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## Report of Assistant Chief Executive (Corporate Governance)

### Standards Committee

Date: 8<sup>th</sup> July 2009

Subject: The Standards Committee (Further Provisions) (England) Regulations 2009

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#### Electoral Wards Affected:

Ward Members consulted  
(referred to in report)

#### Specific Implications For:

Equality and Diversity

Community Cohesion

Narrowing the Gap

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### Executive Summary

1. This report sets out details in relation to the introduction of the Standards Committee (Further Provisions) (England) Regulations 2009.
2. The regulations set out detailed provisions in relation to the power of the Standards board for England to suspend the initial assessment functions of the Standards Committee. These include details as to the grounds upon which the initial assessment functions may be suspended and the manner in which this must take place.
3. The regulations also make provision for the establishment by relevant authorities of joint Standards Committees.
4. Finally the regulations contain detailed provisions in relation to the powers of the Standards Committee to grant dispensations. These include the grounds upon which dispensations may be granted and the procedure which should be adopted.

## **1.0 Purpose Of This Report**

1.1 This report sets out details in relation to the introduction of the Standards Committee (Further Provisions) (England) Regulations 2009. These shall be referred to throughout this report as the Regulations.

## **2.0 Background Information**

2.1 The Local Government Act 2000 (which shall be referred to throughout this report as the Act) sets out provisions in relation to the adoption of Standards Committees and the functions which they should fulfil. Recent amendments to the Act introduced the regime for the Local Assessment of Complaints.

2.2 The Act confers power on the Secretary of State to make regulations which give more detail in relation to the appointment, procedures and functions of Standards Committee.

2.3 The Standards Committee (England) Regulations 2008 set out detailed provisions in relation to the local assessment of complaints.

## **3.0 Main Issues**

### **3.1 Suspension of Initial Assessment Functions**

3.1.1 Section 57D of the Act makes provision giving the Standards board power to direct that the provisions in relation to Local Assessment no longer apply to the Standards Committee and that complaints should in the alternative be referred to another body.

3.1.2 The Regulations set out the circumstances in which the Standards board may exercise this power. Namely:-

- 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 has failed to carry out its functions within a reasonable time period or in a reasonable manner.
- The Monitoring Officer has failed to carry out its functions within a reasonable time period or in a reasonable manner.
- The authority has invited the Standards Board to exercise its power.
- The Standards Committee has invited the Standards Board to exercise its power.

3.1.3 Members will note the importance in this context of having regard to Standards Board guidance in relation to their local assessment of complaints against Members under the Code of Conduct. This is presented to the Members of the Assessment and Review Sub Committees on the document entitled Monitoring Officer Guidance, which lists the relevant guidance given in relation to the paragraphs of the code which it alleged that the member has breached.

3.1.4 Members will also note the importance of responding to complaints and review requests in a timely and reasonable manner. The Standards Committee Procedure Rules, together with the Quality Procedure followed by officers in relation to Local Assessment, aim to ensure that this is the case.

3.1.5 The Regulations also set out the procedure which must be followed by the Standards Board if it wishes to serve a direction. Notice must be served on the Authority, together with copies to the Chair of the Standards Committee and the Monitoring Officer. It should be noted that there is then provision for observations to be submitted which must be taken into account by the Standards Board prior to deciding whether to proceed.

3.1.6 Provision is then made by the Regulations to ensure that the Standards Board or other body specified in the Direction take over the appropriate roles of the Standards Committee.

### 3.2 Joint Standards Committees

3.2.1 The Regulations set out details as to the establishment and functions of joint standards committees, together with the requirements in relation to adopting agreed terms of reference.

3.2.2 At the Standards Committee meeting of February 2008 members discussed the response from Leeds City Council to the Consultation on Orders and Regulations Relating to Conduct of Local Authority Members in England. Members will recall at that time concluding that the establishment of a joint standards committee with any other authority would be of little, if any, value to Leeds City Council.

### 3.3 Dispensations

3.3.1 Section 81 of the Act makes provision for Standards Committees to grant dispensations to Members who would be prevented from taking part in a matter because of the existence of a prejudicial interest.

3.3.2 These powers were originally subject to the Relevant Authorities (Standards Committees) (Dispensations) Regulations 2002, which set out the grounds upon which a dispensation could be granted, the process which should be followed and the matters which should be considered by the Standards Committee in granting a dispensation.

3.3.3 The Regulations revoke the 2002 Regulations and make alternative provision as set out below.

3.3.4 The grounds set out in the Regulations for granting a dispensation are that the business of the authority would be impeded by or as a result of the prejudicial interest because:-

- More than 50% of the Members entitled to vote at the meeting would be prevented from so doing because of their prejudicial interests; or
- The number of Members prohibited from voting by their prejudicial interest would upset the political balance of the meeting to such an extent as to prejudice the outcome of voting of that meeting.

3.3.5 At first glance these provisions look very similar to those which preceded them. However, the provision which relates to the political balance of the meeting replaces one which read as follows:-

“the authority is not able to comply with any duty which applies to it under section 15(4) of the Local Government and Housing Act 1989.”

This link to the duty upon authorities to ensure the appointment of Committees that reflect the overall political balance of the authority was unlikely ever to give rise to an application for a dispensation as the duty does not apply to the individual meetings of the authority or its committees. The new provision makes it clear that the intention is that prejudicial interests should not disrupt the political balance of any meeting of the Council or any of its committees, even if such disruption would take place only as a one off event.

- 3.3.6 It is important to note that both grounds for granting a dispensation would only be made out if the existence of the prejudicial interest for the Member or Members in question was the sole reason for the difficulty. For example, should 2 committee members be absent for personal reasons and a third Member have a prejudicial interest, the fact that the voting Members of that meeting then dropped below 50%, or that the political balance was upset, would not give rise to grounds for granting a dispensation.
- 3.3.7 There is specific provision made preventing the Standards Committee from granting a dispensation in relation to a prejudicial interest which prevents:-
- A Member participating in an Overview and Scrutiny Committee seeking to review a decision made by any body of which that person was a member at the time the decision was taken.
  - A Member solely exercising functions which are the responsibility of the Executive.
- 3.3.8 As previously applications for dispensations are required to be made in writing. The Standards Committee must consider the application together with any other relevant circumstances of the case. A dispensation can be granted for a period not exceeding 4 years.
- 3.3.9 The Standards Board for England have released guidance in relation to granting dispensations under the Regulations, which is attached at Appendix 1.

#### **4.0 Implications For Council Policy And Governance**

- 4.1 It is important that Members are aware of the grounds for the Standards Board to issue a Direction revoking their local assessment powers under the Act. Procedures in place in Leeds seek to ensure that circumstances do not arise which would give grounds for revocation of those powers.
- 4.2 The amendments to the provisions in relation to the granting of dispensations are slight but give clarity to the regime. Further advice will be given to Members in the event that application is made for a dispensation.

#### **5.0 Legal And Resource Implications**

- 5.1 There are no legal or resource implications to this report.

#### **6.0 Conclusions**

- 6.1 This report sets out the contents of the Standards Committee (Further Provisions) (England) Regulations 2009.

#### **7.0 Recommendations**

- 7.1 Members are requested to note the contents of this report.

## Background Documents

- Local Government and Public Involvement in Health Act 2007
- Local Government Act 2000
- Standards Committee (England) Regulations 2008
- Standards Committee (Further Provisions) (England) Regulations 2009
- Consultation on Orders and Regulations Relating to Conduct of Local Authority Members in England:- A response from Leeds City Council