

STANDARDS COMMITTEE

STANDARDS BOARD GUIDANCE ON DISPENSATIONS

1st October 2009

Report of the Monitoring Officer

PURPOSE OF REPORT

To provide the Committee with a the Standards Board's Guidance on dispensations.

This report is public

RECOMMENDATIONS

- (1) That the Committee resolve that each request for a dispensation be considered on its merits, taking account of the Standards Board's Guidance as appended to the report.
- (2) That the Committee consider whether a member making a request for a dispensation should be permitted to make oral representations to the Committee, or whether the application should be dealt with only through written representations.
- (3) That the Committee consider whether it would wish to establish a sub-committee to deal with requests for dispensations, and if so the size and composition of such a sub-committee.

1.0 Introduction

- 1.1 At its meeting on the 18th June 2009, the Committee received a report on the Standards Committee (Further Provisions) (England) Regulations 2009, which include new provisions clarifying the grounds on which standards committees may grant dispensations to local authority members.
- 1.2 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.
- 1.3 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.

1.4 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.

1.5 The Standards Board has now published guidance for standards committees on dispensations.

2.0 Details

2.1 A copy of the Guidance is appended to this report, and it is recommended that whenever a request for a dispensation is received, it should be considered by the Committee on its own merits, taking account of the Standards Board's Guidance.

2.2 Members will note that page 6 of the Guidance states that the committee will need to consider whether the member making the request will be allowed to make oral representations to the committee, or whether the application will be dealt with only through written representations. The Committee is asked to consider whether it wishes to deal with applications through written representations only or to allow oral representations.

2.3 Members may also wish to note that a standards committee may set up a sub-committee to consider requests for dispensations. In the past, the Committee has been minded not to set up such a sub-committee, but to deal with any requests in full Committee. The disadvantage of this is that it is less easy to arrange for a request to be dealt with at short notice. If the Committee were minded to establish a sub-committee to deal with dispensation requests, consideration would need to be given as to its size, composition, and whether it should have a fixed membership, or whether the Head of Democratic Services should be given authority to convene ad hoc sub-committees as required. An ad hoc arrangement would have the advantage of ensuring that any elected members on the sub-committee were of a different group from the applicant.

3.0 Details of Consultation

3.1 There has been no consultation.

4.0 Options and Options Analysis (including risk assessment)

4.1 Representations: Option 1 would be to allow a member requesting a dispensation to make oral representations. Option 2 would be to rely on the information contained in the written request. The Monitoring Officer has no preferred or recommended option.

4.2 Sub-Committee: Option 1 would be for the full Committee to continue to consider requests for dispensations. In the past there have been very few such requests, and the interval between full Committee meetings has not caused any difficulties. Option 2 would be to establish a Sub-Committee of perhaps three or five members to consider requests. This would have the advantage that the Sub-Committee could convene at relatively short notice. If this were Members' preferred option, consideration would need to be given to the composition of such a Sub-Committee

with regard to independent members, parish representatives and city councillors. A Sub-Committee with a fixed membership could be established, or it would be possible to delegate to the Head of Democratic Services the convening of ad hoc sub-committees, ensuring that there is a parish representative if the request is from a parish councillor, and that, if the request is from a city councillor, the city councillor member of the sub-committee is from a different group. The Monitoring Officer has no preferred or recommended option.

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. Any costs from holding a Sub-Committee meeting is expected to be small and will be met from existing Democratic Services budgets.

SECTION 151 OFFICER'S COMMENTS

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

LEGAL IMPLICATIONS

The Local Government Act 2000 provides that the rules in respect of the allocation of seats to political groups do not apply to the Standards Committee and its sub-committees.

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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