

EXETER CITY COUNCIL
STANDARDS COMMITTEE
2 DECEMBER 2009

**STANDARDS FOR ENGLAND INTERVENTIONS, DISPENSATIONS AND JOINT
STANDARDS COMMITTEES**

1.0 PURPOSE OF REPORT

1.1 To update Members on the provisions of the new Standards (Further Provisions) (England) Regulations 2009 (SI2009/1255) which make provision for:

- (a) Suspending the functions of a local authority's Standards Committee where the committee is failing to perform its functions satisfactorily.
- (b) Extending the power of the Standards Committee to give members dispensations, where they would otherwise be prohibited from participating in a matter because of a prejudicial interest.
- (c) Establishing joint Standards Committees.

2.0 SUSPENSION OF STANDARDS COMMITTEE FUNCTIONS:

2.1 The function of the local assessment of complaints in respect of a potential breach of the Code of Conduct was transferred to local Standards Committees with effect from 8 May 2008. Whilst it is believed that most authorities are discharging this new responsibility effectively, the Regulations give Standards for England the power to intervene if it considers it necessary.

2.2 An intervention may be triggered where Standards for England considers that:

- (a) The Standards Committee has failed to have regard to its guidance, failed to comply with its directions or failed to carry out its functions within a reasonable time or in a reasonable manner.
- (b) The Authority's Monitoring Officer has failed to carry out his/her functions within a reasonable time or in a reasonable manner or
- (c) Where an Authority or its Standards Committee has asked Standards for England to intervene.

2.3 Where Standards for England is considering an intervention, it must give notice of not less than 28 days to the Authority in question, asking for its response before deciding whether to make a direction.

2.4 Where a direction to intervene is made, Standards for England may either:

- (a) Transfer the initial assessment function to itself or
- (b) Substitute another authority to carry out this function.

In practice substituting another authority is the most likely way forward since Standards for England is no longer staffed to deal with assessments of a large number of complaints.

2.5 An intervention may be terminated by Standards for England at any time.

3. **DISPENSATIONS:**

3.1 Concerns raised by some authorities and Standards for England has led to the revocation of the previous regulations in relation to the granting of dispensations by the Standards Committee.

3.2 Dispensations may be granted for speaking only or for speaking and voting. Where a Member obtains a dispensation, then taking part in business otherwise prohibited by the Code of Conduct would not result in a failure to comply with the Code of Conduct.

3.3 Members will recollect that the 2007 Code of Conduct relaxed the provisions for restricting members from speaking. Therefore the need to request a dispensation is now limited to circumstances where the public do not have a right to speak.

3.4 Where one or two Members have made a written application for a dispensation, setting out the reasons why they consider a dispensation would be desirable, the new regulations permit members of the Standards Committee to grant dispensations to members or co opted members in the following circumstances:

(a) Where more than 50% of members who would be entitled to vote would otherwise be prohibited from voting OR

(b) Where the number of members prohibited from voting would upset the political balance to the extent that the outcome of voting would be prejudiced.

3.5 Dispensations can be granted for a particular meeting or for a period not exceeding four years. There are only two exceptions to the power to grant dispensations:

(a) Members cannot be given dispensations allowing them to vote in a Scrutiny Committee by virtue of having been involved on another body when the original decision was taken.

(b) A dispensation cannot be granted to allow an Executive Member with a prejudicial interest in an item of Executive business to take an Executive decision about that item on their own.

3.6 In practice, the granting of dispensations will be problematic since Members will rarely know whether other Members will be debarred from the consideration of a matter until it is too late to call a Standards Committee meeting to consider the request for a dispensation.

4. **JOINT STANDARDS COMMITTEES:**

4.1 Two or more authorities may resolve to set up a joint Standards Committee to discharge all or some of each participating authority's Standards Committee's functions.

4.2 Where authorities wish to establish a Joint Standards Committee, the full Council of each authority must resolve:

- a) To establish a Joint Committee
- b) Which of the functions are to be allocated to the Joint Committee and which, if any, are to be retained by the authority's own Standards Committee?
- c) The administrative arrangements to support the Joint Committee
- d) Whether complaints should be addressed to the individual authority or to the Joint Standards Committee.
- e) The number of Members (including parish and independent members) to be appointed and their terms of office
- f) To make provision for the payment of allowances to the Members.
- e) To provide a procedure for an authority to withdraw from the joint arrangements
- f) To set out how the cost of the joint committee are to be shared between the participating authorities.

5.0 RECOMMENDATIONS:

3.1 Members are asked to note the content of this report.

Baan Al-Khafaji
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Corporate Services Directorate

Local Government (Access to Information) Act 1985 (as amended)

Background papers used in compiling this report:

- (1) Standards (Further Provisions)(England) Regulations 2009 (SI2009/1255)
- (2) Standards for England Guidance 16 July 2009