

BROMSGROVE DISTRICT COUNCIL

STANDARDS COMMITTEE

22ND JULY 2009

STANDARDS COMMITTEE (FURTHER PROVISIONS) (ENGLAND) REGULATIONS 2009

Responsible Portfolio Holder	Councillor Geoff Denaro
Responsible Head of Service	Claire Felton, Head of Legal, Equalities and Democratic Services and Monitoring Officer
Non-Key Decision	

1. SUMMARY

The Standards Committee (Further Provisions) (England) Regulations 2009 (SI 2009/1255) came into force on 15th June 2009. These:

- make provision for the Standards Board for England (“SBE”) to suspend the functions of a local Standards Committee where the Committee is failing to perform its functions satisfactorily;
- 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.

2. RECOMMENDATION

- 2.1 That the Monitoring Officer advises all Members and parish councils of the new grounds for application for dispensation in respect of prejudicial interests.
- 2.2 That the Monitoring Officer prepares a draft procedure for processing applications for dispensations for future consideration by the Committee.

3. BACKGROUND

Suspension of Standards Committee Functions

- 3.1 The function of initial assessment of complaints of breaches of the Code of Conduct by Members was transferred from the Standards Board to Assessment Sub-Committees of local authorities from 8th May 2008. The Regulations now give a power for the SBE to intervene in an individual authority:

3.1.1 if the SBE is of 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; or
- 3.1.2 if the SBE 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; or
- 3.1.3 the authority or its Standards Committee has requested the SBE to intervene.
- 3.2 Where the SBE 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 SBE itself, or to the Standards Committee of another named authority ("the substitute authority"). In practice, the preferred route is likely to be to transfer the function to a substitute authority, but that is likely to be dependent on the two authorities reaching agreement on costs.
- 3.3 During the period of the intervention, the SBE, or the Standards Committee of the substitute 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 SBE 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 SBE 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.
- 3.4 An intervention can be terminated by the Standards Board at any time. Guidance is due to be issued by the SBE shortly on interventions.
- 3.5 Members are requested to note these new powers.
- Joint Standards Committees**
- 3.6 The Regulations give a discretion for two or more local authorities to set up a Joint Standards Committee which can be established:
- to discharge all of each participating authority's standards functions, or
 - to discharge just some of the authorities' standards functions, so that each authority retains its own Standards Committee to discharge those standards functions which have not been allocated to the Joint Committee.
- 3.7 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. Alternatively, 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. Guidance has been issued by the SBE on the setting up of Joint Standards Committees which can be found at Appendix 1.

- 3.8 Members are requested simply to note this power to set up a Joint Standards Committee at this stage and to bear it in mind in the context of the current consideration of shared services.

Dispensations

- 3.9 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. Those regulations specified two grounds for dispensation:

- 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; or
- because of the prejudicial interests of Members, the authority would be impeded because it would not be able to comply with its duty to allocate seats on Committees or Sub-Committees to different political groups in accordance with the principles of political balance.

- 3.10 It has been widely acknowledged that the regulations were meaningless in respect of the second ground. In practice, the proportionality rules apply only to the process of appointment of Committees and Sub-Committees, and not to attendance at individual meetings, so this ground was ineffective.

- 3.11 The new Regulations repeat the first ground and now re-state the 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.

- 3.12 The SBE has issued new guidance on the granting of dispensations which is attached as Appendix 2. This recommends that Standards Committees develop criteria to be applied to requests for dispensations. Suggestions are included on pages 5 and 6 of the guidance, but officers propose that this Committee produces its own guidance which should be made available to Members (of both the District Council and of the parish councils in the district) on the process for applying for a dispensation and the criteria which will be applied as none is currently in existence. A draft will be prepared

and brought to Committee for consideration in due course. In the meantime it is suggested that the Monitoring Officer ensure that these new Regulations are brought to Members' and parish councils' attention.

4. FINANCIAL IMPLICATIONS

None

5. LEGAL IMPLICATIONS

The Standards Committee (Further Provisions) (England) Regulations 2009 (SI 2009/1255), the key provisions of which are described above.

6. COUNCIL OBJECTIVES

Not applicable

7. RISK MANAGEMENT

There are no risks associated with this report.

8. EQUALITIES AND DIVERSITY IMPLICATIONS

None

9. VALUE FOR MONEY IMPLICATIONS

None

10. OTHER IMPLICATIONS

Procurement Issues	None
Personnel Implications	None
Governance/Performance Management	None
Community Safety including Section 17 of Crime and Disorder Act 1998	None
Policy	None
Environmental	None

11. OTHERS CONSULTED ON THE REPORT

Portfolio Holder	No
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Chief Executive	No
Executive Director - Partnerships and Projects	No
Executive Director - Services	No
Assistant Chief Executive	No
Head of Service	Yes
Head of Financial Services	No
Head of Legal, Equalities & Democratic Services	Yes
Head of Organisational Development & HR	No
Corporate Procurement Team	No

12. WARDS AFFECTED

All Wards

13. APPENDICES

Appendix 1 - SBE Guidance on Joint Standards Committees
Appendix 2 - SBE Guidance on Dispensations

14. BACKGROUND PAPERS

None

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