

Standards Committee - 30th June 2009

Report of the Monitoring Officer

Standards Board Intervention, Joint Standards Committees and Dispensations

Purpose of Report

1. To consider new Standards Committee (Further Provisions) (England) Regulations 2009 (SI 2009/1255), in force from 15 June 2009, which make provision for the Standards Board for England to suspend the functions of a local Standards Committee. The regulations also give authorities a power to establish Joint Standards Committees, and extend the power of Standards Committees to give members dispensations where they would otherwise be prohibited from participating on a matter because of a prejudicial interest.

Background

Suspension of Standard Committee Functions

2. The function of initial assessment of complaints of breach of the Code of Conduct by members was transferred from the Standards Board to the Standards Committees (or rather the Assessment/Referrals Sub-Committees) of local authorities from 8 May 2008. Most local authorities have taken on this new responsibility and are discharging this function effectively, but the regulations now give a power for the Standards Board to intervene in an individual authority if necessary.
3. An intervention can be triggered by the Standards Board where:
 - a) It is the view that the authority's Standards Committee has failed:
 - to have regard to SBE guidance;
 - to comply with a direction from SBE;
 - to carry out its functions within a reasonable time or in a reasonable manner;
 - b) it is of the view that the authority's Monitoring Officer has failed to carry out his/her functions within a reasonable time or in a reasonable manner;
 - c) the authority or its Standards Committee has requested the Standards Board to intervene.

4. Where the Standards Board considers intervention, it must give the authority notice of its intentions and reasons and give the authority at least 28 days to respond before making a direction. The effect of a direction is to transfer the initial assessment function to either the Standards Board itself, or to the Standards Committee of another named authority (“the substitute authority”). In practice, as the Standards Board is not staffed up to resume the initial assessment function, the preferred route is to transfer the function to a substitute authority, but that is likely to be dependent on the two authorities reaching agreement on costs.
5. During the period of the intervention, the Standards Board, or the Standards Committee of the other named authority, would undertake the initial assessment and review in exactly the same manner as the original authority, and can decide to refer the allegation for a local or a Standards Board investigation, alternative action or no action, as appropriate. The intervention is strictly in respect of the initial assessment function, so the regulations give a discretion to the Standards Board to use their own investigators and the Adjudication Panel for hearings (or the substitute authority to use its own Monitoring Officer and Hearings Sub-Committee) or to use the Monitoring Officer and/or the Monitoring Officer and/or Hearings Sub-Committee of the original authority if that is appropriate.
6. An intervention can be terminated by the Standards Board at any time.

Joint Standards Committees

7. The regulations give a discretion for two or more local authorities to set up a Joint Standards Committee, and make it clear that such a Joint Standards Committee can be established to discharge all of each participating authority’s standards functions, or can be established to discharge just some of the authorities’ standards functions, such that each authority retains its own Standards Committee to discharge those standards functions which have not been allocated to the Joint Committee. Accordingly, authorities might agree to establish a Joint Standards Committee which would establish a Referrals and a Review Sub-Committee, but each retain their own Standards Committees to discharge the functions of conducting hearings, providing member training and promoting high standards of conduct. But where all standards functions are allocated to the joint Standards Committee, then participating authorities would no longer maintain their own separate Standards Committees. Where a function is allocated to the Joint Standards Committee, it cannot then be discharged by the Standards Committee of an individual participating authority.
8. Where authorities wish to establish a Joint Standards Committee, the full Council of each participating authority would need to resolve:
 - to establish the Joint Standards Committee;
 - which standards functions are to be allocated to the Joint Committee and which, if any, are to be retained by the authority’s own Standards Committee;
 - the administrative arrangements to support the Joint Standards Committee;

- whether standards complaints should be addressed directly to the Joint Standards Committee, or should continue to be addressed to the individual authority;
- the number of members, including Independent, to be appointed to the Joint Standards Committee by each participating authority, and their terms of office;
- make provision for the Joint Standards Committee to appoint members to its Referrals, Review and/or Hearings Sub-Committees, as required;
- provide for the payment of allowances to members of the Joint Standards Committee;
- provide a procedure for an authority to withdraw from the Joint Standards Committee; and
- provide how the costs incurred by the Joint Standards Committee shall be shared between the participating authorities (or in default to be determined by an arbitrator).

Dispensations

9. The original 2002 Dispensations Regulations provided that a member who had a prejudicial interest in a matter which was coming before the authority could apply to the Standards Committee for a dispensation, and that the Standards Committee could give a dispensation to allow the member to speak and to vote on the matter at meetings. The regulations specified two grounds for dispensation:
 - a) the first ground, repeated in the new regulations, was that the business of the authority would be impeded because more than 50% of the members of the decision-making body (Council, Committee, Sub-Committee or Cabinet) would otherwise be prohibited from voting on the matter;
 - b) the new regulations re-state the original second ground to apply where the business of the authority will be impeded because the absence of members as a consequence of prejudicial interests would upset the political balance of the meeting to such an extent as to prejudice the outcome of voting in that meeting.
10. Where one or more members have made a written application for a dispensation, setting out why they consider that a dispensation would be desirable, the Standards Committee may only grant a dispensation if it is of the opinion that it is appropriate to grant a dispensation. A dispensation can be granted for a particular meeting or for a period, not exceeding four years. All dispensations are then entered in the register of members' interests.

Finance

11. There are no significant financial implications arising directly from this report.

Law

12. The Standards Committee is appointed pursuant to Section 53 of the Local Government Act 2000.

13. The Standards Committee (Further Provisions) (England) Regulations 2009 cover Standards Board intervention; the establishment of Joint Standards Committees; and member dispensations.

Equality Impact

14. There are no equality impact implications arising from this report.

Recommendation

15. It is recommended that the Standards Committee note the provisions contained in the Standards Committee (Further Provisions) (England) Regulations 2009.



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List of Background Papers

None.