

STANDARDS COMMITTEE - 23 APRIL 2009

THE STANDARDS COMMITTEE (FURTHER PROVISIONS) REGULATIONS 2009

Report of the: Monitoring Officer

Status: For consideration and discussion

Executive Summary: Draft regulations are being prepared which will allow the Standards Board for England to suspend the initial assessment functions of an authority and will enable authorities to establish joint Standards Committees. They will also amend the powers of Standards Committees to grant dispensations to Members who would otherwise be unable to take part in authority business because of a prejudicial interest. We expect the regulations to come into force in May 2009.

This report supports the Key Aim of effective management of Council resources.

Portfolio Holder Cllr. Loney

Head of Service Head of Legal and Democratic Services – Christine Nuttall

Recommendation: Members are requested to note this report.

Background

- 1 The Local Government and Public Involvement in Health Act 2007 (the 2007 Act) introduced provisions for the Standards Board for England (the Board) to direct that a standards committee's power to undertake initial assessments of misconduct allegations be suspended with allegations being referred instead either to the Board or the standards committee of another specified authority.
- 2 The 2007 Act also introduced provision for the establishment of joint standards committees.

Introduction

- 3 The Standards Committee (Further Provisions) Regulations 2009 are shortly to be published to take effect in May 2009 to address the above areas plus the granting of dispensations. These areas are not currently covered by the Standards Committee (England) Regulations 2008. Members may recall that these were matters that were included within the Department for Communities and Local Government Consultation Document entitled "Orders and Regulations Relating to the Conduct of Local Authority Members in England" which this committee considered at its meeting on 4th March 2008.

Suspension of Initial Assessment Functions

- 4 The circumstances in which the Board can intervene are likely to include an authority's failure to have regard to the Board's guidance or complying with a direction issued by the Board, or when the standards committee or monitoring officer fails to carry out their functions properly. The Board might also be invited by the authority or the standards committee to intervene.
- 5 When the Board intends to suspend the authority's initial assessment functions, the Board will notify the authority, give their reasons and ask for any observations. If a direction is made, the authority must publish details of it in a local newspaper and any other publication the Board thinks is appropriate. Once the reasons for the direction cease to exist, the Board will revoke the direction.

Joint Standards Committees

- 6 Joint standards committees will be able to deal with all or any functions of a standards committee but there can be no concurrent functions. The Local Government Act 2000 and supporting regulations have effect in that any reference to a standards committee is a reference to a joint standards committee for the purposes of the functions delegated to it.
- 7 The terms of reference of the joint committee must include the following:
 - the functions they are to have
 - the administrative arrangements
 - where written allegations should be received for each authority involved in the arrangements
 - the number of members and their terms of office
 - any allowances they will get
 - how to withdraw from the joint arrangement
- 8 The finances are to be shared as agreed by the authorities involved and in default of agreement will be decided by an arbitrator appointed by them. The Board will be producing guidance on joint standards committees which will include a draft constitution or terms of reference incorporating a template for the information required by the regulations.

Dispensations

- 9 A dispensation may currently be granted where the number of members of the authority prohibited from participating in the business of the authority exceeds 50% by reason of a prejudicial interest or where the political balance of the committee would be upset.

Item No. 4

- 10 The wording concerning political imbalance has apparently caused some uncertainty because a council's standing orders may allow for participation in an item notwithstanding that the member cannot vote. In those circumstances the committee itself would not become politically imbalanced despite political imbalance arising from those able to vote. The reference to 'committee' has also apparently given rise to concern over whether a dispensation can apply at full council.
- 11 The ambiguity is likely to be addressed by making it clear that a dispensation is permitted where the number of members having the right to vote causes a political party to lose or gain a majority. Further, to expressly provide that a dispensation may apply to full council.

Options (and Reasons for the Recommendation)

- 12 The report is for information and discussion.

Key Implications

Financial

- 13 Joint standards committees may create cost savings although a cost benefit analysis would need to be completed.

Impact on and Outcomes for the Community

- 14 A joint standards committee may detract from the benefits of having a locally based system of assessing Member complaints. However, it may generate confidence by reducing the risk that a conflict of interest may exist amongst committee members.

Legal, Human Rights etc.

- 15 Additional regulations are welcomed if they provide clarification and liberalisation in relation to the granting of dispensations.

Resource (non-financial)

- 16 A joint standards committee may require additional administrative arrangements.

Value For Money and Asset Management

- 17 A joint standards committee may create the possibility of economies of scale thus creating cost savings.
- 18 However, a proposal for a joint standards committee may impact upon the Council's assets.

Equality

- 19 A joint standards committee may detract from the benefits of a system of locally based assessment, review and determination sub-committees.

Sustainability Checklist

- 20 The procedures and protocols that have been put in place and set out in the Council's Constitution ensures that complaints are handled efficiently and effectively thus engendering public confidence in sustainable processes and procedures that are effectively monitored.

Conclusions

- 21 Draft regulations are being prepared which will allow the Board to suspend the initial assessment functions of an authority and will enable authorities to establish joint standards committees. They will also amend the powers of standards committees to grant dispensations to members who would otherwise be unable to take part in authority business because of a prejudicial interest. It is expected the regulations will come into force in May 2009. These were matters that were included within the Department for Communities and Local Government consultation dated January 2008 which this committee considered at its meeting on the 4th March 2008.

Risk Assessment Statement

- 22 In order to implement the establishment of joint standards committees a robust cost benefit analysis would need to be completed.
- 23 Clarification on the rules of granting dispensations is welcomed and there would not appear to be any risks associated with such clarification.
- 24 The risk of having the Board intervene to suspend this authority's initial assessment functions would appear, at this present time, to be negligible as robust processes and procedures have been implemented to effectively assess member misconduct allegations.

Sources of Information: Consultation – Orders and Regulations relating to the Conduct of Local Authority Members in England
The Bulletin from the Board – February 2009
The Local Government and Public Involvement in Health Act 2007
Local Government Act 2000

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