

Agenda Item 10

Standards Committee

3 November 2009

RP



The Standards Committee (Further Provisions) Regulations 2009

Summary

1. New Regulations relating to the work of Standards Committees came into force on 15 June 2009.
2. There are three initiatives, namely a power for Standards for England (SFE) (formerly the Standards Board for England) to suspend arrangements for the local assessment of complaints, a power for local authorities to establish Joint Standards Committees and a power for Standards Committees to grant dispensations to members to participate in meetings where they have a prejudicial interest.

Recommendation

- 1 that the name change from Standards Board for England to Standards for England be noted together with the new power to suspend local assessment;
- 2 that the Head of Legal, Licensing and Democratic Services and Chairman of the Standards Committee further explores the cost/benefit of setting up a Joint Standards Committee with Mid Devon District Council taking into account the Committee's expressed preference for Model A or Model B.
- 3 that the new guidance for dispensations be adopted with authority for the Head of Legal, Licensing and Democratic Services to make the appropriate amendments to the Constitution, including dispensations being delegated to the Standards Assessment and Hearings Sub Committee, with the Standards Committee retaining concurrent powers.

a) **Reasons for Recommendation**

The Council is required to adopt statutory change and is well advised to follow Standards for England guidance.

The establishment of a Joint Standards Committee has potential resource savings by avoiding duplication of work and committees in two separate authorities and may assist with the efficient running of the Committee. For example, local assessment should take place within 20 working days of receipt of a complaint. If a Joint Standards Committee meets monthly to deal with complaints against councillors and parish councillors in two authorities the number of meetings overall should be reduced.

b) **Alternative Options**

Not applicable.

c) **Risk Considerations**

Failure to act in accordance with Standards for England guidance could result in the Council's right to conduct local assessment being suspended.

d) Policy and Budgetary Considerations

See above under reasons for recommendation.

e) Date for Review of Decision

October 2010.

1 Main Body of the Report

1. The power to suspend local assessment.

(1) Standards for England may suspend local assessment in the following circumstances:

- a The Standards Committee has failed to have regard to guidance issued by SFE;
- b The Standards Committee has failed to comply with a direction from SFE;
- c The Standards Committee or the Monitoring Officer has failed to carry out functions in a reasonable time or manner;
- d Where it has been invited to do so by the Local Authority or its Standards Committee.

(2) Before suspending the functions of a Standards Committee, SFE must serve notice on the Committee and the Monitoring Officer, setting out its reasons for and the date of the proposed suspension, and allowing 28 days for the local authority to submit observations.

(3) A direction from SFE must be in writing served on the authority with a copy to the Chair of the Committee and the Monitoring Officer and must contain the following:-

- The date on which it is to take effect
- The reason for its issue
- The identity of any body of which will deal with an initial assessment in place of the Standards Committee
- A requirement for the authority to publish a copy of the direction in a local newspaper and on its website.

(4) The SFE may revoke a direction when it is satisfied that the circumstances which led to its issue no longer apply.

2. Joint Standards Committees

Members will recall that in her report dated 18 March 2008 the Head of Legal, Licensing and Democratic Services introduced the topic of Joint Standards Committees for which further guidance was awaited from SFE.

There has been some discussion with Mid Devon District Council who have expressed an interest in setting up a joint committee with this Council.

The guidance has now been received together with model terms of reference.

A copy of the guidance is attached to this report but it may be summarised as follows:-



There are two potential models:

Model A

A Joint Standards Committee to receive written allegations and requests for a review and to decide what action to take in relation to them. Each authority continues to deal independently with all other functions.

Model B

An extension of model A whereby the joint committee also considers final investigation reports, conducts hearings and makes findings and imposes sanctions.

The potential advantages of joint working are said to be the use of shared resources plus a reduction in the likelihood of a Member of the Committee being unable sit because of a conflict of interest.

The disadvantage is the potential loss of the benefit of local knowledge.

Membership of a Joint Committee must include at least one Member from each participating authority but must not include more than one Member of the Executive

The terms of reference must do the following:-

- Identify the Joint Standards Committee's functions;
- Make provision for its administrative arrangements;
- Specify, for each authority involved in the establishment of a Joint Standards Committee, which Committee is the Standards Committee to which written allegations of breach of the authority's code of conduct may be sent.
- Specify the number of Members to be appointed to the Joint Standards Committee by the authorities establishing it
- Make provision for the Joint Standards Committee to appoint Members to its sub-committees
- Specify what provision is made for the payment of allowances to members of the Joint Standards Committee
- Make provision for an authority to withdraw from the Joint Standards Committee upon service of notice.

The regulations provide for the expenses of a Joint Committee to be met by the authorities that establish it, in the proportions they agree. If they disagree, the regulations provide for the proportions to be determined by a single arbitrator agreed on by the appointing authorities.

3. Dispensations

- 1 The members' Code of Conduct adopted by this authority requires members to withdraw from meetings when any matter in which they have a prejudicial interest is being discussed. However, before leaving, a Member may make representations, answer questions or give evidence if the public is allowed to do so at that meeting. However, they are not required to withdraw if they have obtained a dispensation from the Standards Committee. The new regulations set out revised circumstances in

which Standards Committees may grant dispensations to a Member. These are:

- The transaction of business of the authority would be impeded either because more than 50% of the members who would otherwise be entitled to vote at a meeting would be prohibited from voting unless they are granted a dispensation, or the number of members prohibited from voting at a meeting would upset the political balance of the meeting unless dispensations are granted, and
 - The member has submitted a written request to the Standards Committee for a dispensation, explaining why it is desirable, and
 - The Standards Committee concludes that, having regard to the fact that the business of the authority would otherwise be impeded and to the written request and to any other relevant circumstances, it is appropriate to grant the dispensation.
2. The regulations restrict the grant of a dispensation to business conducted during the period of four years after the date on which the dispensation is granted. They also prohibit the grant of a dispensation to allow a member of an Overview and Scrutiny Committee to participate in the scrutiny of a decision in which that Member was involved or to allow an individual Member of a Local Authority's Executive to exercise executive functions solely.
 3. The regulations require Standards Committees to ensure that the granting of any dispensation is recorded in writing and that this is kept with their local authority's register of Members' interests.
 4. It is recommended that the to the Assessment and Hearings Sub Committee is appointed by the Standards Committee for the purpose of discharging the dispensation function, with the Standards Committee retaining the power concurrently. [This is permitted under section 54A of the Local Government Act 2000]. This would enable a dispensation request to go the the next appropriate committee or sub committee.

Legal Implications

Included within the report

Financial Implications

Regarding the proposal to explore setting any Joint Standards Committee, consideration needs to be given to additional costs of travelling, producing agendas and officer time.

Background Papers

- Consultations on Orders and Regulations relating to the Conduct of Local Authority Members in England.

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Standards Committee 3 November 2009

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