

A SUMMARY OF THE 2009 REGULATIONS

1. Initial Assessment of Complaints

As Members will know the Local Government and Public Involvement in Health Act 2007 introduced a system in which assessment of allegations and breaches of the Local Code of Conduct for Members would be undertaken by the local authorities' own Standards Committees through a Sub-Committee. However, provision was made at Section 57 D of the Local Government Act 2000, for the Standards Board for England, in prescribed circumstances to suspend the initial assessment of the functions and direct the Standards Committee to refer allegations to the Standards Board for England or to the Standards Committee of another local authority. The Regulations specify the circumstances in which the Standards for England may give such a direction. They are:-

- The Standards Committee has failed to have regard to guidance issued by the Standards Board.
- The Standards Committee has failed to comply with a direction issued by the Standards Board.
- The Standards Committee or the local authority's Monitoring Officer has failed to carry out functions in a reasonable time or reasonable manner.
- The local authority or its Standards Committee has invited the Standards Board to give such a direction.

As indicated in the body of the report it is not considered that such a direction is likely given the Standards Committee dealings with the Standards Board in the past. However, it should be noted that if the Standards Board are minded to give a direction the Regulations set out a process by which such a direction will be given.

2. Joint Standards Committees

The Regulations allow two or more local authorities to set up a Joint Standards Committee to discharge all or some of their functions in Part III of the Local Government Act 2000 or functions relating to local authority Members, officers, staff and committees in Part I of the Local Government & Housing Act 1989.

Once a local authority has arranged for the Joint Standards Committee to have responsibility for a particular function the individual local authority

will no longer be able to exercise that function itself. If a Joint Standards Committee is responsible for all the functions of a Standards Committee under Part III of the 2000 Act and Part I of the 1989 Act then the Joint Standards Committee is to be treated as the Standards Committee of each of the local authorities that set it up.

The membership of a Joint Standards Committee must include at least one Member from each local authority that establishes it but it must not include any more than one Member of the Executive of any of those local authorities in total. Joint Standards Committees are also able to appoint Independent members separately or independently in accordance with the requirements of Standards Committee (England) Regulations 2008. There are also requirements for a Member for each authority which establishes a Joint Standards Committee to be present at meetings where particular functions are discharged in order for the meeting to be quorate and for at least one Parish Council member to be present when this relates to a member or a former member of a Parish Council.

The local authorities which establish a Joint Standards Committee must agree its terms of reference and send details of those to the Standards Board.

The Regulations provide for the expenses of the joint committee to be met by the Authorities that establish it in the proportions they agree. If they disagree the Regulations provide for the proportions to be determined by a single arbitrator agreed upon by the appointing Authorities.

As indicated in the body of the report there is little enthusiasm for the establishment for the Joint Standards Committee in Berkshire particularly at present when there are a few complaints being dealt with by each Authority.

3. Dispensations

A Standards Committee can grant a dispensation to a Member in the following circumstances:-

- a). Where more than 50% of the Members who would be entitled to a vote at a meeting are prohibited from voting as they have a personal and prejudicial interest, or
- b). Where the number of Members that are prohibited from voting at a meeting would upset the political balance in the meeting to the extent that the outcome of voting would be prejudiced.

To decide whether these criteria apply Members must ignore any dispensations that have already been given to others at the meeting. This means previously granted dispensations are disregarded for the purposes of working out whether the two circumstances above apply.

For example, if there were 10 members of the Committee, six of whom would not be able to vote on some business all six can claim a dispensation. If previously granted dispensations were not disregarded a situation could arise where once two people have been granted dispensation the remaining four would be ineligible. This is because, at that point there would be less than 50% of the Committee who could vote.

Even where the criteria apply Members cannot get a dispensation to:-

- allow them to take part in voting at an Overview & Scrutiny Committee about a decision made by any body of which they were a member at the time the decision was taken.
- allow an Executive Member with a prejudicial interest in an item of executive business to take an executive decision about it on their own.

It is for the Authority's Standard Committee to decide what criteria they will apply when considering a request from a Member or Members. The criteria are currently being worked on and will be submitted to the next meeting of Standards Committee.

By law a Member must submit an application in writing for consideration by the Standards Committee. It is up to the Standards Committee to decide whether or not they grant a dispensation. There is no right of appeal from their decision.

The Standards Committee can decide the nature of dispensation it grants. For example, the dispensation may allow a Member to speak and not vote or to fully participate and vote. The Committee can also decide how long a dispensation should apply although it cannot be longer than 4 years. After 4 years has elapsed the dispensation effectively expires.

Any dispensation decision must be recorded in writing and must be kept with the Register of Members Interests maintained by the Monitoring Officer.