

STANDARDS COMMITTEE

BRIEFING PAPER for meeting to be held on 2 September 2009

Standards Board Intervention, Joint Standards Committees and Dispensations

Purpose

This report informs the Committee of the effect of the Standards Committee (Further Provisions) (England) Regulations 2009 Number 1255 ("the Regulations") which came into force on 15 June 2009.

The Regulations make provision about three matters; The power of the Standards Board to give a direction to a standards committee to suspend its initial assessment functions and to provide for them to be exercised by the Board or the standards committee of another authority; joint standards committees and the granting of dispensations to Members who would otherwise be prohibited from participating owing to a prejudicial interest.

Risk Assessment, Resource Implications and Legal Implications

There are no resource implications arising directly from the report. Any work related implications will be met from within the existing budget. There are no legal implications arising from this report.

Recommendation

The Standards Committee is requested to:

- (1) note the power of the Standards Board to give a direction to a Standards Committee to suspend its initial assessment functions and to provide for them to be exercised by the Board or the standards committee of another authority;
- (2) note the regulations for appointing joint standards committees and
- (3) note the arrangements for granting of dispensations to Members who would otherwise be prohibited from participating owing to a prejudicial interest.

Executive Member: Councillor Alan Waters – Corporate Resources

Ward: All

Contact Officers:

John Jones – Monitoring Officer 01603 212440

David Johnson – Solicitor to the Council 01603 212036

Steve Goddard – Scrutiny Officer 01603 212491

Background Documents

None - For further information The Regulations can be viewed in full on

www.opsi.gov.uk/si/si2009/uksi_20091255_en_1

Report

1 Suspension of Initial Assessment Functions

1.1 Regulation 3 sets out the circumstances in which the Standards Board may exercise the power of suspension which are as follows:

- (1) the Committee has failed to have regard to guidance issued by the Standards Board;
- (2) the Committee has failed to comply with a direction issued by the Standards Board;
- (3) the Committee or Monitoring Officer has failed to carry out functions in relation to the conduct of members within a reasonable time or in a reasonable manner; or
- (4) the authority or the committee has invited the Standards Board to give a direction.

1.2 Paragraph 7.4 of the Explanatory Memorandum to the Regulations explains how this will work in practice, as follows:

“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 mentioned above apply, it may suspend the initial assessment function of that authority, even if the authority in question is not failing in the discharge of that initial assessment function. Essentially the Standards board has the power to “turn off the tap” – since it is at the initial assessment of allegations stage that the decision is made as to how the allegation is to be treated. Once an allegation has been allocated in a particular manner, the Standards Board has no power to intervene further.”

1.3 The Standards Board must give notice of its intention to give a direction, with reasons and give the authority 28 days in which to make representations. However the requirement to give notice does not apply when the Board is invited to give a direction. If the direction is made, public notice of it must be given by the authority.

1.4 When a direction is in force complaints are still to be submitted to the suspended Committee but the direction will state where the Committee must send the complaints for assessment, either to the Board or another authority’s standards committee.

1.5 On receiving a complaint from a suspended Committee the Board must either:

- (1) refer the complaint to an Ethical Standards Officer for investigation;
- (2) decide that no further action should be taken in respect of the complaint; or

- (3) refer the complaint to the Monitoring Officer of the authority, or of another authority, for investigation or other action.
- 1.6 If the Direction provides that complaints are to be referred to another authority's Standards Committee, that Committee must either:
 - (1) refer the complaint to the Monitoring Officer for the suspended committee, for investigation or other action;
 - (2) refer the complaint to the Monitoring Officer of its own authority for investigation or other action;
 - (3) refer the complaint to the Standards Board; or
 - (4) decide that no action should be taken in respect of the complaint.
- 1.7 The Regulations do not provide a time limit for Directions. The Standards Board may revoke a Direction if it is satisfied, following a review, that the circumstances leading to the giving of the Direction no longer apply.

2 Joint Standards Committees

- 2.1 Regulations 14 and 15 enable two or more relevant authorities to establish joint standards committees to perform any functions under Part 3 of the Act or regulations made under the Act or the function of the grant and supervision of exemptions from political restrictions imposed by Part 1 of the 1989 Act. They permit relevant authorities to decide which functions they wish to be exercised by a joint standards committee and require terms of reference to be agreed and sent to the Standards Board specifying which functions are to be exercised by the joint standards committee. They also provide that other enactments applicable to standards committees apply, with necessary modifications, to functions performed by joint standards committees and specify how certain modifications are to apply.

3 Dispensations

- 3.1 Regulations 16 and 17 prescribe the circumstances in which standards committees may grant dispensations to members or co-opted members who would otherwise be prohibited from engaging in the business of a relevant authority. If a member or co-opted member acts in accordance with the grant of a dispensation, any participation in business prohibited by the mandatory provisions of a model code of conduct issued under section 50(1) of the Act is not a failure to comply with the authority's code of conduct.
- 3.2 The circumstances in which a standards committee may grant a dispensation are:
 - where, but for the grant of any other dispensation in relation to that business, more than
 - 50% of the members who would otherwise be entitled to vote at a meeting are prohibited from voting; or
 - where, but for the grant of any other dispensation in relation to that business, the number of members that are prohibited from voting at a meeting would upset the political balance of the meeting to such an extent as to prejudice the outcome of voting in the meeting.

3.3 Regulation 17(2) provides that a dispensation can only be granted in respect of business conducted during the period of 4 years after the date on which the dispensation is granted. It also specifies that the circumstances in which dispensations can be granted do not extend to allowing 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 the executive of an authority to exercise executive functions solely. Regulation 18 requires standards committees to keep records of dispensations granted under Regulation 17. Regulation 19 revokes the Relevant Authorities (Standards Committees) (Dispensations) Regulations 2000.