant of the dispensation.

3.0 Details of Consultation

- 3.1 There has been no consultation.

4.0 Options and Options Analysis (including risk assessment)

- 4.1 The report is for noting.

CONCLUSION OF IMPACT ASSESSMENT (including Diversity, Human Rights, Community Safety, Sustainability and Rural Proofing)

None arising from this report.

FINANCIAL IMPLICATIONS

None directly arising from this report. If a joint committee were to be considered in the future, any financial implications would be reported at that time.

SECTION 151 OFFICER'S COMMENTS

The Section 151 Officer has been consulted and has no further comments.

LEGAL IMPLICATIONS

None directly arising from this report.

MONITORING OFFICER'S COMMENTS

The report has been prepared by the Monitoring Officer in her capacity as adviser to the Standards Committee.

BACKGROUND PAPERS

None

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